

**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.2003 d.392, effective September 9, 2003.  
See: 35 N.J.R. 1335(a), 35 N.J.R. 4721(a).

**Chapter Expiration Date**

Chapter 83, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, expires on September 9, 2008.

**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, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was readopted 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 readopted 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 readopted as R.1998 d.176, effective March 13, 1998. See: 29 N.J.R. 5280(a), 30 N.J.R. 1314(b).

Chapter 83, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was readopted as R.2003 d.392, effective September 9, 2003. See: Source and Effective Date.

**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.

“Authorized representative” means a person with legal authority to act on behalf of an individual in making decisions related to the individual’s enrollment in, disenrollment from, and access to negotiated prices and Transitional Assistance under the Medicare Prescription Drug Discount Card and Transitional Assistance Program as defined by 42 C.F.R. 403.802.

“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.

“Centers for Medicare and Medicaid Services (CMS)” means the agency of the Federal Department of Health and Human Services which is responsible for the administration of the Medicare program in the United States. CMS was formerly known as the Health Care Financing Administration (HCFA).

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

7. The trust shall specifically state that it is irrevocable. Neither the grantor, the trustee(s), nor the beneficiary shall have any right or power, whether alone or in conjunction with others, in whatever capacity, to alter, amend, revoke, or terminate the trust or any of its terms or to designate the persons who shall possess or enjoy the trust estate during his or her lifetime;

8. The trustee shall be specifically identified by name and address. The trust shall state that the original trust beneficiary cannot be the trustee. The trust shall make provisions for naming a successor trustee in the event that any trustee is unable or unwilling to serve. The Office of Support Services for the Aged, Division of Senior Benefits and Utilization Management, as well as the trust beneficiary and/or guardian, shall be given prior notice if there is a change in the trustee;

9. The trust shall specifically state that the trustee shall fully comply with all State laws, including the Prudent Investor Act, N.J.S.A. 3B:20-11.1 et seq. The trust shall provide that the trustee cannot take any actions not authorized by, or without regard to, State laws. If the trust gives the trustee authorization or power not provided for in the Prudent Investor Act, an accompanying letter shall provide an explanation for each such authorization or power;

10. The trust shall specifically state that the trustee shall be compensated only as provided by law (N.J.S.A. 3B:18-2 et seq.). If the trust identifies a guardian, the trust shall specifically identify him or her by name. A guardian shall be compensated only as provided by law;

11. The trust shall specify that a formal or informal accounting of all expenditures made by the trust shall be submitted to the appropriate eligibility determination agency on an annual basis;

12. The State shall be given advance notice of any expenditure in excess of \$5,000, and of any amount which would substantially deplete the principal of the trust. Notice shall be given to the Office of Support Services for the Aged, Division of Senior Benefits and Utilization Management, PO Box 715, Trenton, NJ 08625-0715, or any successor agency, 45 days prior to the expenditures;

13. New Jersey rules and laws do not permit a trust to create a will for an incompetent or a minor. The money creating the trust, any additions and/or interest accumulated, cannot be left to other parties, but shall pass by intestacy. The trust shall not create other trusts within it.

New Rule, R.2004 d.349, effective September 20, 2004.  
See: 36 N.J.R. 1859(a), 36 N.J.R. 4311(a).

**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. The application shall contain the pharmacy's NSC Supplier Number issued by the National Supplier Clearinghouse (NSC) or other appropriate agent of the Centers for Medicare and Medicaid Services (CMS) or a statement that the pharmacy has applied for a NSC Supplier Number to enroll as a Medicare Part B supplier. A copy of one of the proofs of enrollment listed in N.J.A.C. 8:83C-1.3(c)2 shall be attached to the application. The pharmacy shall also complete and return the Electronic Data Interchange (EDI) Enrollment Form attached to the application.

(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.

Amended by R.2003 d.248, effective June 16, 2003.

See: 34 N.J.R. 3456(a), 35 N.J.R. 2642(a).

Rewrote (a).

### 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.

### 8:83-4.4 Beneficiary co-payment

(a) No direct payment to beneficiaries will be made under the PAAD Program, except as noted in (b) below. The beneficiary must pay the pharmacy a nonrefundable PAAD co-pay per prescription or per purchase of insulin, insulin syringes, insulin needles or diabetic testing materials or syringes and needles for injectable medicines used for the treatment of multiple sclerosis.

(b) In the event that a PAAD beneficiary receives his/her eligibility identification card later than 30 days from the date that his/her complete and valid Eligibility Application was received by the PAAD program, he/she may be eligible to receive direct reimbursement for prescription drugs purchased. See N.J.A.C. 10:69A-5.4 for details.

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) "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).

In (a), substituted a reference to a nonrefundable PAAD co-pay for a reference to a nonrefundable \$5.00 co-payment, and added a reference to syringes and needles for injectable medicines used for the treatment of multiple sclerosis.

## SUBCHAPTER 5. APPLICATION PROCESS

### 8:83-5.1 General provisions

The application process includes all activity relating to a request for eligibility determination. It begins with the receipt by the Department of an eligibility application and continues in effect until there is an official disposition of the request by the Department.

### 8:83-5.2 Authorized agent

(a) In those instances where the applicant is incompetent or incapable of filing an eligibility application on his or her own behalf, DHSS shall accept any one of the following listed in the order of priority, as an authorized agent for the purpose of initiating such application: