

CHAPTER 49

ADMINISTRATION MANUAL

Authority

N.J.S.A. 30:4D-1 et seq. and 30:4J-8 et seq.

Source and Effective Date

R.2008 d.230, effective July 11, 2008.
See: 40 N.J.R. 984(a), 40 N.J.R. 4531(a).

Chapter Expiration Date

Chapter 49, Administration Manual, expires on July 11, 2013.

Chapter Historical Note

Chapter 49, Administration, was adopted and became effective prior to September 1, 1969. Subchapters 1 through 6 were amended by R.1977 d.213, effective July 1, 1977. See: 9 N.J.R. 123(b), 9 N.J.R. 342(c).

Pursuant to Executive Order No. 66(1978), Chapter 49, Administration, was readopted as R.1990 d.390. See: 22 N.J.R. 1512(a), 22 N.J.R. 2313(a).

Chapter 49, Administration, was repealed and a new Chapter 49, Administration, was adopted by R.1992 d.317, effective August 17, 1992. See: 24 N.J.R. 1728(b), 24 N.J.R. 2837(a). Subchapter 19, Prepaid Health Care Services: Medicaid Eligibles, was repealed by R.1995 d.337, effective June 19, 1995. See: 27 N.J.R. 853(a); 27 N.J.R. 2446(b).

Pursuant to Executive Order No. 66(1978), Chapter 49, Administration, was readopted as R.1997 d.354, effective August 8, 1997. As a part of R.1997 d.354, effective September 2, 1997, Chapter 49, Administration, was renamed Chapter 49, Administration Manual; Subchapter 2, New Jersey Medicaid Recipients, was renamed Subchapter 2, New Jersey Medicaid Beneficiaries; Subchapter 9, Provider and Recipient's Rights and Responsibilities; Administrative Process, was renamed Subchapter 9, Provider and Beneficiary's Rights and Responsibilities; Administrative Process; Subchapter 17, Home and Community-Based Services Waivers, was recodified as N.J.A.C. 10:49-22, Home and Community Based Services Waiver Programs; Subchapter 18, Home Care Expansion Program, was recodified as N.J.A.C. 8:81-2, and Subchapter 18, Early and Periodic Screening, Diagnosis and Treatment (EPSDT), was adopted as new rules; Subchapter 19, HealthStart, was adopted as new rules; Subchapter 21, Pharmaceutical Assistance to the Aged and Disabled (PAAD), was recodified as N.J.A.C. 8:81-3, and Subchapter 21, The Medicaid Managed Care Program—NJ Care, was adopted as new rules; Subchapter 22, Lifeline Programs, was recodified as N.J.A.C. 8:81-4, and Subchapter 22, Home and Community-Based Services Waiver Programs, was adopted as new rules; and Subchapter 23, Hearing Aid Assistance to the Aged and Disabled, was recodified as N.J.A.C. 8:81-5, and a new Subchapter 23, Lifeline Programs, was adopted as new rules. See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

Subchapter 24, Work First New Jersey/General Assistance Claims Processing, was adopted by R.2000 d.309, effective August 7, 2000. See: 32 N.J.R. 1342(a), 32 N.J.R. 2900(a).

Chapter 49, Administration Manual, was readopted as R.2003 d.81, effective January 22, 2003. See: 34 N.J.R. 2647(a), 35 N.J.R. 1116(a).

Subchapter 20, The Garden State Health Plan (GSHIP), was reserved by R.2003 d.82, effective February 18, 2003. See: 34 N.J.R. 2650(a), 35 N.J.R. 1118(a).

Chapter 49, Administration Manual, was readopted as R.2008 d.230, effective July 11, 2008. As a part of R.2008 d.230, Subchapter 21, The Medicaid Managed Care Program—NJ Care 2000, was renamed The Medicaid/NJ FamilyCare Managed Care Program, effective August 4, 2008. See: Source and Effective Date. See, also, section annotations.

