

CHAPTER 69A

**PHARMACEUTICAL ASSISTANCE TO THE AGED
AND DISABLED ELIGIBILITY MANUAL**

Authority

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

Source and Effective Date

R.1993 d.175, effective March 26, 1993.
See: 24 N.J.R. 4479(a), 25 N.J.R. 1764(a).

Executive Order No. 66(1978) Expiration Date

Chapter 69A, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, expires on March 26, 1998.

Chapter Historical Note

All provisions of this chapter were filed and became effective April 5, 1976 as R.1976 d.102. See: 7 N.J.R. 505(c), 8 N.J.R. 232(b).

1977 Revisions: Amendments were filed and became effective December 30, 1977 as R.1977 d.492. See: 9 N.J.R. 572(a), 10 N.J.R. 66(b).

1979 Revisions: Amendments became effective May 29, 1979 as R.1979 d.209. See: 11 N.J.R. 183(a), 11 N.J.R. 345(b). Further amendments became effective September 25, 1979 as R.1979 d.375. See: 11 N.J.R. 558(c).

1981 Revisions: Amendments became effective September 10, 1981 as R.1981 d.332. See: 13 N.J.R. 432(a), 13 N.J.R. 580(c).

1982 Revisions: Amendments became effective May 3, 1982 as R.1982 d.147. See: 14 N.J.R. 80(a), 14 N.J.R. 427(c). Further amendments became effective June 21, 1982 as R.1982 d.198. See: 14 N.J.R. 321(b), 14 N.J.R. 659(a).

1984 Revisions: Amendments became effective July 2, 1984 as R.1984 d.269. See: 16 N.J.R. 823(a), 16 N.J.R. 1797(a). Further amendments became effective December 16, 1984 as R.1984 d.571. See: 16 N.J.R. 2051(a), 16 N.J.R. 3439(a).

1985 Revisions: Amendments became effective May 20, 1985 as R.1985 d.259. See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

1986 Revisions: Amendments became effective January 21, 1986 as R.1986 d.690. See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a). Further amendments became effective April 4, 1986 as R.1986 d.321. See: 18 N.J.R. 1054(a), 18 N.J.R. 1594(b).

1988 Revisions: This chapter was readopted pursuant to Executive Order No. 66(1978) effective April 20, 1988 with amendments effective May 16, 1988 as R.1988 d.211. See: 20 N.J.R. 369(a), 20 N.J.R. 1106(a).

Chapter 69A, Pharmaceutical Assistance to the Aged and Disabled Eligibility Manual, was readopted pursuant to Executive Order No. 66(1978) effective March 26, 1993 with amendment effective April 19, 1993 as R.1993 d.175. See: Source and Effective Date.

See section level annotations for specific rulemakings.

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

10:69A-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 Medical Assistance 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".

10:69A-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; and
12. Chapter 27, Laws of 1995, effective February 15, 1995, retroactive to January 1, 1995.

(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).

SUBCHAPTER 2. DEFINITIONS

10:69A-2.1 Definitions

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

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

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

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

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

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

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

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

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

"Expiration date" means the date when a beneficiary's PAAD eligibility ends.

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

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

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

“Pharmaceutical assistance” means the payments authorized by the Division of Medical Assistance and Health Services in the form of a check to a participating pharmacy on behalf of a PAAD beneficiary.

“Pharmacy” means any pharmacy located in New Jersey, operating under a valid permit from the Board of Pharmacy of the State of New Jersey, which has filed an application and agreement of participation which has been approved by the Division of Medical Assistance and Health Services of the Department of Human Services.

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

1. The term “prescription drugs” includes:
 - i. Any drug product which by federal law cannot be dispensed unless ordered by a physician, dentist or podiatrist;
 - ii. Every product considered to be a legend prescription drug which is required by the Federal Food, Drug and Cosmetic Act to have the following statement on the manufacturer’s original packaging label: “Caution: Federal law prohibits dispensing without a prescription.”
 - iii. Insulin, insulin syringes and insulin needles. While not legend drugs, these items are covered by this program when prescribed.
 - iv. Diabetic testing materials including blood glucose reagent strips which can be visually read, urine monitoring strips, tapes and tablets and bloodletting devices and lancets (electronically monitored devices are not included).

“Previous year” means the calendar year preceding the year in which the person is applying or reapplying for PAAD. For example, 1978 is the “previous year” when referring to an application which is dated between January 1, 1979 through December 31, 1979, inclusive.

1. If a person, who is required to submit a Federal, State and/or City Income Tax return, applies for PAAD at the beginning of a calendar year but has not yet filed an

income tax return for the previous year, the last year is considered to be the “previous year” when completing the PAAD application.

