

10. Repay the State of New Jersey, upon request, for the cost of benefits incorrectly paid on his or her behalf. Failure to fully repay the State for incorrectly paid benefits could cause the suspension of his or her Senior Gold benefits in the future, as well as possible withholding of all or some of his or her rebates or refunds which may be due him or her from the State of New Jersey.

SUBCHAPTER 6. ELIGIBILITY REQUIREMENTS

8:83D-6.1 Age

(a) To be eligible for Senior Gold, the applicant shall be 65 years of age or older or shall be under 65 and over 18 years of age and receive Social Security Title II disability benefits. Individuals under age 65 who receive disability benefits on behalf of someone other than themselves are ineligible. The applicant shall be able to document his or her age upon request by the Department. The Department will require that the applicant submit a photocopy of his or her birth certificate or other acceptable proof of age if over 65 years of age.

(b) The following are acceptable proofs of age:

1. Primary proof: The applicant is required to submit a photocopy of one of the following documents:

- i. Birth certificate;
- ii. Baptismal certificate;
- iii. Bris certificate;
- iv. Social Security records verifying age (can be obtained from local Social Security office); or
- v. Railroad retirement letter (can be obtained from Railroad Retirement Board).

2. Secondary proofs: If the applicant cannot supply one of the documents listed in (b)1 above, copies of any two of the following documents are acceptable:

- i. Insurance policy;
- ii. Driver's license;
- iii. School record;
- iv. State or Federal census record;
- v. Church record of Baptism (age five or after);
- vi. Confirmation certificate;
- vii. Marriage record;
- viii. Employment record;
- ix. Union record;
- x. Military record;
- xi. Medicare card;

- xii. Delayed birth certificate;
- xiii. Applicant's child's birth certificate;
- xiv. Physician's or midwife's record of applicant's birth;
- xv. Immigration record;
- xvi. Naturalization record; and
- xvii. Passport.

(c) If under age 65, the following are acceptable proofs of disability:

1. A copy of a Social Security award certificate issued in the last six months;
2. A Social Security form or record issued within the last six months; or
3. A document issued by Social Security that establishes Medicare eligibility. The document must be dated within six months prior to the date of application.

8:83D-6.2 Income standards

(a) Any single permanent resident of New Jersey who is 65 years of age or over or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have a total income between \$20,016 and \$30,016 in 2003 to be eligible for Senior Gold benefits. These income limits will increase January 1 of each year in accordance with the Social Security cost-of-living adjustment.

(b) Any married permanent resident of New Jersey who is 65 years of age or over or who is under 65 and over 18 years of age and is receiving Social Security Title II disability benefits must have a combined (applicant and spouse) total annual income between \$24,542 and \$34,542 in 2003 to be eligible for Senior Gold benefits. The income limits will increase January 1 of each year in accordance with the Social Security cost-of-living adjustment.

1. An applicant and spouse shall be considered separated and eligibility determined under the single income standard when each maintains a separate residence and the applicant does not have access to the spouse's income.

i. Any support payment received by the applicant for the sole benefit of the applicant shall be considered as income for Senior Gold eligibility purposes.

2. An applicant and spouse may be considered separated when the spouse has been institutionalized in a long-term facility, either skilled or intermediate, or in a State or county psychiatric hospital at least 30 consecutive days prior to application.

i. The Program shall consider the applicant and spouse separated only when doing so is more favorable to the applicant for Senior Gold (for example, when the income of an applicant and his institutionalized spouse

is combined at \$36,000, the applicant is ineligible for Senior Gold, but if the applicant and spouse are considered separated, the applicant could become eligible for Senior Gold under the single income standard. If the institutionalized spouse was not covered by Medicaid, the spouse could become eligible under the single income standard for PAAD).

(c) All income, from whatever source derived, is considered in determining eligibility for the Program. Jointly owned income sources will be allocated according to degree of ownership.