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Case Notes

Adopting, due to the unique circumstances, the Initial Decision (2005 N.J. AGEN LEXIS 670), which concluded that the Division's decision to impose a disqualification of a licensed physician for an indefinitely stated period of time, without adequately explaining the basis for that determination, was arbitrary, capricious, and without any substantiated, reasonably articulated basis. *Antoun v. DMAHS*, OAL Dkt. No. HMA 5721-04, 2005 N.J. AGEN LEXIS 1061, Final Decision (December 20, 2005).

Adopting, due to the unique circumstances, the Initial Decision (2005 N.J. AGEN LEXIS 670), which concluded that completion of probation, payment of restitution or fines, and the absence of any criminal, licensing, or professional disciplinary proceedings are all factors to be considered for reinstatement of a provider disqualified from participation in Medicaid and other Division programs; in this matter, there were no pending criminal, licensing, or disciplinary proceedings extant, there was no evidence that the physician failed to pay full restitution and criminal fines and assessments imposed as part of the original sentence, and the record was replete with mitigating factors. *Antoun v. DMAHS*, OAL Dkt. No. HMA 5721-04, 2005 N.J. AGEN LEXIS 1061, Final Decision (December 20, 2005).

A disqualified Medicaid provider must apply for reinstatement and satisfy all requirements of subchapter. Div. of Medical Assistance and Health Services v. Kares, 8 N.J.A.R. 517 (1983).

Hospital not entitled to a hearing prior to decertification as Medicaid provider. *Preakness Hospital v. Div. of Medical Assistance and Health Services*, 3 N.J.A.R. 351 (1982).

10:49-12.7 Committee procedures

(a) The Committee shall meet at the Division's central offices.

(b) Persons requesting reinstatement and/or their representative shall be notified, in writing, as to the time, date and place of the meeting.

(c) All correspondence concerning the meeting shall be directed to the Chairperson of the Committee.

(d) Persons requesting reinstatement may appear on their own behalf or be represented by counsel.

(e) The Committee shall be governed by the New Jersey Administrative Procedure Act concerning admissibility of evidence at the meeting.

(f) The Chairperson of the Committee shall rule on all procedural questions and objections that may be raised at the meeting.

(g) Persons requesting reinstatement shall have the burden of providing their fitness for reinstatement by a preponderance of the evidence.

(h) Persons may present evidence of their fitness for reinstatement by the testimony of witnesses under oath or by documentary evidence, or both.

(i) After reviewing the testimony and documentation presented, the Committee shall prepare a written report which discusses the testimony, contains findings of facts and recommended disposition.

(j) At least two members of the Committee shall concur in the recommended disposition.

(k) Copies of the Committee's report shall be sent to all parties at the meeting. Upon receipt of the Committee's report, the parties shall have the opportunity to submit written objections or exceptions to said report within the time period specified by the committee.

(l) After the expiration of the time period prescribed for the filing of the exceptions, the Committee's report, exceptions or objections thereto, evidence and any transcripts shall be forwarded to the Director.

(m) The Director in consultation with the Commissioner of Health and Senior Services, where appropriate, shall have final decisional authority and may adopt, reverse or modify the Committee's recommended determination. The Director may also, for cause, remand the matter back to the Committee for further testimony.

Amended by R.1997 d.354, effective September 2, 1997.

See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

In (m), inserted reference to consultation with Commissioner.

SUBCHAPTER 13. PROGRAM CONTROLS**10:49-13.1 Medical review and evaluation**

Under the provisions of Federal and State law, the Medicaid Agent or DMAHS shall provide continuing review and evaluation of the care and services provided under the Medicaid and NJ FamilyCare programs. This includes review of utilization of services of practitioners and other providers.

Amended by R.1997 d.354, effective September 2, 1997.

See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

Substituted "Medicaid Agent" for "Division of Medical Assistance and Health Services".

Amended by R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Inserted a reference to DMAHS and substituted a reference to the Medicaid and NJ KidCare programs for a reference to programs in the first sentence.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998.