“Reasonable cost” means the maximum allowable cost of prescription drugs plus a dispensing fee as determined by the Commissioner of the Department of Human Services.

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

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

As amended, R.1989 d.375, eff. September 25, 1979.
 See: 11 N.J.R. 558(c). As amended, R.1982 d.198, eff. June 21, 1982.
 See: 14 N.J.R. 321(b), 14 N.J.R. 659(a).
 Section substantially amended.
 As amended, R.1985 d.259, effective May 20, 1985.
 See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).
 Added definition “reasonable cost”.
 Amended by R.1985 d.690, effective January 21, 1986.
 See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).
 Amended “PAAD Co-pay” and “prescription drugs”.
 Amended by R.1993 d.155, effective April 5, 1993.
 See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).
 Revised copayment to \$5.00.

Case Notes

“Income” defined. Atty.Gen.F.O.1978, No. 3.

SUBCHAPTER 3. ADMINISTRATIVE ORGANIZATION

10:69A-3.1 Department of Human Services

The Department of Human 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.

10:69A-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 responsible for the administration of the PAAD Program.

10:69A-3.3 Bureau of Pharmaceutical Assistance to the Aged and Disabled

The Bureau of Pharmaceutical Assistance to the Aged and Disabled is the unit of the Division of Medical Assistance and Health Services which has the direct responsibility for the processing of eligibility applications from applicants.

SUBCHAPTER 4. SCOPE OF SERVICE

10:69A-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, insulin, insulin syringes, insulin needles and certain diabetic testing materials for eligible persons which exceeds a \$5.00 co-payment per prescription, which is to be paid by each PAAD beneficiary.

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.

10:69A-4.2 Principles of reimbursement to participating pharmacies

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

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

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

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

10:69A-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 \$5.00 co-pay, unless the prescriber specifies that substitution is not permitted.

(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 \$5.00 co-payment; 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 \$5.00 co-payment.

(c) If the prescriber specifies on the prescription that substitution is not permitted, the PAAD program will reimburse for the reasonable cost of the prescribed product, less the \$5.00 co-pay. In this instance, the beneficiary may purchase the prescribed product at the \$5.00 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.

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.

10:69A-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 non-refundable \$5.00 co-payment per prescription or per purchase of insulin, insulin syringes, insulin needles or diabetic testing materials.

(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 Bureau, 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.

SUBCHAPTER 5. APPLICATION PROCESS

10:69A-5.1 General provisions

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

10:69A-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, the Division shall accept any one of the following listed in the order of priority, as an authorized agent for the purpose of initiating such application:

1. A close relative by blood or marriage, that is, parent, spouse, son, daughter, brother, sister;
2. A representative payee designated by the Social Security Administration;
3. A staff member of a public or private social service agency, of which the person is a client, who has been designated by the agency to so act;
4. A friend.

Amended by R.1993 d.175, effective April 19, 1993.
See: 24 N.J.R. 4479(a), 25 N.J.R. 1764(a).

Corrected term "application" to "applicant".

10:69A-5.3 Eligibility effective date

(a) The PAAD eligibility effective date for an initial PAAD applicant, who meets all of the PAAD eligibility criteria, is the date when processing of a valid and complete eligibility application is completed by the PAAD Bureau.

(b) The Division shall conduct periodic redeterminations of the eligibility of PAAD beneficiaries. Generally, renewals of eligibility shall be conducted every two years. Renewals will be conducted annually in those instances when the PAAD beneficiary's income approaches the eligibility limits for a single person or married couple as defined in N.J.A.C. 10:69A-6.2.

1. Those eligible for the biennial process will be mailed an eligibility card for the second year automatically.
2. Those beneficiaries required to renew annually or biennially must submit a valid renewal application 45 days prior to their expiration date to insure that their PAAD benefits continue uninterrupted; however, if beneficiaries are late in submitting their renewal applications, but apply within 90 days after the expiration date, their PAAD benefits will continue uninterrupted. If the renewal application is submitted more than 90 days after the expiration date, the eligibility effective date will be the date when a valid and completed renewal application is processed by the PAAD Bureau. If the PAAD beneficiary is late in filing his or her renewal application by more than 90 days after the expiration date, the PAAD program shall not make reimbursement until the new eligibility period has been established.
3. All beneficiaries made eligible for PAAD as a result of the enactment of P.L. 1991, c.84 shall be granted eligibility retroactive to January 1, 1991, if their application is submitted on or before August 31, 1991.

Amended by R.1985 d.295, effective May 20, 1985.
See: 17 N.J.R. 367(a), 17 N.J.R. 1318(a).

