

CHAPTER 72

NEW JERSEY CARE . . . SPECIAL MEDICAID PROGRAMS MANUAL

Authority

N.J.S.A. 30:4D-3 and 7 and Section 1902(a)(10) of Social Security Act (42 U.S.C. § 1396a(a)(1)).

Source and Effective Date

R.2002 d.241, effective July 3, 2002. See: 34 N.J.R. 1240(a), 34 N.J.R. 2840(a).

Chapter Expiration Date

Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, expires on July 3, 2007.

Chapter Historical Note

Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was adopted as Emergency New Rules by R.1987 d.312, effective June 29, 1987. See: 19 N.J.R. 1324(a). The concurrent proposal of R.1987 d.312 was adopted by R.1987 d.380, effective August 27, 1987. See: 19 N.J.R. 1324(a), 19 N.J.R. 1731(a).

Subchapter 6, Presumptive Eligibility, was adopted as R.1988 d.192, effective May 2, 1988. See: 20 N.J.R. 367(a), 20 N.J.R. 983(a).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was readopted by R.1992 d.364, effective September 21, 1992. See: 24 N.J.R. 2145(a), 24 N.J.R. 3343(a).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was readopted by R.1997 d.379, effective August 15, 1997. See: 29 N.J.R. 2541(a), 29 N.J.R. 4136(a).

Chapter 72, New Jersey Care . . . Special Medicaid Programs Manual, was readopted by R.2002 d.241, effective July 3, 2002. See: Source and Effective Date.

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SUBCHAPTER 1. INTRODUCTION

10:72-1.1 Purpose

(a) This chapter contains the criteria for Medicaid eligibility for certain pregnant women and infants not eligible under the provisions of N.J.A.C. 10:81 and 82, as well as, certain aged, blind, and disabled persons not eligible under the provisions of N.J.A.C. 10:71.

1. 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, pregnant women, infants, and aged, blind or disabled individuals losing Medicaid eligibility because of financial reasons should be evaluated under the provisions of this chapter for the possibility of continuing Medicaid eligibility.

2. Except for children between the ages of one and 19, persons financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 10:81 and 10:82 and who are income ineligible for Medicaid under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

i. Persons determined eligible for the Medically Needy Program may be also determined eligible as Specified Low-Income Medicare Beneficiaries.

3. Infants not eligible under the provisions of N.J.A.C. 10:71, 10:72, 10:81 or 10:82 should be evaluated for NJ KidCare under the provisions of N.J.A.C. 10:79.

(b) Medicaid eligibility under the provisions of this chapter is limited to:

1. Pregnant women; and
2. Infants under the age of one.

3. Aged, blind, and disabled individuals (as defined by Title XIX of the Social Security Act), who otherwise meet the requirements specified in this chapter. For purposes of this chapter, an aged individual is a person who is 65 years of age or older.

4. Aged, blind, and disabled individuals (as defined in (b)3 above) who qualify as Specified Low-Income Medicare Beneficiaries.

- i. Specified low-income Medicare beneficiaries must be residents of the State, must be receiving Medicare benefits, Parts A and B, and must meet the income and resource requirements specified in N.J.A.C. 10:72-4.1(b) and 4.5(b).

ii. The enrollment and outreach process for specified low-income Medicare beneficiaries is administered by the Department of Health and Senior Services, through the Office of Pharmaceutical Assistance to the Aged and Disabled (PAAD), using the standard PAAD application form.

iii. Persons determined eligible as specified low-income Medicare beneficiaries are entitled to payment of Medicare Part B Premiums only, beginning in the month of application and up to three prior months, but no earlier than January 1, 1993.

iv. The Division of Medical Assistance and Health Services shall promptly notify any applicant for, or beneficiary of, the Specified Low-Income Medicare Beneficiary benefit, in writing, of any agency decision affecting the application disposition or the receipt of the benefit. When a decision relates to any adverse action which may entitle an individual to a fair hearing, the action may not be implemented until at least 10 days after the mailing of the notice. Such notices shall conform with provisions at N.J.A.C. 10:72-5.1(b).

(c) Retroactive Medicaid eligibility is available beginning with the third month prior to the month of application for Medicaid for any month during which the applicant meets all eligibility criteria and during which the applicant has unpaid medical expenses for covered services. In order to qualify for retroactive coverage, an individual need not be determined eligible at the time of application for Medicaid benefits. Application for retroactive Medicaid coverage may be made on behalf of a deceased person so long as the person was alive during a portion of the three-month period immediately prior to the month of application and he or she has unpaid medical expenses for Medicaid covered services.

1. Retroactive Medicaid coverage is not available under the provisions of this chapter for an infant for any period prior to the effective date of program coverage for the age of the child. Retroactive eligibility is not available to pregnant women and infants up to the age of one whose family income exceeds 133 percent of the Federal poverty guideline for any period prior to July 1, 1991.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Substantially amended.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Deleted obsolete language and adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Emergency Amendment, R.1991 d.445, effective July 29, 1991 (expires September 27, 1991).