See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.

Amended by R.2003 d.82, effective February 18, 2003.

See: 34 N.J.R. 2650(a), 35 N.J.R. 1118(a).

10:49-13.2 Audits

(a) A field audit shall be subject to the following:

1. "Completion of the field audit" for nursing facility providers for purposes of N.J.S.A. 30:4D-17(f) shall be defined in the following manner:

i. For all such audits and audit recovery cases pending on March 1, 1983, it shall mean the date that field work is completed, or the date information requested from the provider during the course of that field work is received, whichever is later.

ii. For all such audits and audit recovery cases pending on March 1, 1983, which are, have been or will be referred either to the Legal Action Committee, or to the Division of Criminal Justice or other agency for criminal investigation, it means the date the Office of Program Integrity Administration (OPIA) receives authorization to take administrative action.

iii. For all such audits initiated on or after March 1, 1983, it means the date the exit conference is completed or the date information requested from the provider during the course of the exit conference is received, whichever is later.

2. "Completion of the field audit" for all other providers for purposes of N.J.S.A. 30:4D-17(f) shall be defined in the following manner:

i. For all such audits and audit recovery cases pending on March 1, 1983, it means the date of final screening of the case file by the Assistant Director, OPIA or, if the case is referred to the Legal Action Committee or the Division of Criminal Justice, the date OPIA receives authorization to take administrative action;

ii. For all such audits initiated on or after March 1, 1983, it means the date of final screening of the case file by the Assistant Director, OPIA.

3. Notwithstanding any of the previous subsections, if after the screening of any provider audit initiated on or after March 1, 1983, the Assistant Director, OPIA, determines with reasonable justification that an act or omission on the part of the provider requires additional field work, the field audit shall be considered completed when the additional field work is completed.

4. Notwithstanding any of the previous subsections, if after the screening of any provider audit initiated on or after March 1, 1983, the Assistant Director, OPIA, determines with reasonable justification that an act or omission on the part of the provider requires that additional information or documentation be obtained from the provider, then a completed field audit shall be considered reopened and interest shall again accrue for the period beginning 20 days from the date the request for such information or documentation is received by the provider and ending on

the date that all of the requested information or documentation is received by the agency making the request.

5. Notwithstanding any of the previous paragraphs, if all or part of any provider audit initiated on or after March 1, 1983, is referred to the Division of Criminal Justice or other agency for criminal investigation:

i. In the event no criminal action results from the referral the field audit shall be considered completed one year from the date the decision was made to refer the matter for criminal investigation; and

ii. In the event criminal action does result from the referral, the field audit shall be considered completed on the date OPIA receives authorization to take administrative action.

(b) "Final audit," for purposes of N.J.S.A. 30:4D-7m only, means that point in the audit process when the Division issues to the provider an audit report specifically designated as the "final audit" for a specified period audited.

Amended by R.1997 d.354, effective September 2, 1997.

See: 29 N.J.R. 2512(a), 29 N.J.R. 3856(a).

Amended Office references throughout.

Amended by R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Substituted references to the Office of Program Integrity Administration for references to the Office of Quality Management and Program Integrity throughout.

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998.

See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.

Case Notes

Audit pending on effective date of regulation comes within purview of regulation. *Bridgeton Nursing Center, Inc. v. Div. of Medical Assistance and Health Services*, 8 N.J.A.R. 217 (1983), affirmed per curiam Dkt. No. A-165-83 (App.Div.1984).