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

PAAD beneficiary income changed from "\$9,000" to "\$10,000" and married persons changed from "\$12,000" to "\$13,000".
Amended by R.1986 d.321, effective April 4, 1986.
See: 18 N.J.R. 1054(a), 18 N.J.R. 1594(b).

(c) added.
Amended by R.1990 d.614, effective December 17, 1990.
See: 22 N.J.R. 2218(a), 22 N.J.R. 3756(a).

In (b): increased income levels from \$10,000 to \$11,000 for single persons and from \$13,000 to \$14,000 for married persons.
Amended by R.1991 d.563, effective November 18, 1991.
See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).

Changes made pursuant to P.L. 1991, c.84; N.J.A.C. cites referenced and retroactive eligibility.

Amended by R.1993 d.155, effective April 5, 1993.
See: 24 N.J.R. 4328(a), 25 N.J.R. 1514(a).

Deleted biennial notification letter sent to beneficiaries.
Amended by R.1995 d.10, effective January 3, 1995.
See: 26 N.J.R. 3142(a), 27 N.J.R. 242(a).

10:69A-5.4 Exceptions from normal standards

(a) It is recognized that there may be exceptional cases where the processing of an eligibility application cannot be completed within a normal thirty day period where substantially reliable evidence either of eligibility or ineligibility is still lacking. The application shall be continued in pending status. In each such case, however, the Division of Medical Assistance and Health Services shall be prepared to demonstrate that the delay resulted from one of the following:

1. Circumstances wholly within the applicant's control;
or
2. A determination to afford to an applicant whose proof of eligibility has been inconclusive, further opportunity to develop additional evidence of eligibility before final action on this application; or
3. An administrative or other emergency that could not reasonably have been avoided; or
4. Circumstances wholly outside the control of both the applicant and the Division of Medical Assistance and Health Services.

(b) A PAAD applicant, who meets all the PAAD eligibility criteria, can reasonably expect to receive his/her PAAD temporary eligibility card within 30 days from the date that a complete and valid Eligibility Application is received by the PAAD Bureau.

(c) In the event that mailing of the eligibility card is delayed, the PAAD Bureau will reimburse the PAAD beneficiary directly for the cost (minus a \$5.00 co-payment per prescription) of all prescription drugs purchased by the person on or after the 30th day after his/her properly completed application was received by the PAAD Bureau, subject to the following conditions:

1. The eligibility application renewal application must have been fully and properly completed.

2. The PAAD beneficiary must submit a prescription claim form and proof of purchase for each eligible prescription to the PAAD Bureau. The claim form must be completed by a participating New Jersey pharmacy, or by a licensed mail order pharmacy service program where the prescription is delivered to a New Jersey address.

3. No direct reimbursement will be made for any drugs purchased after the date when the beneficiary receives his eligibility identification card.

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.1993 d.368, effective July 19, 1993.
See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).

10:69A-5.5 Agency controls

(a) The Division Director shall establish operating policies within the Division to expedite the processing of applications and assure the maximum possible compliance with the standards set forth in this manual.

(b) The Bureau of Quality Control within the Division of Medical Assistance and Health Services has the responsibility for reviewing a statistically valid representative sample of PAAD cases to assure that beneficiary eligibility is determined consistent with State law and eligibility regulations. A quality control review, of sample cases selected on a random basis, includes:

1. Analysis of the beneficiary's case record, including the application, which is maintained by the PAAD Bureau;
2. A personal interview with the beneficiary or the beneficiary's representative(s) to review eligibility for PAAD and availability of third party resources; and
3. Verification of eligibility factors and third party liability information through collateral contacts.

(c) The Bureau of Medical Care Surveillance of the Office of Program Integrity within the Division of Medical Assistance and Health Services, is assigned the responsibility for monitoring providers participating in the PAAD program and to verify that claims submitted to the program by such providers are in compliance with program regulations. Further, the Bureau investigates PAAD beneficiaries in matters involving potential fraud and/or abuse.

(d) The Bureau of Administrative Control of the Office of Program Integrity within the Division of Medical Assistance and Health Services shall, as appropriate, recover benefits correctly or incorrectly paid on behalf of a PAAD beneficiary, following preliminary attempts to recover by the PAAD Bureau.

10:69A-5.6 Responsibilities in the application renewal process

(a) Pursuant to statutory authority, the Department of Human Services through the Division of Medical Assistance and Health Services, Bureau of Pharmaceutical Assistance to the Aged and Disabled establishes procedures on the application process consistent with law and supervises the operation with the policy and procedures so established.