See: 23 N.J.R. 2543(a).

In (c)1: revised text to add 133 percent guideline for retroactive Medicaid coverage.

Adopted Concurrent Proposal, R.1991 d.526, effective October 21, 1991.

See: 23 N.J.R. 2453(a), 23 N.J.R. 3144(a).

Provision of emergency amendment R.1991 d.526 adopted without change.

Amended by R.1992 d.484, effective December 7, 1992.

See: 24 N.J.R. 1860(a), 24 N.J.R. 4378(a).

Eligibility expanded to include children of specified ages born after September 30, 1983.

Administrative Correction to (a).

See: 25 N.J.R. 704(a).

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.1997 d.379, effective September 15, 1997.

See: 29 N.J.R. 2541(a), 29 N.J.R. 4136(a).

In (b)3, inserted “, who otherwise meet the requirements specified in this chapter”; and in (a)4ii, substituted “enrollment and outreach process” for “eligibility determination process” and “administered by the Department of Health and Senior Services” for “is the responsibility of the Division of Medical Assistance and Health Services”.

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).

In (a), added an exception at the beginning of 2, and added 3; and in (b), rewrote 2.

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 with changes, effective August 17, 1998.

10:72-1.2 Purpose

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

1. Set forth eligibility criteria for the Medicaid program; and
2. Specify the rights and responsibilities of program applicants and eligible persons.

5. Aged individuals: Persons who are age 65 years or older.

6. Disabled individuals: Persons who have been medically determined to meet the criteria of disability as set forth at N.J.A.C. 10:71-3.10 through 3.13.

7. Blind individuals: Persons who have been medically determined to meet the criteria of blindness as set forth at N.J.A.C. 10:71-3.10 through 3.13.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Added (a)6.-8.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Amended by R.1989 d.397, effective August 7, 1989.

See: 21 N.J.R. 965(a), 21 N.J.R. 2383(a).

Provisions on eligibility of newborn added at (b).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Deleted obsolete language and adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Amended by R.1991 d.483, effective October 7, 1991.

See: 23 N.J.R. 1889(a), 23 N.J.R. 3028(a).

In (a)3: revised text to clarify eligibility for newborns of Medicaid eligible women in Medicaid recipients. Added text regarding presumptively eligible pregnant women who have been found ineligible for the month the child was born.

Amended by R.1992 d.484, effective December 7, 1992.

See: 24 N.J.R. 1860(a), 24 N.J.R. 4378(a).

Eligibility expanded to include children of specified ages born after September 30, 1983.

Amended by R.1997 d.379, effective September 15, 1997.

See: 29 N.J.R. 2541(a), 29 N.J.R. 4136(a).

In (a)1i, added the last sentence.

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).

In (a), rewrote 2.

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.

Amended by R.1999 d.253, effective August 2, 1999.

See: 31 N.J.R. 97(a), 31 N.J.R. 2203(b).

In (a)3, added a second sentence.

10:72-3.5 Household unit

(a) The term "household unit" means those persons whose income is counted in the determination of eligibility under the provisions of this chapter. The following persons, if they reside with the program applicant or beneficiary, shall be considered members of the household unit:

1. In the case of a pregnant woman:

i. The pregnant woman and the unborn child (or children, when it is medically verified that there is more than one fetus);

ii. The pregnant woman's spouse;

iii. The pregnant woman's natural or adoptive children under the age of 21;

iv. The blood-related siblings (including those of half-blood) of the pregnant woman's children who are under the age of 21; and

v. The natural or adoptive father of any children in the household unit.

2. In the case of an infant:

i. The child;

ii. The child's natural or adoptive parents;

iii. The child's blood-related (including half-blood) and adoptive siblings under the age of 21; and

iv. At the option of the applicant, the child's stepparent. If the applicant elects not to include the stepparent in the household unit, his or her income will not be included in the determination of eligibility except to the extent that he or she makes it available to the eligible members.

3. In the case of an aged, blind, or disabled individual, the household unit will consist of that individual and his or her spouse if the spouse resides with the aged, blind, or disabled individual. In the case of a blind or disabled child, the household unit will consist of only that child; however, the income and resources of the child's parents will be deemed to that child in accordance with N.J.A.C. 10:72-4.4(d).

4. Any person who is in receipt of Work First New Jersey/TANF or SSI or who has applied for and been found eligible for Medicaid based on eligibility for those cash assistance programs will not be included in the household unit. Any person whose income and resources have been deemed to an eligible SSI beneficiary shall likewise not be included in the household unit unless that person is applying for benefits under this chapter.

5. Any person in (a)1 and 2 above shall be included in the household unit even though he or she is in an AFDC-related Medically Needy budget unit in accordance with N.J.A.C. 10:70-3.5. Likewise, any person in (a)1 and 2 above required by N.J.A.C. 10:70-3.5 to be included in an AFDC-related Medically Needy budget unit, shall be included in that budget unit even if he or she is included in a household unit under the provisions of this section. Any aged, blind, or disabled person eligible under the provisions of this chapter or who is eligible for Medically Needy (or pending spend-down) will not be included in the household unit of a pregnant woman or child.