1. All income, taxable and nontaxable, is to be included. Examples of possible sources of income (gross amounts unless otherwise noted) are as follows:

- i. Social Security benefits paid to or on behalf of the applicant;
- ii. Veterans benefits;
- iii. Disability benefits, whether public or private;
- iv. Salaries;
- v. Wages;
- vi. Bonuses;
- vii. Commissions;
- viii. Fees;
- ix. Dividends;
- x. Interest, both taxable and nontaxable;
- xi. Capital gains;
- xii. Royalties;
- xiii. Bequests and death benefits;
- xiv. Support payments;
- xv. Unemployment benefits;
- xvi. Pensions and black lung benefits;
- xvii. Annuities (contributory, non-contributory, qualified and non-qualified);
- xviii. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs) (Traditional, Simple, Roth or Educational) and benefit payments from foreign countries;
- xix. Business income (net);
- xx. Fair market value of prizes and awards;
- xxi. Gambling and lottery winnings; and
- xxii. Rental income (net after expenses).

2. Sources of income which are excluded in considering eligibility for Senior Gold are as follows:

i. Benefit amounts received under the New Jersey State Lifeline Credit Program/Tenants Lifeline Assistance Program;

ii. Benefits received under New Jersey State Homestead Rebates;

iii. Proceeds from spouse's life insurance;

iv. Capital gains of up to \$250,000 for a single person or up to \$500,000 for a married couple on the sale of a main home which is also excluded from income taxation by IRS and the New Jersey Division of Taxation;

v. Stipends from the Volunteers to Service in America (VISTA), Foster Grandparents programs, Workforce 55+ program and programs under Title V of the Older Americans Act of 1965;

vi. Agent Orange payments;

vii. Reparation payments to Japanese Americans by the Federal Government pursuant to sections 105 and 106 of the Civil Liberties Act of 1988, P.L. 100-383 (50 U.S.C. App. 1989b-4 and 1989b-5);

viii. Rewards involving health care fraud or abuse which apply to N.J.A.C. 10:49-13.4;

ix. Holocaust reparations;

x. Proceeds from viatical settlements;

xi. Proceeds received by the beneficiary of a special needs trust (see N.J.A.C. 8:83-2.2 for provisions);

xii. Rollovers from one tax deferred financial instrument (pension, annuity, IRA, insurance contract or other retirement benefits) to another tax deferred financial instrument;

xiii. 1035 Tax Free Exchanges of a policy or contract handled between two insurance companies; and

xiv. An insurance policyholder's original contributions if demutualization of the policy occurs (in that case, only the earnings of the policy would be counted).

(d) The applicant must be able to document the amounts reported upon request by the Department and will be required to submit photocopies of his or her Federal, State and/or city income tax return and other acceptance evidence.

(e) Senior Gold eligibility is conferred based upon annual income for the current calendar year which is estimated at the time of application. Previous year income information is used as a gauge and supplements estimates of current income to determine current eligibility. However, if previous year income exceeds the standard, but current year income is expected to fall within legal limits, an initial applicant may estimate current year income for the purpose of establishing Senior Gold eligibility.

(f) Since Senior Gold eligibility is based upon actual annual income, if the actual income for the current calendar year exceeds the Senior Gold income standard, the person will become ineligible for the entire calendar year and shall **be required** to repay benefits paid for all prescription benefits from January 1 through December 31 of the calendar year.

(g) Upon renewal of eligibility, all re-applicants must submit previous year income information to substantiate previous estimates. Requests by re-applicants to use anticipated income as the basis for eligibility when previous year income exceeds the Senior Gold standard will be reviewed individually.

(h) The Program can, when appropriate, take necessary action to recover the full amount of payments made on behalf of beneficiaries during an ineligible period.

(i) Senior Gold beneficiaries are required to notify the Program immediately if their current year income exceeds the Senior Gold income standard.

(j) Applicants who combine their income by filing joint Federal and/or State income tax returns must combine their income for Senior Gold eligibility purposes for the same time period, and their eligibility determination shall be based on the joint income standard except when (b)2 above applies.