(b) The Bureau of Pharmaceutical Assistance to the Aged and Disabled has responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the program and indicate the applicant's rights and responsibilities under its provisions;
2. Process applications and reapplications;
3. Issue temporary eligibility cards to eligible persons and to notify ineligible persons promptly;
4. Issue permanent plastic eligibility cards to eligible persons;
5. Automatically mail reapplication forms approximately four months prior to the eligibility expiration date;
6. Microfilm eligibility application and supporting documents and retain microfilm for audit purposes.

(c) The applicant or beneficiary has the responsibility to:

1. Complete the PAAD eligibility application/renewal application form(s) legibly and accurately:
 - i. Answering all questions fully;
 - ii. Presenting all necessary evidentiary documents;
 - iii. Reading the certification and authorization statement;
 - iv. Signing or marking the application or renewal application;
 - v. Obtaining the signature or mark of the spouse (if married) and the signature of the preparer (if applicable) on the application or renewal application.
2. Assist the Division of Medical Assistance and Health Services in securing evidence that corroborates his statements when necessary.
3. Agree to a review by the Division's Bureau of Quality Control staff, if randomly selected for review. PAAD eligibility may be terminated if the beneficiary refuses to cooperate with a quality control request.
4. Assign benefits to the State of New Jersey when prescription drug costs are covered in part by any other plan of assistance or insurance.
5. Reapply for eligibility on forms mailed by the Division, at least 45 days prior to his/her eligibility expiration date, if he/she wishes to renew PAAD eligibility.

6. Complete his or her renewal application in person if selected as part of a sample group by PAAD. PAAD eligibility will not be renewed if the beneficiary refuses an in-person eligibility review; and

7. If the application mailed by PAAD is lost in the mail, misplaced or not received due to the applicant's change of address, it is the applicant's responsibility to contact the PAAD Bureau for a new application within 60 days after the expiration date.

(d) The beneficiary has the responsibility to:

1. Notify the Bureau of Pharmaceutical Assistance to the Aged and Disabled whenever any one of the following occurs:

- i. His/her marital status changes.
- ii. He/she moves anywhere within the State of New Jersey.

2. Return his or her eligibility card to the Bureau of Pharmaceutical Assistance to the Aged and Disabled whenever becoming ineligible due to one of the following:

- i. He/she moves out of the State of New Jersey.
- ii. He/she becomes eligible for Medicaid or any other plan of assistance or insurance that wholly covers pharmaceutical services.
- iii. His/her or their annual income increases to an amount which exceeds the legal limit.
- iv. He/she was determined eligible based on his/her disability and he/she stops receiving Social Security Disability benefits.
- v. When requested by the PAAD Bureau because required information to confirm eligibility was not submitted, or scheduled recovery payments are in arrears.

3. 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 PAAD 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 Division of Taxation.

As amended, R.1981 d.332, effective September 10, 1981.
See: 13 N.J.R. 432(a), 13 N.J.R. 580(c).

(d): delete i-iii; renumber iv and v as i and ii; renumber (d)2 as (d)3 and add new text for (d)2.

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

Section substantially amended.

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

Reference to "beneficiary" added at (c).

Amended by R.1993 d.368, effective July 19, 1993.
See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).

Amended by R.1995 d.10, effective January 3, 1995.
See: 26 N.J.R. 3142(a), 27 N.J.R. 242(a).

10:69A-5.7 Combined application for PAAD/Lifeline

(a) There shall be only one application for those beneficiaries who apply for both PAAD and Lifeline.

1. A beneficiary may file one application for both programs on the same form.

2. If an applicant wishes to apply only for Lifeline, he or she will still use the LL-1 form. (See N.J.A.C. 10:69B-4.8).

(b) Beneficiaries who apply for PAAD shall follow the procedures and meet the qualifications in N.J.A.C. 10:69A.

(c) Beneficiaries who apply for Lifeline will follow the procedures and meet the qualifications in N.J.A.C. 10:69B.

New Rule, R.1996 d.581, effective December 16, 1996.
See: 28 N.J.R. 3499(a), 28 N.J.R. 5174(a).

SUBCHAPTER 6. ELIGIBILITY REQUIREMENTS

Case Notes

See for historical purposes Atty.Gen.F.O.1978, No. 3 (then existing regulation N.J.A.C. 10:69A-4.3 declared invalid).

10:69A-6.1 Age

(a) To be eligible for PAAD, 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 Division of Medical Assistance and Health Services. The Division will require that the applicant submit a photocopy of his or her 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 form No. 2458 (can be obtained from local security office);
- v. Railroad retirement letter (can be obtained from Railroad Retirement Board);
- vi. Third Party Query Form (can be obtained from local Social Security Office.)

2. Secondary proofs: If the applicant can not supply one of the documents listed 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. Bible or other family record;
- vi. Church record of Baptism (age five or after);
- vii. Confirmation certificate;
- viii. Marriage record;
- ix. Employment record;
- x. Union record;
- xi. Military record;
- xii. Voting record;
- xiii. Delayed birth certificate;
- xiv. Applicant's child's birth certificate;
- xv. Physician's or midwife's record of applicant's birth;
- xvi. Immigration record;
- xvii. Naturalization record;
- xviii. 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. An SSA-2458 Form or Third Party Query Form indicating disability.

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substantially amended.

Amended by R.1988 d.211, effective May 16, 1988.

See: 20 N.J.R. 369(a), 20 N.J.R. 1106(a).

Added text to (b)5 "letter (can be obtained from Railroad Retirement Board)".

Amended by R.1990 d.614, effective December 17, 1990.

See: 22 N.J.R. 2218(a), 22 N.J.R. 3956(a).

In (a): added sentence regarding ineligibility of those under 65 who receive disability benefits on behalf of someone other than themselves. Stylistic revisions to text.

10:69A-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 an annual income of less than \$17,550 to be eligible for PAAD.

(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) annual income of less than \$21,519 to be eligible for PAAD.

1. An applicant and spouse shall be considered separated when each maintains a separate residence and the applicant does not have access to or receive support from the spouse's income.

2. An applicant and spouse shall 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.

(c) All income, from whatever source derived, is considered in determining eligibility for the purposes of PAAD. 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. Salaries;
- ii. Wages;
- iii. Bonuses;
- iv. Commissions;
- v. Fees;
- vi. Dividends;
- vii. Interest taxable and nontaxable;
- viii. Capital gains;
- ix. Royalties;
- x. Bequests;
- xi. Support payments;
- xii. Unemployment benefits;
- xiii. Pensions (including Social Security);
- xiv. Annuities (contributory and non-contributory);
- xv. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs);
- xvi. Business income (net);
- xvii. Fair market value of prizes and awards.

2. Sources of income which are excluded in considering eligibility for PAAD 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 Home-
stead Rebates;
- iii. Proceeds from spouse's life insurance;
- iv. The one-time capital gain up to \$125,000 from
the sale of a principal residence for individuals age
fifty-five or older which is excluded from the State gross
income tax pursuant to N.J.S.A. 54A:6-9;
- v. Stipends from the Volunteers to Service in
America (VISTA) and Foster Grandparents programs;
- 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).

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

(e) PAAD 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 PAAD eligibility.

(f) Since PAAD eligibility is based upon actual annual income, if the actual income for the current calendar year exceeds the PAAD income standard, the person will become ineligible for the entire calendar year and shall be required to repay for all prescriptions 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 PAAD standard, will be reviewed individually.

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

(i) PAAD beneficiaries are required to notify the PAAD Bureau immediately if their current year income exceeds the PAAD income standard.

(j) Applicants who combine their income by filing joint Federal and/or State income tax returns, must combine their income for PAAD 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 PAAD eligibility purposes.

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

(m) Beginning January 1, 1996 and annually thereafter, the income eligibility limits shall increase by the amount of the maximum Social Security benefit cost-of-living increase for that year for single and married persons respectively, in accordance with 42 U.S.C. 415(i)(2)(D), incorporated herein by reference. The Commissioner will provide notice of the new income limits annually by publication in the New Jersey Register.

Amended by R.1982 d.198, effective June 21, 1982.
See: 14 N.J.R. 321(b), 14 N.J.R. 659(a).

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

Single permanent resident income changed from "\$12,000" to "\$13,500"; married from "\$15,000" to "\$16,250".
Amended by R.1988 d.174, effective April 18, 1988.
See: 19 N.J.R. 2375(a), 20 N.J.R. 902(a).

Changed "\$13,250 to \$13,650" and "\$16,250 to \$16,750".
Amended by R.1990 d.182, effective March 19, 1990.
See: 21 N.J.R. 3047(a), 22 N.J.R. 953(a).

Added (c)2iv. regarding the one-time capital gain.
Amended by R.1990 d.614, effective December 17, 1990.
See: 22 N.J.R. 2218(a), 22 N.J.R. 3956(a).

In (c)2: added v.-vi.
Amended by R.1991 d.563, effective November 18, 1991.
See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).

Income eligibility revised upwards.
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.1995 d.10, effective January 3, 1995.
See: 26 N.J.R. 3142(a), 27 N.J.R. 242(a).

Amended by R.1996 d.7, effective January 2, 1996.
See: 27 N.J.R. 3541(a), 28 N.J.R. 184(c).