6. A spouse shall not be included in the household unit of an aged, blind, or disabled individual if the spouse is himself or herself in the household unit of an eligible pregnant woman or infant under the provisions of this chapter, or is in the budget unit of an eligible AFDC-related Medically Needy case (including eligible pending spend-down). Note: Resources of a spouse of an aged, blind, or disabled individual will be deemed to that indi-

vidual in accordance with N.J.A.C. 10:72-4.5 even though the spouse is not in the household unit.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Substantially amended.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Amended by R.1995 d. 539, effective October 16, 1995.

See: 27 N.J.R. 2527(a), 27 N.J.R. 3956(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).

In (a), substituted a reference to Work First New Jersey/TANF for a reference to AFDC in the first sentence of 4.

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.

10:72-3.6 Third party liability

Program applicants and beneficiaries are required to identify to the county welfare agency any third party (individual, entity, or program) that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or beneficiary.

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.

10:72-3.7 Persons sanctioned under AFDC rules

Persons who would be ineligible for AFDC using the rules in existence as of July 16, 1996 or due to the imposition of a sanction of ineligibility for a factor of AFDC eligibility that does not apply in Medicaid (such as noncooperation with work registration or WIN requirements) shall have eligibility determined under this chapter without regard to the sanction. (For persons ineligible for AFDC due to a period of ineligibility imposed as a result of the receipt of lump sum income, see N.J.A.C. 10:72-4.3(c)).

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).

Substituted "would be ineligible for AFDC using the rules in existence as of July 16, 1996 or" for "are ineligible for AFDC" in the first sentence.

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.

10:72-3.8 Application for other benefits

(a) As a condition of eligibility for the Medicaid program, applicants and beneficiaries are required to take all necessary steps to obtain any annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Applicants and beneficiaries must avail themselves of any health insurance coverage available to the household unit at no cost, such as coverage provided by an employer at no cost.

1. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, Social Security benefits, and unemployment compensation. They do not include AFDC, Supplemental Security Income (SSI), or General Assistance.

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.

Case Notes

Petitioner's income caused ineligibility for Medicaid benefits. L.H. v. DMAHS, 93 N.J.A.R.2d (DMA) 107.

10:72-3.9 Inmates of public institutions

(a) Any person who is an inmate of a public institution is ineligible for the Medicaid program.

(b) Any person who is incarcerated in a Federal, State, or local correction facility (prison, jail, detention center, reformatory, etc.) is not eligible for the Medicaid program.

10:72-3.10 Emergency services for aliens and routine prenatal care for specified aliens

(a) Any alien who is not an eligible alien as specified in N.J.A.C. 10:72-3.2(c) and (d), is ineligible for Medicaid benefits. Any such alien is, if a resident of New Jersey and if he or she meets all other Medicaid eligibility requirements, entitled to Medicaid coverage for the treatment of an emergency medical condition only.

1. An emergency medical condition is one of sudden onset that manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- i. Placing the patient's health in serious jeopardy;
- ii. Serious impairment to bodily functions; or
- iii. Serious dysfunction of any bodily organ or part.

2. An emergency medical condition shall include all labor and delivery for a pregnant woman. It does not include routine prenatal or post-partum care.

3. Services related to an organ transplant procedure are not covered under services available for treatment of an emergency medical condition.

(b) Prenatal care, which includes services provided in a hospital outpatient department, or by a physician, certified nurse practitioner or certified nurse midwife, as well as laboratory, radiological and pharmaceutical services, shall be provided by the Division to the following groups.

1. The following legal immigrant pregnant women are eligible for the New Jersey Supplementary Prenatal Care Program, regardless of when they entered the United States:

- i. An alien lawfully admitted for permanent residence (see N.J.A.C. 10:72-3.4(c)1);
- ii. An alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act (see N.J.A.C. 10:72-3.4(c)5);
- iii. An alien who has been granted conditional entry pursuant to section 203(a)(7) of the immigration law in effect prior to April 1, 1980 (see N.J.A.C. 10:72-3.4(c)6); or
- iv. An alien who has been a victim of domestic violence as specified in N.J.A.C. 10:72-3.2(b)12. (see N.J.A.C. 10:72-3.4(c)12.)

2. The following additional categories of legal immigrant pregnant women who are not otherwise covered by the provisions of (b)1 above are also eligible for the New Jersey Supplementary Prenatal Care Program:

- i. Spouses or children of United States citizens whose petition has been approved and who have a pending application for adjustment of status; or
- ii. Applicants for asylum or withholding of deportation who have been granted employment authorization, or who are under the age of 14 and have had their applications pending for at least 180 days.

Emergency New Rule, R.1999 d.254, effective July 12, 1999 (to expire September 10, 1999).

See: 31 N.J.R. 2252(a).

Adopted concurrent proposal, R.1999 d.345, effective September 10, 1999.

See: 31 N.J.R. 2252(a), 31 N.J.R. 2880(a).

Readopted provisions of R.1999 d.245, with changes to (b) effective October 4, 1999.

effective for purposes of this section with the first day of the year for which the poverty income guideline is promulgated.

(b) Effective with the first month of coverage, January 1, 1993, income limits for specified low-income Medicare beneficiaries shall be based on 110 percent of the poverty income guidelines as defined by the U.S. Department of Health and Human Services in accordance with Sections 1902(a)(10)(E)iii of the Social Security Act, 42 U.S.C. 1396a. Effective January 1, 1995, the income limits will be set at 120 percent of the Federal poverty level.

(c) Income limits for pregnant women and children under the age of one year covered under the provisions of this chapter shall be based on 185 percent of the poverty income guideline as defined by the Department of Health and Human Services in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (Pub.L. 97-35). The monthly income standard will be one-twelfth of 185 percent of the annual poverty income guideline rounded down to the next whole dollar amount for each household size. The annual revision to the Federal poverty income guideline will be effective for the purposes of this section with the first day of the year for which the poverty guideline is promulgated.

(d) In order to be eligible for Medicaid benefits under the provisions of this chapter, monthly household income (as determined by this chapter) must be equal to or less than the income limit established in (a), (b) or (c) above as applicable.

1. If a pregnant woman is determined to be income eligible during any month prior to the end of her pregnancy, she, if otherwise eligible, will continue eligible without regard to changes in the household unit's income for the term of her pregnancy, including the 60-day period beginning with the last day of the pregnancy whether or not the pregnancy results in a live birth. If the income change results from the addition of a new household member, the new income is not considered through the 60-day period beginning with the last day of the pregnancy.

i. The child resulting from the pregnancy will be eligible for Medicaid without regard to changes in the household unit's income for a period of not less than 60 days and up to a period of one year, so long as the mother remains eligible for Medicaid, or would remain eligible if pregnant, and the child remains in the mother's custody.

ii. A pregnant woman who, during the course of the pregnancy, was receiving or would have been eligible to receive AFDC benefits using the eligibility rules in existence as of July 16, 1996. Medicaid Special, or Medicaid for the Unborn is deemed to have met the income requirements of this chapter.

SUBCHAPTER 4. FINANCIAL ELIGIBILITY

10:72-4.1 Income eligibility limits

(a) Income limits for Medicaid for aged, blind, and disabled persons (except for specified low-income Medicare beneficiaries), covered under the provisions of this chapter will be based on 100 percent of the poverty income guidelines as defined by the U.S. Department of Health and Human Services in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (Pub.L. 97-35). The monthly income standard will be $\frac{1}{2}$ of the annual poverty income guideline rounded down to the next whole dollar amount for household unit sizes of one and two for aged, blind, and disabled individuals. The annual revision to the Federal poverty income guideline will be

2. With the exception in (d)1 above, income eligibility exists for each month in which the household unit's income is equal to or less than the income limits.

(e) Effective with the first month of coverage, earned income eligibility limits for participants in the Ticket to Work program shall be 250 percent or less of the Federal poverty level and unearned income 100 percent or less of the Federal poverty level (see 42 U.S.C. § 9902(2)), and as specified in N.J.A.C. 10:72-9.4.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Added (b)1ii.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

Emergency Amendment, R.1991 d.445, effective July 29, 1991 (expires September 27, 1991).

See: 23 N.J.R. 2543(a).

In (b): added "aged one through five years" regarding children covered; added new (c), recodifying existing (c) as new (d).

Adopted Concurrent Proposal, R.1991 d.526, effective October 21, 1991.

See: 23 N.J.R. 2453(a), 23 N.J.R. 3144(a).

Provisions of emergency amendment R.1991 d.445 adopted without change.

Administrative Correction to (b).

See: 24 N.J.R. 851(a).

Added "133 percent of" to text regarding the poverty income guideline.

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

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

Child's eligibility for Medicaid extended.

Amended by R.1992 d.484, effective December 7, 1992.

See: 24 N.J.R. 1860(a), 24 N.J.R. 4378(a).

Revised (a).

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

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

Public Notice: Increase in eligibility limits.

See: 29 N.J.R. 3088(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).

In (a), deleted "as well as children six years of age or older" following "beneficiaries," in the first sentence, and deleted "and for the appropriate family size for children aged six years or over" at the end of the second sentence; deleted former (c); recodified former (d) as (c); and recodified former (e) as (d), deleted a reference to (d) in the introductory paragraph, rewrote 1ii, and substituted a reference to (d)1 for a reference to (e)1 in 2.

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 (e).

Case Notes

Reasonable basis existed for use of income multiplier to determine eligibility under Medical Assistance and Health Service Act. P.P. v. New Jersey Dept. of Human Services, Div. of Medical Assistance and Health Services, 280 N.J.Super. 1, 654 A.2d 471 (A.D.1994), certification denied 142 N.J. 452, 663 A.2d 1359.

