

SUBCHAPTER 3. ADMINISTRATIVE ORGANIZATION

10:167E-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 HAAAD. Under the terms of the HAAAD law, the Department is responsible for the general policies, governing administration of HAAAD, and for effecting the issuance of rules and procedures in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for implementing the statutory provisions.

10:167E-3.2 Pharmaceutical Assistance to the Aged and Disabled

Pharmaceutical Assistance to the Aged and Disabled (PAAD) is the unit which has the direct responsibility for the processing of eligibility applications and for authorizing payment of HAAAD benefits.

10:167E-3.3 Agency controls

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

(b) The Department of Human Services, Division of Medical Assistance and Health Services, has the responsibility for investigating beneficiaries in matters involving potential fraud and/or abuse.

SUBCHAPTER 4. APPLICATION PROCESS

10:167E-4.1 General provisions

The application process includes all activity relating to a request for eligibility determination. The application process 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.

10:167E-4.2 Authorized agent

(a) In those instances where the applicant is incompetent or incapable of filing an eligibility application of his or her own behalf, the Department 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. Power of attorney;
2. A close relative by blood or marriage, that is, parent, spouse, son, daughter, brother, sister;
3. A representative payee designated by the Social Security Administration;

4. 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; or

5. A friend.

10:167E-4.3 Responsibilities in the application process

(a) The Department, through 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) 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 the AP-2 or HA-1 application;
3. Certify for the Treasurer, State of New Jersey, the names of eligible residents and authorize the payment of HAAAD benefits; and
4. Microfilm or electronically scan eligibility applications and supporting documents and retain microfilm or electronic copies for audit purposes.

(c) The applicant has the responsibility to do the following:

1. Complete the PAAD eligibility application (AP-2) for those applicants not enrolled in the PAAD Program, or the HAAAD eligibility application (HA-1) for those applicants already enrolled in the PAAD Program. The application shall be legible and accurate. The applicant shall:

- i. Answer all questions fully;
- ii. Present all necessary evidentiary documents, including physician's prescription or letter attesting to the medical necessity for obtaining a hearing aid and a receipt for the recent purchase of the hearing aid;
- iii. Read the certification and authorization statement; and
- iv. Sign or mark the application; and

2. Assist the Department to secure evidence that corroborates the statements when necessary.

(d) The beneficiary has the responsibility to repay the State of New Jersey, upon request, for the cost of benefits incorrectly paid on his or her behalf.

(e) The AP-2 and HA-1 applications may be obtained as follows:

1. The AP-2 application can be found at www.state.nj.us/health/forms/ap-2 and the HA-1 application can be found at www.state.nj.us/health/seniorbenefits/haaadetail;

2. By placing a request via mail to the PAAD or HAAAD Program at P.O. Box 715, Trenton, NJ 08625-0715; or

3. By calling the hotline at 1-800-792-9745.

(f) The AP-2 application shall contain fields for the submission of information as required by N.J.A.C. 10:167-6.6 and the HA-1 application shall contain fields for the submission of information required by (c) above and other identifying information for the applicant, such as name, address, zip code and applicant's Social Security number and PAAD identification number.

Amended by R.2010 d.084, effective June 7, 2010.

See: 41 N.J.R. 3883(a), 42 N.J.R. 1052(b).

In (b)4, inserted "or electronically scan" and "or electronic copies"; and added (e) and (f).

SUBCHAPTER 5. ELIGIBILITY REQUIREMENTS

10:167E-5.1 Age

(a) To be eligible for HAAAD, the applicant must be 65 years of age or older or must 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 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; or
- 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; 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 the application.

10:167E-5.2 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 \$26,130 to be eligible for HAAAD.

(b) Any married permanent resident of New Jersey 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 \$32,037 to be eligible for HAAAD.