In (a) and (b) increased income limits, and added (m).
Administrative Change.
See: 28 N.J.R. 3597(a).

In (a) and (b) increased income limits.
Administrative change.
See: 29 N.J.R. 2562(a).

In (a), substituted "\$17,550" for "\$17,056"; and in (b), substituted "\$21,519" for "\$20,913".

Case Notes

Pharmaceutical Assistance to the Aged and Disabled regulations limiting eligibility to persons actually receiving Social Security disability benefits upheld against constitutional challenge as having a rational state purpose in being necessary for the financial viability of the program. *Barone v. Dept. of Human Services*, 210 N.J.Super. 276, 509 A.2d 786 (App.Div.1986) affirmed 107 N.J. 355, 526 A.2d 1055.

Inclusion of applicants' Individual Retirement Account as income was appropriate. *S. K. v. New Jersey Division of Medical Assistance and Health Services*, Pharmaceutical Assistance to the Aged and Disabled, 94 N.J.A.R.2d (PAA) 1.

10:69A-6.3 Citizenship

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

10:69A-6.4 Residence

(a) The statute provides that "any . . . resident of this State . . . shall be eligible 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, of 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. Interpretation: The term resident shall be interpreted to mean a person having his 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 has not established a residence 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 Division of Medical Assistance and Health Services, and is required to submit photocopies of two documents showing evidence of current residence at the time of application and reapplication.

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

- i. Motor vehicle records (e.g., valid driver's license);
- ii. Landlord's records and rent receipts;
- iii. Public utility records and receipts (e.g., 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;
- viii. Employment records.

4. 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 Division of Medical Assistance and Health Services.

5. 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 becomes ineligible under the PAAD program and must notify the Bureau of Pharmaceutical Assistance to the Aged and Disabled of the address and return the PAAD eligibility card.

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substituted "within" for "with".

Amended by R.1985 d.690, effective January 21, 1986.

See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).

3.ii deleted.

10:69A-6.5 Recipient of other assistance and pharmaceutical coverage

(a) The State statute provides that any person shall be ineligible for PAAD if he/she is otherwise qualified for assistance under the Act of which the PAAD Act is a supplement (Chapter 413, Laws of 1968). This is interpreted to mean that a State resident 65 years of age or older cannot be eligible for PAAD when receiving Medicaid benefits.

(b) The State statute further provides that any otherwise eligible person whose prescription drug costs are wholly covered by any other plan of assistance or insurance shall be ineligible for PAAD.

10:69A-6.6 PAAD eligibility application and renewal application forms

(a) The Pharmaceutical Assistance to the Aged and Disabled Eligibility Application (AP-2) is the only acceptance form to be utilized in determining the applicant's initial eligibility for PAAD. These forms are available to applicants in the Division of Medical Assistance and Health Services central and local offices and other convenient locations throughout the State.

(b) The only acceptable form to be utilized in determining the beneficiary's continuation of eligibility will be the PAAD Eligibility Renewal Application Form (AP-12). This form is automatically mailed to the beneficiary approximately four months prior to the eligibility expiration date.

Amended by R.1985 d.259, effective May 20, 1985.

See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).

Substituted "four months" for "90 days".

10:69A-6.7 Social Security account number

(a) Each applicant for PAAD benefits must include his or her Social Security Account Number (SSAN) on the application/reapplication form. The SSAN is a unique and verifiable number which is utilized to differentiate between persons with the same name. Married persons must also indicate the SSAN of their spouse.

(b) In the event that the applicant does not have a SSAN, a unique identifying number will be assigned by the PAAD Bureau. This number will be used throughout the beneficiary's PAAD eligibility.

10:69A-6.8 Certification

The applicant for PAAD benefits must certify that all the answers to the questions and items on the application/renewal application form are true and accurate to the best of his/her knowledge. This certification must be dated, signed or marked by the applicant and spouse (if married), and the preparer of the form (if other than the applicant), before the application/renewal application can be processed.

10:69A-6.9 Authorization

(a) By signing/marking the certification and authorization statement on the application/renewal application form, the applicant/reapplicant authorizes:

1. The New Jersey Division of Medical Assistance and Health Services to verify any information on the form by contacting the Social Security Administration, the Internal Revenue Service, the New Jersey Division of Taxation, employers and others as the need arises;

2. Visitation and review by representatives of the Division's Bureau of Quality Control;

3. Assignment of benefits to the State of New Jersey if he/she or his/her spouse has any other plan of assistance or insurance that covers, at least in part, the cost of prescription drugs; and

4. Prescribing practitioners to release information concerning prescriptions which have been paid by the PAAD program, to the New Jersey Division of Medical Assistance and Health Services or any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.