10:72-4.2 Prospective budgeting of income

(a) The county welfare agency shall establish the best estimate of income that will be available to the household unit.

1. The best estimate of income shall be based on an average of the household unit's income for the full two-month period preceding the date of application or re-termination. Adjustments shall be made to the estimated income to reflect changes in income that either have occurred or which are reasonably anticipated to occur which would affect the household unit's income during a period of eligibility.

10:72-4.3 Countable income: pregnant women and infants

(a) Except as specified below, countable income for pregnant women and infants under the provisions of this chapter shall include the income of all members of the household unit as determined at N.J.A.C. 10:72-3.5(a)1 and 2, and shall be determined in accordance with regulations applicable to income in the AFDC-C program in effect as of July 16, 1996 (see N.J.A.C. 10:82).

1. The maximum income limits as provided for at N.J.A.C. 10:82-1.2(d) do not apply.

2. Neither the \$30.00 nor the one-third disregard of earned income at N.J.A.C. 10:82-2.8(a)3 and 10:82-4.4(c) apply.

3. The deeming of stepparent income at N.J.A.C. 10:82-2.9(d) does not apply. (See N.J.A.C. 10:72-3.5(a)2 regarding the inclusion or exclusion of the stepparent in the household unit.)

4. The deeming of an alien sponsor's income at N.J.A.C. 10:82-3.13 does not apply.

(b) Nonrecurring lump sum income received by a household unit of a pregnant woman or infant shall be added to any other income received by the household unit in that month. The total shall be divided by the income eligibility limit applicable to the household. The result will be the number of months the eligible members of the household unit shall be ineligible to receive Medicaid under the provisions of this chapter. Any remaining income from this calculation is treated as if it were unearned income in the first month following the period of ineligibility. No period of ineligibility shall apply to a pregnant women eligible under the provisions of this chapter.

1. The period of ineligibility shall begin the first month subsequent to the month the nonrecurring income is received or, if there is insufficient time to provide timely adverse action notice, the following month.

2. Once established, the period of ineligibility may be reduced only in accordance with the AFDC provisions for shortening a period of ineligibility as found at N.J.A.C. 10:82-4.15(a)5. The basis for a determination to shorten the period of ineligibility shall be fully documented in the case record.

(c) Any person who received AFDC or Medicaid based on AFDC rules and became ineligible for such assistance because of a period of ineligibility imposed as a result of the provisions of N.J.A.C. 10:82-4.15 may establish eligibility under the provisions of this chapter. The amount of the lump sum used to determine the original period of ineligibility shall be divided by the applicable income eligibility limit to determine the period of ineligibility for Medicaid under this chapter. If that period has already expired, eligibility for benefits under this chapter may be established so long as all other eligibility criteria are met.

(d) The parents of an infant and the spouse of a pregnant woman are legally responsible relatives to pregnant women and infants applying for or eligible for benefits under the provisions of this chapter. When a legally responsible relative resides in the same household, his or her income is considered in the determination of eligibility and no further action is required. When a legally responsible relative does not reside in the same household, the county welfare agency shall pursue support from that relative in accordance with the provisions of N.J.A.C. 10:82-3.8 et seq.

1. Except when the legally responsible relative resides in the same household, income of the relative shall be counted only to the extent that the income is actually made available to the household unit.

(e) No portion of a cash reward provided to any individual by the Division for providing information about fraud and/or abuse in any program administered in whole or in part by the Division shall be included in the computation of income for financial eligibility purposes.

Amended by R.1987 d.380, effective August 27, 1987.
Sec: 19 N.J.R. 1324(a), 19 N.J.R. 1731(a).

(c): missing text inserted.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).
Sec: 20 N.J.R. 548(a)

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.
Sec: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).
Sec: 23 N.J.R. 1200(a).

Adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.
Sec: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

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

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

Stylistic change.

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

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

In (a), inserted "in effect as of July 16, 1996" following "program".

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

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

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

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

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

Added (e).

10:72-4.4 Income eligibility; aged, blind, and disabled individuals

(a) Except as specified below, countable income for aged, blind, and disabled individuals shall be determined in accordance with rules applicable to income in Medicaid Only—Aged, Blind, and Disabled (see N.J.A.C. 10:71-5).

1. The disregard of cost-of-living increases in Social Security benefits provided for in N.J.A.C. 10:71-5.3(a)7x and xi do not apply.

2. The deeming of the income of an alien's sponsor as provided for at N.J.A.C. 10:71-5.7 does not apply.

(b) Nonrecurring lump sum income received by the household unit of an aged, blind, or disabled individual shall be counted as income in the month received and any portion retained shall be counted as a resource in subsequent months, except as follows:

1. No portion of a cash reward provided to any individual by the Division for providing information about fraud and/or abuse in any program administered in whole or in part by the Division shall be included in the computation of income for financial eligibility purposes;

(c) An aged, blind, or disabled individual will have the value of in-kind support and maintenance counted as unearned income in the following circumstances.

