

CHAPTER 83

PHARMACEUTICAL ASSISTANCE TO THE AGED AND DISABLED ELIGIBILITY MANUAL

Authority

N.J.S.A. 30:4D-20 through 24.

Source and Effective Date

R.1998 d.176, effective March 13, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 83, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, expires on September 9, 2003. See: 35 N.J.R. 1335(a).

Chapter Historical Note

Chapter 83, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was originally codified in Title 10 as Chapter 69A, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual. Chapter 69A, Pharmaceutical Assistance to the Aged Program, was adopted as R.1976 d.102, effective April 5, 1976. See: 7 N.J.R. 505(c), 8 N.J.R. 232(b).

Pursuant to Executive Order No. 66(1978), Chapter 69A was re-adopted as R.1988 d.211, effective April 20, 1988. See: 20 N.J.R. 369(a), 20 N.J.R. 1106(a).

Pursuant to Executive Order No. 66(1978), Chapter 69A, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was re-adopted as R.1993 d.175, effective March 26, 1993 See: 24 N.J.R. 4479(a), 25 N.J.R. 1764(a).

Pursuant to Reorganization Plan No. 001-1996, Chapter 69A, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was recodified to Title 8, Chapter 83, effective October 15, 1997. See: 29 N.J.R. 4679(a).

Pursuant to Executive Order No. 66(1978), Chapter 83, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was re-adopted as R.1998 d.176, effective March 13, 1998. See: Source and Effective Date. See, also, section annotations.

Cross References

See N.J.A.C. 10:51-4.1 et seq., Pharmaceutical assistance to the aged and disabled program.

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SUBCHAPTER 1. INTRODUCTION

8:83-1.1 Purpose and intent

(a) It is intended that Pharmaceutical Assistance to the Aged and Disabled (PAAD) shall extend assistance to certain persons whose level of income disqualifies them for medical assistance under the New Jersey Medical Assistance and Health Services Act, but who have significant needs for prescribed drugs and/or insulin, insulin needles, insulin syringes, and/or certain diabetic materials and are unable to fully meet the cost of such items.

(b) This manual has been developed as a statement of policy and procedures and is applicable only to eligibility for the PAAD Program.

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

Added text in (a) "and/or certain diabetic materials".
Amended by R.1998 d.176, effective April 6, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

8:83-1.2 Legal authority

(a) The New Jersey Program of Pharmaceutical Assistance to the Aged and Disabled (PAAD) was established by Chapter 194, Laws of 1975, as amended by:

1. Chapter 194, Laws of 1975, effective August 21, 1975. Amended by Chapter 312, Laws of 1975, effective February 19, 1976;
2. Chapter 268, Laws of 1977, effective January 1, 1978;
3. Chapter 171, Laws of 1978, effective December 22, 1978;
4. Chapter 27, Laws of 1979, effective March 1, 1979;
5. Chapter 499, Laws of 1981, effective March 1, 1982;
6. Chapter 209, Laws of 1985, effective August 1, 1985;
7. Chapter 221, Laws of 1987, effective July 29, 1987 and retroactive to December 31, 1986;
8. Chapter 16, Laws of 1989, effective February 1, 1989; and
9. Chapter 84, Laws of 1991, effective April 3, 1991 and retroactive to January 1, 1991; and
10. Chapter 30, Laws of 1992, effective June 29, 1992.
11. Chapter 3, Laws of 1993, effective January 13, 1993 and retroactive to January 1, 1993;
12. Chapter 27, Laws of 1995, effective February 15, 1995, retroactive to January 1, 1995;
13. Chapter 323, Laws of 1995, effective April 4, 1996; and
14. Reorganization Plan No. 001-1996.

(b) These Statutes supplement the New Jersey Medical Assistance and Health Services Act (P.L. 1968, c.413).

Amended by R.1985 d.259, effective May 20, 1985.
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Deleted (a)1, and substituted new text; added (a)5.
Amended by R.1985 d.690, effective January 21, 1986.
See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).

Added (a)6.
Amended by R.1988 d.174, effective April 18, 1988.
See: 19 N.J.R. 2375(a), 20 N.J.R. 902(a).

Added (a)7.
Amended by R.1990 d.182, effective March 19, 1990.
See: 21 N.J.R. 3047(a), 22 N.J.R. 953(a).

Added (a)8.
Amended by R.1991 d.563, effective November 18, 1991.
See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).

New (a)9. added; reference to Chapter 84, Laws of 1991.
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.1996 d.7, effective January 2, 1996.
See: 27 N.J.R. 3541(a), 28 N.J.R. 184(c).

Amended by R.1998 d.176, effective April 6, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).
In (a), added 13 and 14.

SUBCHAPTER 2. DEFINITIONS**8:83-2.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Annual income” means all income from whatever source derived, actually received or anticipated.

“Anticipated income” means the amounts of income the applicant can reasonably be expected to receive during the calendar year.