Amended by R.1984 d.617, effective January 21, 1985.
 See: 16 N.J.R. 2050(a), 17 N.J.R. 201(b).
 (a)4 added.

10:69A-6.10 Eligibility period

(a) A PAAD eligibility card is effective for one year. The PAAD beneficiary shall renew his/her eligibility in accordance with the provisions of N.J.A.C. 10:69A-5.3(b). In that case, he or she would receive an updated eligibility card automatically for the second year, and would complete a renewal application every two years. Beneficiaries who are subject to the two year renewal provision will have their eligibility card renewed automatically for one additional year.

(b) Approximately four months prior to his/her expiration date, PAAD will notify the beneficiary if he/she is eligible for biennial eligibility or if he/she must complete a renewal form. Renewal applications must be returned to the PAAD Bureau by the beneficiary at least 45 days prior to the expiration date to ensure continuous coverage.

Amended by R.1985 d.259, effective May 20, 1985.
 See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).
 Old text deleted and new text substituted.
 Amended by R.1985 d.690, effective January 21, 1986.
 See: 17 N.J.R. 2332(a), 18 N.J.R. 190(a).
 Income changed from "\$9,000" to "\$10,000" for single and married raised from "\$12,000" to "\$13,000".
 Amended by R.1988 d.174, effective April 18, 1988.
 See: 19 N.J.R. 2375(a), 20 N.J.R. 902(a).
 Substituted "expiration" for "renewal".
 Amended by R.1990 d.614, effective December 17, 1990.
 See: 22 N.J.R. 2218(a), 22 N.J.R. 3956(a).
 In (a): increased income level from \$10,000 to \$11,000 for single persons and from \$13,000 to \$14,000 for married persons.
 Amended by R.1991 d.563, effective November 18, 1991.
 See: 23 N.J.R. 2623(a), 23 N.J.R. 3514(a).
 References to eligibility effective dates revised.

10:69A-6.11 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants or beneficiaries obtained or maintained under this program shall be confidential and shall not be released without the written consent of the applicant or beneficiary or their authorized agent.

(b) Disclosure of information without the consent of the applicant, beneficiary or their authorized agent shall be limited to purposes directly connected with the administration of the program pursuant to State law and regulations.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or beneficiaries cannot be identified.
2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, beneficiary or their authorized agent challenging the program's statute, regulations

or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted.

3. The release of information to the program's contractors, the Lifeline Credit Program, Tenant Lifeline Assistance Program, Social Security Administration, and other plans of assistance or insurance that covers the cost of prescription drugs in whole or in part.

4. The release of information or files to the State Treasurer or other governmental agency or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law.

5. The release of information or files to any law enforcement authority of this State charged with the investigation or prosecution of violations of the criminal provisions of the "Pharmaceutical Assistance to the Aged and Disabled Act" or the criminal laws of this State.

6. The release of information to the New Jersey Department of Health and participating licensed veterinarians for the purpose of verifying eligibility for benefits under the Animal Population Control Program.

7. The release of information or files to County Welfare Agencies for the purpose of determining eligibility for Medicaid benefits or for subsequent verification of Medicaid eligibility.

8. The release of information or files to the Division of Motor Vehicles in the Department of Law and Public Safety for the implementation of the Fair Automobile Insurance Act of 1990 (P.L. 1990, c.8).

New Rule, R.1984 d.269, effective July 2, 1984.
 See: 16 N.J.R. 823(a), 16 N.J.R. 1797(a).
 Amended by R.1985 d.259, effective May 20, 1985.
 See: 17 N.J.R. 367(a), 17 N.J.R. 1318(b).
 (c)7 added.
 Amended by R.1991 d.454, effective September 3, 1991.
 See: 23 N.J.R. 7(a), 23 N.J.R. 2637(b).
 Added new (c)8 to rule text.

10:69A-6.12 Appeal process

(a) When the Bureau of PAAD determines that an applicant is ineligible for benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to the Bureau of Pharmaceutical Assistance to the Aged and Disabled, Division of Medical Assistance and Health Services, CN 715, Trenton, New Jersey 08625-0715, within 20 calendar days from the date of mailing of the notice of ineligibility. The document must clearly state the valid basis for such a request.

(b) The Bureau of PAAD will forward the hearing request to the Office of Administrative Law which will schedule the hearing and notify all parties of the date, time and location.

(c) The petitioner will have the burden of demonstrating that the Bureau of PAAD's determination deviates from the requirements and standards of the regulations and statute.