1. An aged, blind, or disabled adult, who would in accordance with rules at N.J.A.C. 10:71-5.6(c) be determined to be "living in the household of another," shall be considered to have unearned income in the amount specified at N.J.A.C. 10:71-5.4(a)12 less \$20.00. The amount of income so assigned is not rebuttable by the applicant or beneficiary.

2. Any aged, blind, or disabled person other than those addressed in (c)1 above, to whom food, clothing, or shelter is given or paid for by someone other than a spouse, parent, or minor child residing in the same household, shall be presumed to receive in-kind support and maintenance. The presumed value of the support and maintenance will be the values specified at N.J.A.C. 10:71-5.4(a)12. The presumed value so assigned may be rebutted in accordance with the provisions of that subsection.

(d) In accordance with the rules at N.J.A.C. 10:71-5.5, the income of the spouse of an aged, blind, or disabled individual shall be deemed to the aged, blind, or disabled individual if they are residing in the same household. Income of the parent(s) of a blind or disabled child under the age of 18 residing in the same household shall be deemed available to the child in determining income eligibility for benefits under this chapter. No income shall be deemed to an aged, blind, or disabled individual from a person who is a member of a household unit of an eligible pregnant woman or child under the provisions of this chapter or who is in the budget unit of eligible AFDC-related Medically Needy cases (including a case that is eligible pending spend-down.)

1. If the countable income (before income deeming) of the aged, blind, or disabled individual exceeds the poverty income guideline for one person he or she is ineligible for benefits and income deeming does not apply.

2. When income of a spouse is deemed to an aged, blind, or disabled individual, the total countable income after deeming is compared to the poverty income guideline for two persons.

3. In determining income eligibility of a child, the child's income after deeming is compared to the poverty income guideline for one person.

4. When the income of a spouse must be deemed to both an aged, blind, or disabled individual and a blind or disabled child, the income is first deemed to the aged, blind, or disabled spouse. If the income (after deeming) of the aged, blind, or disabled spouse does not exceed the poverty income guideline, he or she is income eligible and there is no income to be deemed to the blind or disabled child. If the poverty income guideline is exceeded, the aged, blind, or disabled adult is income ineligible and the excess income is deemed to the blind or disabled child.

5. When parental income must be deemed to more than one blind or disabled child, the deemable income shall be divided equally among such children.

Emergency New Rule, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

This section was originally "resource eligibility" which was recodified to 4.5.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(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.

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

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

In (b), added ", except as follows:" at the end of the introductory paragraph and added i.

Case Notes

Reinstatement of severely disabled man's New Jersey Care benefits in spite of income in excess of maximum allowable amount was appropriate. *L.E. v. Camden County Board of Social Services*, 94 N.J.A.R.2d (DMA) 11.

Prospective-only application of regulation did not violate equal protection. *J.B. v. Division of Medical Assistance and Health Services*, 93 N.J.A.R.2d (DMA) 89.

10:72-4.5 Resource eligibility

(a) Pregnant women and infants seeking Medicaid benefits under the provisions of this chapter are eligible without regard to the value of the household unit's resources. The county welfare agency shall inquire about the household unit's resources only in order to establish income that may result from the household unit's resources.

(b) Aged, blind or disabled persons (including specified low-income Medicare beneficiaries) must meet resource eligibility criteria as specified below in order to be eligible for benefits under this chapter. Eligibility for benefits does not exist in any month in which the countable resources of an aged, blind, or disabled person exceeds the limits of \$4,000 for an individual and \$6,000 for a couple.

1. The resource provisions of the Medicaid Only Manual apply in the determination of countable resources for aged, blind, or disabled individuals except that, the provisions requiring the deeming of the resources of an alien's sponsor (N.J.A.C. 10:71-4.6(f)) do not apply in this chapter.

2. The spouse-to-spouse and parent-to-child deeming of resources found at N.J.A.C. 10:71-4.6 apply to eligibility under this chapter. In the deeming of resources from one parent to a child, the countable parental resources in excess of the Medicaid Only resource limit for an individual shall be deemed to the blind or disabled child. When the resources of two parents must be deemed to a child, the countable parental resources in excess of the Medicaid Only resource limit for a couple shall be deemed to the child.

3. For aged, blind, or disabled persons, the policy concerning transfer of resources within 30 months of the date of application (see N.J.A.C. 10:71-4.7), applies equally to eligibility under this chapter.

(c) Effective with the first month of coverage, resource eligibility limits for participants in the Ticket to Work program shall be as specified in N.J.A.C. 10:72-9.5.

(d) No portion of a cash reward provided to any individual by the Division for providing information about fraud and/or abuse in any program administered in whole or in part by the Division shall be included in the computation of income for financial eligibility purposes.