“Applicant” means an individual who applies for PAAD, either personally or through an authorized agent.

“Authorized agent” means a person who initiates the PAAD application for a person who is incompetent or incapable of filing the PAAD application on his/her behalf.

“Beneficiary” means an individual who has been found eligible for PAAD benefits.

“Business income” means net income derived from a business, trade or profession or from the rental of property after deductions of the ordinary and necessary expenses attributable to the business, trade, profession, or to the rental or property which are allowed under the Federal Internal Revenue Code and regulations issued thereunder.

“Calendar year” means a year beginning January 1 and ending on December 31. It is the base period utilized to determine annual income and PAAD eligibility.

“Commissioner” means the Commissioner of the Department of Health and Senior Services.

“Current year” means the calendar year in which a person applies or reapplies for PAAD.

“Department” means the Department of Health and Senior Services.

“Expiration date” means the date when a beneficiary’s PAAD eligibility ends.

“Legend Drug” means any approved drug product which by Federal law cannot be dispensed without a prescription and bears the statement on the label: “Caution: Federal law prohibits dispensing without a prescription”.

"Lifeline Credit Program" means the utility assistance program that offers a benefit in the form of a credit to the utility account during the heating season to eligible New Jersey residents.

"PAAD Co-pay" means the amount of \$5.00 which must be paid by each PAAD beneficiary to the pharmacy toward the cost for each prescription for a legend drug and/or insulin, insulin syringes, insulin needles, and certain diabetic testing materials. The co-pay is not reimbursable by the PAAD. The \$5.00 co-payment shall be paid in full by each eligible person to the pharmacist at the time of each purchase of prescription drugs, and shall not be waived, discounted or rebated in whole or in part.

"Pharmaceutical assistance" means the payments authorized by the Department in the form of a check to a participating pharmacy on behalf of a PAAD beneficiary.

"Pharmacy" means any pharmacy located in New Jersey, operating under a valid permit from the Board of Pharmacy of the State of New Jersey, which has filed an application and agreement of participation which has been approved by the New Jersey Medicaid Program.

"Prescription drugs" means all approved legend drugs, including any interchangeable drug products contained in the latest list approved and published by the Drug Utilization Review Council in conformance with the provisions of the "Prescription Drug Price and Quality Stabilization Act," and insulin, insulin syringes, insulin needles and certain diabetic testing materials when prescribed.

1. The term "prescription drugs" includes:

i. Any drug product which by Federal law cannot be dispensed unless ordered, by a physician, dentist or podiatrist;

ii. Every product considered to be a legend prescription drug which is required by the Federal Food, Drug and Cosmetic Act to have the following statement on the manufacturer's original packaging label: "Caution: Federal law prohibits dispensing without a prescription";

iii. Insulin, insulin syringes and insulin needles. While not legend drugs, these items are covered by this program when prescribed;

iv. Diabetic testing materials including blood glucose reagent strips which can be visually read, urine monitoring strips, tapes and tablets and bloodletting devices and lancets (electronically monitored devices are not included); and

v. Syringes and needles for injectable medicines for the treatment of multiple sclerosis.

2. The term "prescription drugs" excludes cosmetic drugs as indicated at N.J.A.C. 8:83C-1.13 unless medically necessary.

"Previous year" means the calendar year preceding the year in which the person is applying or reapplying for PAAD. For example, 1995 is the "previous year" when referring to an application which is dated between January 1, 1996 through December 31, 1996, inclusive.

1. If a person, who is required to submit a Federal, State and/or City Income Tax return, applies for PAAD at the beginning of a calendar year but has not yet filed an income tax return for the previous year, the last year for which the person filed a tax return is considered to be the "previous year" when completing the PAAD application.

"Provider" means any individual, partnership, association, corporation, institution, or any other public or private entity, agency, or business concern, meeting applicable requirements and standards for participation in the New Jersey Medicaid Program, and the Pharmaceutical Assistance to the Aged and Disabled Program, and where applicable, holding a current valid license, and lawfully providing medical care, services, goods and supplies authorized under N.J.S.A. 30:4D-1 et seq. and amendments thereto.

"Reasonable cost" means the maximum allowable cost of prescription drugs plus a dispensing fee as determined by the Commissioner.

"Resident" means "one legally domiciled within the State (of N.J.) for a period of 30 days immediately preceding the date of application for inclusion in the PAAD Program. Mere seasonal or temporary residence within the State, of whatever duration, does not constitute domicile." (See N.J.A.C. 10:69A-6.4 for residence requirements.)

"Tenants Lifeline Assistance Program" means a utility assistance program that offers a benefit in the form of a check issued to tenants whose utilities are included in their rent and do not have a separate utility bill.

As amended, R.1989 d.375, eff. September 25, 1979.
See: 11 N.J.R. 558(c). As amended, R.1982 d.198, eff. June 21, 1982.
See: 14 N.J.R. 321(b), 14 N.J.R. 659(a).

