

**CHAPTER 79**

**NJ FAMILYCARE-CHILDREN'S PROGRAM**

**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.2004 d.42, effective December 23, 2003.  
See: 35 N.J.R. 3802(a), 36 N.J.R. 572(b).

**Chapter Expiration Date**

Chapter 79, NJ FamilyCare-Children's Program, expires on December 23, 2008.

**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)

Subchapter 7, NJ Kidcare Beneficiary Fraud and Abuse Policies, was adopted as R.1998 d.154, effective February 27, 1998 (operative March 1, 1998), to expire August 31, 1998. See 30 N.J.R. 1060(a).

Subchapter 8, Presumptive Eligibility for NJ Kidcare-Plan, A, B, and C, was adopted R.2000 d.266, effective July 3, 2000. See: 32 N.J.R. 159(a), 32 N.J.R. 2493(a).

Chapter 79, NJ FamilyCare-Children's Program, was readopted as R.2004 d.42, effective December 23, 2003. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. INTRODUCTION

**10:79-1.1 Purpose and scope**

(a) NJ FamilyCare-Children's Program 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 FamilyCare-Children's 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 FamilyCare-Children's Program eligibility.

(d) Children eligible under this chapter are eligible for NJ FamilyCare-Children's Program-Plan A, Plan B, Plan C or Plan D services which are set forth in N.J.A.C. 10:49-5. NJ FamilyCare-Children's Program-Plan A is a means-tested Federal entitlement program.

(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. 10:69, 10:71 and 10:72 and who are income ineligible for NJ FamilyCare-Children's Program under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

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.

Amended by R.2004 d.42, effective January 20, 2004.

See: 35 N.J.R. 3802(a), 36 N.J.R. 572(b).

In (d), added the last sentence; in (f), amended the N.J.A.C. references; deleted (g); substituted references to the NJ FamilyCare-Children's Program for references to NJ KidCare throughout.

**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 the context clearly indicates otherwise.

"Authorized agent" means a parent, guardian, caretaker or any other individual 18 or older who has sufficient information to assist in making an application for NJ FamilyCare-Children's Program children, including:

1. A staff member of a public or private welfare or social service agency of which the child for whom assistance is sought is a client and who has been designated by the agency to act as the child's agent;
2. An attorney or physician of the person seeking NJ FamilyCare-Children's Program benefits;
3. A staff member of an institution or facility in which the individual is receiving care and who has been designated by the institution or facility to so act; or
4. A legal guardian.

"Caretaker" or "caretaker adult" means the responsible adult or adults residing with the child or children for whom the application or redetermination for NJ FamilyCare-Children's Program is being made. This term does not impose a blood relationship to the caregiver as a prerequisite for applying for services on behalf of a child.

"Child" is an individual from birth through the age of 18 who is otherwise not eligible for Medicaid pursuant to N.J.A.C. 10:69, 10:71 or 10:72.

"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 FamilyCare-Children's Program.

"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.