1. In order for the cash reward to continue to be excluded, the funds shall be separately identifiable (that is, not commingled with other funds or assets), but held in a separate account. Any increase in the value of the excluded cash reward shall also be excluded.

Emergency Amendment, R.1988 d.96, effective February 2, 1988 (expired April 2, 1988).

See: 20 N.J.R. 548(a).

Recodified from 10:72-4.4 and substantially amended.

Adopted Concurrent Proposal, R.1988 d.212, effective May 16, 1988.

See: 20 N.J.R. 548(a), 20 N.J.R. 1103(a).

Emergency Amendment, R.1991 d.223, effective March 28, 1991 (operative April 1, 1991; expires May 27, 1991).

See: 23 N.J.R. 1200(a).

Adopted Federally required coverage pursuant to Omnibus Budget Reconciliation Act of 1989.

Adopted Concurrent Proposal, R.1991 d.302, effective May 24, 1991.

See: 23 N.J.R. 1200(a), 23 N.J.R. 1945(a).

Provisions of emergency amendment R.1991 d.223 readopted without change.

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

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

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).

(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.

(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.

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.

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.

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.

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.

(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.

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.

SUBCHAPTER 9. TICKET TO WORK

Authority

N.J.S.A. 30:4D-1 et seq., as amended by P.L. 2000 c.116.

Source and Effective Date

R.2002 d.31, effective December 26, 2001 (to expire June 26, 2002).
See: 34 N.J.R. 600(a).

Subchapter Historical Note

Subchapter 9, Ticket to Work, was adopted as special new rules by R.2002 d.31, effective December 26, 2001 (to expire June 26, 2002). See: Source and Effective Date.

10:72-9.1 Purpose, scope and applicability

(a) The purpose of this subchapter is to establish requirements to implement the Ticket to Work program in accordance with N.J.S.A. 30:4D-1 et seq., as amended by P.L. 2000, c.116, and in accordance with the Federal Ticket to Work and Work Incentives Improvement Act, Public Law 106-170 (113 Stat. 1860), and 42 U.S.C. § 1396a(a)(10)(A)(ii)(XV). The purpose of the Ticket to Work program is to provide an opportunity for disabled individuals who are employed to purchase Medicaid coverage when their earnings would otherwise disqualify them for Medicaid.

(b) The rules apply to employed permanently disabled individuals residing in New Jersey who are between the ages of 16 and 64 whose earned incomes are below 250 percent, and unearned incomes below 100 percent, of the Federal poverty level for an individual or a couple. These individuals may apply to purchase Medicaid coverage (Medicaid buy-in) from the State of New Jersey, and shall pay for such coverage based on the standards contained in this subchapter.

(c) Unless specifically excepted, all other requirements of this chapter shall apply to the Ticket to Work program.

10:72-9.2 Definitions

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

“Applicant” means any person who has made application for purposes of becoming a “qualified applicant.”

“Commissioner” means the Commissioner of the Department of Human Services.

“Department” means the Department of Human Services.

“Director” means the Director of the Division of Medical Assistance and Health Services.

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

“Medicaid” means the New Jersey Medical Assistance and Health Services program.

“Medical assistance” means payments made on behalf of beneficiaries to providers for medical care and services.

“Net income” means both earned and unearned income after disregards are taken in accordance with this subchapter.

“Provider” means any person, public or private institution, agency or business concern approved by the Division in accordance with N.J.A.C. 10:49, lawfully providing medical care, services, goods and supplies which are specified in this subchapter and holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

“Qualified applicant” means a person who is a resident of this State who meets the requirements contained in this subchapter.

10:72-9.3 Non-financial eligibility for Ticket to Work

(a) Permanently disabled employed individuals who are 16 years of age or over, but under 65 years of age, shall be eligible to participate in the Ticket to Work program.

(b) Either the Social Security Administration or the Division’s Disability Review Team may make the determination of permanent disability.

(c) The test of disability shall be identical to the SSI/SSDI disability test, except that employment activity, earnings and substantial gainful activity shall not be considered in determining whether the individual meets the definition of disability.

10:72-9.4 Income eligibility for Ticket to Work

(a) The earned income of a qualified applicant, after disregards, shall not exceed 250 percent of the Federal poverty level for a family unit of one or two, as applicable.

(b) The unearned income of a qualified applicant, after disregards, shall not exceed 100 percent of the Federal poverty level for a family unit of one or two, as applicable.

(c) Countable income for Ticket to Work individuals shall be determined in accordance with the income rules found at N.J.A.C. 10:71-5. All rules at N.J.A.C. 10:71-5 shall apply, with the following exceptions:

1. The disregard of cost-of-living increases in Social Security benefits provided for in N.J.A.C. 10:71-5.3(a)7x and xi shall not apply.
2. The deeming of the income of an alien’s sponsor as provided for at N.J.A.C. 10:71-5.7 shall not apply.
3. Wages paid by the U.S. Census Bureau for temporary employment related to Census 2000 activities shall not be counted as income.