(k) Medical or other expenses are not considered or deducted from gross income for Senior Gold eligibility purposes.

(l) Net losses in one income category shall not be used to offset income in another category.

(m) Beginning January 1, 2005, the Commissioner will provide notice of the new income limits annually by publication in the New Jersey Register.

Notice of new income eligibility limits.

See: 34 N.J.R. 935(a).

Administrative change.

See: 35 N.J.R. 1115(a).

Amended by R.2003 d.400, effective October 6, 2003.

See: 35 N.J.R. 1336(a), 35 N.J.R. 4722(a).

Increased the income amounts in (a) and (b).

Petition for Rulemaking.

See: 35 N.J.R. 5622(a).

Amended by R.2004 d.300, effective August 2, 2004.

See: 36 N.J.R. 275(a), 36 N.J.R. 3535(a).

Rewrote the section.

Amended by R.2004 d.351, effective September 20, 2004.

See: 36 N.J.R. 1865(a), 36 N.J.R. 4313(b).

In (b), substituted "adjustment" for "increase" following "cost-of-living" in the introductory paragraph, inserted "for the sole benefit of the applicant" preceding "shall be considered" in 1i and substituted "\$ 36,000" for "\$ 35,000" in 2i; rewrote (c).

8:83D-6.3 Citizenship

A person shall not be required to be a citizen of the United States in order to be eligible for Senior Gold.

8:83D-6.4 Residence

(a) "Resident" means a resident as defined in section 3 of P.L. 1975, c.194 (N.J.S.A. 30:4D-22) for purposes of eligibility for PAAD. Resident means one legally domiciled within the State for a period of 30 days immediately preceding the date of application for inclusion in the Program. Mere seasonal or temporary residence within the State, for whatever duration, does not constitute domicile. Absence from this State for a period of 12 months is prima facie evidence of abandonment of domicile. The burden of establishing legal domicile within the State is upon the applicant.

1. The term resident shall be interpreted to mean a person having his or her customary place of abode in New Jersey. The fact that an individual was or may have been motivated to move to New Jersey because of the availability of medical facilities does not, of itself, justify a finding that he or she has established a residency in this State; however, such inquiry need not be made if an individual has been physically present in New Jersey for a period exceeding three months.

2. The applicant must be able to substantiate residence upon request by the Department and is required to submit photocopies of two documents showing evidence of current residence at the time of initial application.

3. Senior Gold beneficiaries are entitled to prescription benefits only when the beneficiary is physically present in the State of New Jersey at the time the prescription is dispensed.

4. The following are examples of sources of evidence of residence:

i. Motor vehicle records (for example, valid driver's license);

ii. Landlord's records and rent receipts;

iii. Public utility records and receipts (for example, electric bill);

iv. Personal property assessment records;

v. Records of business or professional people, such as doctors, department stores, etc.;

vi. Post Office records;

vii. Records of social agencies, public or private; and

viii. Employment records.

5. Determination as to continued New Jersey residence of a person absent from this State shall be based upon contact with the applicant by a representative of the Department.

6. In reaching a decision as to continuing New Jersey residence of an absentee, the issue is whether the individual intends to return to New Jersey or remain indefinitely in the other jurisdiction. If a beneficiary leaves New Jersey with the intent to establish a place of abode elsewhere, he or she becomes ineligible under the Program and must notify the Program of the address and return the Senior Discount eligibility card.

8:83D-6.5 Recipient of other assistance and pharmaceutical coverage

(a) The Senior Gold Prescription Discount Act provides that an eligible person whose prescription drug costs are covered in part by any other program or plan of assistance or insurance may be required to receive reduced assistance under the Program. If an eligible person's prescription drug costs are covered in whole or in part by any other program or plan of assistance of insurance, the other program or plan shall be the primary payer, and the Program shall be the payer of last resort.