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 HAAAD 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. HAAAD shall consider the applicant and spouse separated only when doing so is more favorable to the applicant for HAAAD (for example, when the income of an applicant and his or her institutionalized spouse is combined at \$25,060, the applicant is ineligible for HAAAD, but if the applicant and spouse are considered separated, the applicant could become eligible for HAAAD under the single income standard. If the institutionalized spouse was not covered by Medicaid, the spouse could become eligible under the single income standard).

(c) All income, from whatever source derived, is considered in determining eligibility for the purpose of HAAAD. 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 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 and non-contributory, qualified and non-qualified);
- xviii. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs) (Traditional, Simple, Roth, 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 HAAAD 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 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. 10:167-2.2 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 on 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 acceptable evidence.

(e) HAAAD 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 HAAAD eligibility.

(f) Since HAAAD eligibility is based upon actual annual income, if the actual annual income for the applicable calen-

dar year exceeds the HAAAD income standard, the person will become ineligible for the entire calendar year.

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

(h) HAAAD beneficiaries are required to notify the HAAAD program immediately if their current year income exceeds the established income standard.

(i) 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 adjustment 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 shall publish the new income limits annually in the New Jersey Register.

Administrative change.
See: 36 N.J.R. 5683(a).
Administrative change.
See: 37 N.J.R. 5001(a).
Administrative change.
See: 38 N.J.R. 5362(a).
Administrative change.
See: 40 N.J.R. 182(a), 6966(a).
Administrative change.
See: 43 N.J.R. 3365(a).
Administrative change.
See: 45 N.J.R. 33(a).
Administrative change.
See: 46 N.J.R. 78(a).

10:167E-5.3 Citizenship and residence

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

(b) Any resident of this State shall be eligible for HAAAD (see N.J.A.C. 10:167E-2.1).

10:167E-5.4 Recipient of other assistance and hearing aid coverage

(a) Any person shall be ineligible for HAAAD if he or she is otherwise qualified for assistance for the New Jersey Title XIX (Medicaid) program.

(b) If an otherwise eligible person's hearing aid costs are covered in whole by any other State or Federal government program or insurance contract, the person is not eligible for hearing aid assistance under these rules. If an eligible person's hearing aid costs are covered in part by any other State or Federal government program or insurance contract, the person may be entitled to receive reduced hearing aid assistance. HAAAD will pay full client liability up to \$100.00. The program will recover from the third party payor in cases where an applicant has partial coverage and total client out-of-pocket expense is less than \$100.00.

10:167E-5.5 Certification

The applicant for HAAAD benefits must sign a certification that all the answers to the questions and items on the

application form are true and accurate to the best of his or her knowledge.

10:167E-5.6 Authorization

By signing or marking the certification and authorization statement on the application form, the applicant authorizes assignment of benefits to the State of New Jersey if he or she or his or her spouse has any other plan of assistance or insurance that covers, at least in part, the cost of hearing aids.

10:167E-5.7 Eligibility period

A person eligible for HAAAD is entitled to receive a payment of up to \$100.00 in a calendar year. Only one benefit may be issued in the period between January 1 and December 31 of any year. No benefits will be granted for hearing aids purchased prior to February 4, 1988.

10:167E-5.8 Recoveries for benefits incorrectly paid

(a) The Department may take all necessary action to recover the cost of benefits incorrectly paid on behalf of a beneficiary.

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

- i. Payment made on behalf of a beneficiary whose hearing aid 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; and
- iii. Payment made as a result of fraud perpetrated by a beneficiary, his or her authorized agent and/or provider;

(b) The Department shall take all reasonable measures to ascertain the legal liability of third parties to pay for hearing aids 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 hearing aid costs for a beneficiary.

10:167E-5.9 Appeal process

(a) When PAAD determines that an applicant is ineligible for Hearing Aid Assistance for the Aged and Disabled benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to Pharmaceutical Assistance to the Aged and Disabled, Department of Human Services, PO Box 715, Trenton, New Jersey 08625-0715, within 30 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) PAAD shall 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 the PAAD's determination deviates from the requirements and standards of the regulations and statute.