(d) When the PAAD beneficiary requests a fair hearing, he or she shall clearly indicate the existence of a disputed question of fact or law arising from the requirements and standards of the rules and statutes of the PAAD program. If the beneficiary fails to establish a contested case, the PAAD Bureau shall deny the hearing request.

1. Hearings are not intended to be informational or to provide a forum for the expression of public sentiment on PAAD actions or policies.

New Rule, R.1993 d.368, effective July 19, 1993.
See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).
Amended by R.1995 d.10, effective January 3, 1995.
See: 26 N.J.R. 3142(a), 27 N.J.R. 242(a).

SUBCHAPTER 7. RECOVERIES AND LIENS

Authority

N.J.S.A. 30:4D-7.2a, 30:4D-20 and P.L. 1983, c.371.

Source and Effective Date

R.1976 d.102, effective April 5, 1976.
See: 7 N.J.R. 505(c), 8 N.J.R. 232(b).

Subchapter Historical Note

All provisions of this subchapter were filed and became effective April 5, 1976 as R.1976 d.102. See: 7 N.J.R. 505(c), 8 N.J.R. 232(b). Revisions were filed and became effective May 3, 1982 as R.1982 d.147. See: 14 N.J.R. 80(a), 14 N.J.R. 427(c). Further amendments were filed and became effective December 16, 1984 as R.1984 d.571. See: 16 N.J.R. 2051(a), 16 N.J.R. 3439(a). See chapter and section levels for further amendments.

10:69A-7.1 Recoveries for benefits correctly paid

Pursuant to P.L. 1983, C. 371, no encumbrance or recovery of any kind shall be imposed or sought from the estate of a qualified applicant or an eligible person after his death because of assistance paid, or to be paid, on his behalf under the PAAD program, except for assistance incorrectly or illegally paid, or for third party liability recovery sought under the New Jersey Medical Assistance and Health Services Act (P.L. 1968, C. 413, codified as N.J.S.A. 30:4D-1 et seq.)

As amended, R.1982 d.147, effective May 3, 1982.
See: 14 N.J.R. 80(a), 14 N.J.R. 427(c).

Section substantially amended.

As amended, R.1984 d.571, effective December 16, 1984.
See: 16 N.J.R. 2051(a), 16 N.J.R. 3439(a).

Old section deleted and new section substituted.

10:69A-7.2 Recoveries for benefits incorrectly paid

(a) As provided in N.J.S.A. 30:4D-1 et seq., the Division may take all necessary action to recover the cost of benefits incorrectly paid on behalf of a beneficiary. If it is determined that an applicant's income exceeded the eligibility limit in a prior year, a new PAAD card will not be issued until the beneficiary and/or his or her spouse agrees to repay the benefits received incorrectly. If the beneficiary cannot repay the bill in full, a monthly repayment schedule will be established by the Program, but if the beneficiary fails to fulfill the requirements of the repayment agreement, future PAAD benefits may be suspended until the bill is paid in full.

1. The term "incorrect payment" includes, but is not limited to:

- i. Payment made on behalf of a beneficiary whose drug costs are wholly covered by another source;
- ii. Payment made on behalf of a beneficiary who is no longer eligible, or has been incorrectly determined to be eligible to receive benefits;
- iii. Payment made as a result of fraud perpetrated by a beneficiary, his/her authorized agent and/or provider.

(b) The Division shall take all reasonable measures to ascertain the legal liability of third parties to pay for prescription drugs arising out of injury, disease, or disability, where it is known that a third party is or may be liable to pay all or part of the drugs of a beneficiary. Payment on behalf of an eligible individual shall not be withheld because of the liability of third parties, if third party resources are not currently available to pay the individual's expenses. The Division shall recover from any such third party the full amount of said payments made. Upon request of the Director, the Attorney General may, to enforce such right, institute legal proceedings against the third party who is or may be liable for the payment for drugs, or intervene in any proceeding, in the name of the Commissioner, or in the name of the injured person, his guardian, executor, administrator or other appropriate representative.

Amended by R.1993 d.368, effective July 19, 1993.
See: 24 N.J.R. 4329(a), 25 N.J.R. 3216(a).

10:69A-7.3 Liens

Provisions for the application of liens shall be consistent with and conform to any provisions for liens as provided in N.J.S.A. 30:4D-1 et seq.

10:69A-7.4 Penalties

Any person violating any provision of the PAAD Act shall be subject to the applicable civil and criminal penalties contained in the "New Jersey Medical Assistance and Health Services Act" (N.J.S.A. 30:4D-1 et seq.). In addition, any eligible person who violates any provision of the PAAD Act shall be subject to a suspension of their eligibility for one year for a first offense and permanent revocation of their eligibility for a second offense.