4. Social Security Disability benefits and Railroad Disability benefits received by the individual on his or her own account shall not be counted as income.

5. Nonrecurring lump sum income received by the household unit of a disabled individual shall be counted as income in the month received and any portion retained shall be counted as a resource in subsequent months.

(d) A disabled individual shall have the value of in-kind support and maintenance counted as unearned income in the following circumstances:

1. A disabled adult, who would, in accordance with rules at N.J.A.C. 10:71-5.6(c)4, be determined to be "living in the household of another," shall be considered to have unearned income in the amount specified at N.J.A.C. 10:71-5.4(a)12, less \$20.00. The amount of income so assigned shall not be rebuttable by the applicant or beneficiary.

2. Any disabled person other than those addressed in (d)1 above, to whom food, clothing, or shelter is given or paid for by someone other than a spouse, parent, or minor child residing in the same household, shall be presumed to receive in-kind support and maintenance. The presumed value of the support and maintenance shall be the values specified at N.J.A.C. 10:71-5.4(a)12. The presumed value so assigned may be rebutted in accordance with the provisions of N.J.A.C. 10:71-5.4(a)12i.

(e) In accordance with N.J.A.C. 10:71-5.5, the income of the spouse of a disabled individual shall be deemed to the disabled individual if they are residing in the same household. Income of the parent(s) of a disabled child under the age of 18 residing in the same household shall be deemed available to the child in determining income eligibility for benefits under this chapter. No income shall be deemed to a disabled individual from a person who is a member of a household unit of an eligible pregnant woman or child under the provisions of this chapter or a person who is in the budget unit of an eligible AFDC-related Medically Needy case (including a case that is eligible pending spend-down).

1. If the countable income (before income deeming) of the disabled individual exceeds the Federal poverty level for one person, he or she shall be ineligible for benefits and income deeming shall not apply.

2. When income of a spouse is deemed to a disabled individual, the total countable income after deeming shall be compared to the Federal poverty level for two persons.

3. In determining income eligibility of a child, the child's income after deeming shall be compared to the Federal poverty level for one person.

4. When the income of a spouse shall be deemed to both a disabled individual and a blind or disabled child, the income shall be first deemed to the disabled spouse. If the income (after deeming) of the disabled spouse does not exceed the Federal poverty level, he or she shall be income-eligible and there shall be no income to be deemed to the blind or disabled child. If the Federal poverty level is exceeded, the disabled adult shall be income ineligible and the excess income shall be deemed to the blind or disabled child.

5. When parental income shall be deemed to more than one blind or disabled child, the deemable income shall be divided equally among such children.

10:72-9.5 Resource eligibility for Ticket to Work

(a) Qualified applicants for Ticket to Work shall meet resources eligibility standards as defined in N.J.A.C. 10:71-4 in order to be eligible for benefits under this chapter.

(b) In the determination of countable resources, N.J.A.C. 10:71-4.2 shall apply.

(c) Eligibility shall not exist in any month in which the countable resources of a Ticket to Work person exceeds the limits of \$20,000 for an individual and \$30,000 for a couple.

(d) The spouse-to-spouse and parent-to-child deeming of resources found at N.J.A.C. 10:71-4.6 shall apply to eligibility for Ticket to Work. In the deeming of resources from one parent to a child, the countable parental resources in excess of the Medicaid Only resource limit for an individual shall be deemed to the blind or disabled child. When the resources of two parents shall be deemed to a child, the countable parental resources in excess of the Medicaid Only resource limit for a couple shall be deemed to the child.

(e) In addition to those resources excluded under N.J.A.C. 10:71-4.4, funds in an IRA, 401K or other retirement accounts shall also be excluded.

(f) The provisions at N.J.A.C. 10:71-4.6(f) requiring the deeming of resources of an alien's sponsor shall not apply.

10:72-9.6 Premium payments

(a) An eligible individual with net income in excess of 150 percent of the Federal poverty level shall pay a premium of \$25.00 per month to the Division.

(b) An eligible couple with net income in excess of 150 percent of the Federal poverty level shall pay a premium of \$50.00 per month to the Division.

(c) Premium payments required shall be submitted each month to:

Division of Medical Assistance and Health Services
Ticket to Work—Premiums
PO Box 712, Mail Code #27
Trenton, New Jersey 08625-0712

(d) Participants shall be billed in advance of the coverage month. Failure to submit the full contribution shall result in termination of coverage for the month following the coverage month where the premium has not been received by the Ticket to Work program.

10:72-9.7 Services available through the Ticket to Work program

Services available through the Ticket to Work program shall be provided by the Division through its existing contracts with health maintenance organizations and fee-for-service providers.

10:72-9.8 Application process

(a) Applications shall be obtained from, and returned to, the county board of social services in the applicant's county of residence.

(b) Information can be obtained from the Division of Disability Services by calling toll free 1-888-285-3036 or at the address below.

Division on Disability Services
DHS-Capital Place I
PO Box 700, 1st Floor
Trenton, NJ 08625-0700