Section substantially amended.
As amended, R.1985 d.259, effective May 20, 1985.
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

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

Amended "PAAD Co-pay" and "prescription drugs".
Amended by R.1993 d.155, effective April 5, 1993.
See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Revised copayment to \$5.00.
Amended by R.1998 d.176, effective April 6, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

In "Prescription drugs" added 1v; in "Previous year", inserted "for which the person filed a tax return" following "last year" in 1; and inserted "Provider".

Amended by R.2000 d.286, effective July 3, 2000.
See: 32 N.J.R. 428(a), 32 N.J.R. 2441(b).

In "Prescription drugs", added 2.

Case Notes

"Income" defined. Atty.Gen.F.O.1978, No. 3.

SUBCHAPTER 3. ADMINISTRATIVE ORGANIZATION

8:83-3.1 Department of Health and Senior Services

The Department of Health and Senior Services is the administrative unit of the State government which has control over the administration of PAAD. Under the terms of the PAAD law, this Department is responsible for the general policies governing administration of PAAD, and for effecting the issuance of rules, regulations and procedures in accordance with the Administrative Procedure Act for implementing the statutory provisions.

8:83-3.2 Division of Medical Assistance and Health Services

The Division of Medical Assistance and Health Services is the administrative unit of the Department of Human Services that performs certain administrative functions for, or in conjunction with, the Department.

8:83-3.3 Pharmaceutical Assistance to the Aged and Disabled Program

The Pharmaceutical Assistance to the Aged and Disabled is the program in the Department which has the direct responsibility for the processing of eligibility applications from applicants.

SUBCHAPTER 4. SCOPE OF SERVICE

8:83-4.1 Statutory limitations

By statute, the Pharmaceutical Assistance to the Aged and Disabled Program is limited to payment or reimbursement to pharmacies for the reasonable cost of prescription drugs for eligible persons which exceeds the PAAD co-pay.

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

Added text "insulin, insulin syringes . . . diabetic testing materials".
Amended by R.1993 d.155, effective April 5, 1993.
See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Revised copayment to \$5.00.
Amended by R.1998 d.176, effective April 6, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

Rewrote the section.

8:83-4.2 Principles of reimbursement to participating pharmacies

(a) Reimbursement for PAAD prescriptions will be made only to pharmacies located in New Jersey and operating under a valid permit from the Board of Pharmacy of the State of New Jersey. In order to become an approved provider, such a pharmacy must file an application and agreement of participation which must be approved by the Division of Medical Assistance and Health Services of the Department of Human Services.

(b) No reimbursement will be made to an unlicensed pharmacy or to a pharmacy located in another state or country.

(c) Reimbursement on behalf of PAAD beneficiaries will be made directly to the participating pharmacies and will be for the reasonable cost of prescription drugs of beneficiaries as determined by the Commissioner, Department of Human Services, which exceeds the \$5.00 co-payment per prescription.

Amended by R.1993 d.155, effective April 5, 1993.
See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).
Revised copayment to \$5.00.

8:83-4.3 Interchangeable drug products

(a) Whenever any interchangeable drug product contained in the latest list approved and published by the Drug Utilization Review Council is available for the prescription written, the PAAD Program shall reimburse only for the reasonable cost of the interchangeable product, less the PAAD co-pay, unless:

1. The prescriber specifies that substitution is not permitted; or

2. For certain brand name products as specified at N.J.A.C. 10:51-4.19(b), the prescriber handwrites the statement "Brand Medically Necessary" on the prescription form.

(b) If the prescriber does not specify to the contrary, the PAAD beneficiary has two options:

1. To purchase an interchangeable drug product which is equal to or less than the maximum allowable cost, at the PAAD co-pay; or

2. To purchase the prescribed drug product which is higher in cost than the maximum allowable cost and pay the difference between the two, in addition to the PAAD co-pay.

(c) If the prescriber specifies on the prescription that substitution is not permitted, and that the brand name drug is medically necessary, when required, the PAAD Program will reimburse for the reasonable cost of the prescribed product, less the PAAD co-pay. In this instance, the beneficiary may purchase the prescribed product at the PAAD co-payment.

Amended by R.1993 d.155, effective April 5, 1993.
See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).
Revised copayment to \$5.00.

Amended by R.1998 d.176, effective April 6, 1998.
See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

Substituted references to the PAAD co-pay for references to the \$5.00 co-pay throughout; in (a), designated 1, and added 2; and in (c), inserted "and that the brand name drug is medically necessary, when required," following "permitted,".

Case Notes

Regulation of the division of medical assistance and health services which excludes senior citizens who are inpatients in nursing homes or hospitals from the benefits provided by the pharmaceutical assistance

for the aged program for the coverage of prescribed drugs, insulin, insulin syringes or insulin needles is inconsistent with the governing statutory provisions on eligibility relating to income of the recipient and is invalid. Atty.Gen.F.O.1978, No. 3.