10:49-13.3 Applicability to DMAHS programs of provisions relating to fraud and abuse, third party liability and administrative and judicial remedies

All of the relevant provisions pertaining to fraud and abuse, third party liability, and administrative and judicial remedies which are contained in the following sections of N.J.S.A. 30:4D-1 et seq. and this chapter are fully applicable to all of the programs administered in whole or in part by the Division, including, but not limited to, Plans B, C and D of the NJ FamilyCare program: N.J.S.A. 30:4D-6c, 6f, 7h, 7i, 7k, 7l, 7.1, 12, 17(e), 17(f), 17(g), 17(i), 17.1 and 17.2, as well as N.J.A.C. 10:49-3.2, 4.1 through 4.5, 5.5, 6.1(a)3, 7.3, 7.4, 7.5, 8.2(a)1ii, 9.6 through 9.12, 11.1, 12.1 through 12.7, 13.1, 13.4, 14.2 through 14.6 and 16.5.

New Rule, R.1998 d.154, effective February 27, 1998 (operative March 1, 1998; to expire August 31, 1998).

See: 30 N.J.R. 1060(a).

Adopted concurrent proposal, R.1998 d.487, effective August 28, 1998.

See: 30 N.J.R. 1060(a), 30 N.J.R. 3519(a).

Readopted the provisions of R.1998 d.154 without change.
Amended by R.1999 d.211, effective July 6, 1999 (operative August 1, 1999).

See: 31 N.J.R. 998(a), 31 N.J.R. 1806(a), 31 N.J.R. 2879(b).

Amended by R.2002 d.155, effective May 20, 2002.

See: 33 N.J.R. 3893(a), 34 N.J.R. 1852(a).

Rewrote the section.

Amended by R.2003 d.82, effective February 18, 2003.

See: 34 N.J.R. 2650(a), 35 N.J.R. 1118(a).

Rewrote the section.

10:49-13.4 Rewards for information relating to fraud and abuse

(a) The Division of Medical Assistance and Health Services may pay a monetary reward for information that leads to the recovery of at least \$100.00 from individuals or entities that have engaged in health care-related fraud or abuse including ineligible receipt of benefits involving the programs administered by DMAHS (including, but not limited to, the New Jersey Medicaid and NJ FamilyCare programs), the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program administered by Department of Health and Senior Services, and/or the Work First New Jersey General Assistance (GA) program administered by the Division of Family Development. The determination of whether an individual or entity meets the criteria for an award, and the amount of the award, is at the discretion of DMAHS. DMAHS shall pay a reward only if a reward is not otherwise provided for by law. When DMAHS applies the criteria specified in (b), (c) and (e) below to determine the eligibility and the amount of the reward, DMAHS shall notify the beneficiary of the reward as specified in (d) below.

(b) The following pertain to information eligible for reward.

1. In order for an individual or entity to be eligible to receive a reward, the information supplied shall relate to the activities of a specific individual or entity, and shall specify the time period of the alleged activities.

2. DMAHS shall not give a reward for information relating to an individual or entity that, at the time the information is provided, is already the subject of a review or investigation by DMAHS or its contractors; the New Jersey Department of Human Services (DHS); the New Jersey Department of Health and Senior Services; the New Jersey Department of Law and Public Safety; the Health Care Financing Administration and the Office of the Inspector General of the U.S. Department of Health and Human Services or their contractors; the U.S. Department of Justice; the Federal Bureau of Investigation; or any other Federal, State, county or municipal law enforcement agency.

(c) Any individual or entity (other than one excluded under (c)1 below) is eligible to receive a reward under this section if the information is submitted in the manner set forth in (f) below.

1. The following are excluded from eligibility to receive a reward:

i. An individual who was or is an immediate family member of an officer or employee of any of the agencies or entities listed in (b)2 above at the time he or she came into possession of, or divulged, information leading to a recovery shall not be eligible to receive a reward under this section;

ii. Any other Federal, State, county or municipal employee, contractor or grantee shall not be eligible for a reward under this section if the information submitted came to their knowledge in the course of their official duties;

iii. An individual or entity that illegally obtained the information submitted shall be excluded from receiving a reward under this section; and

iv. An individual or entity that participated in the sanctionable offense with respect to which payment would be made shall be excluded from receiving a reward under this section.

(d) After all funds have been recovered and DMAHS has determined a participant eligible to receive a reward under the provisions of this section, it shall notify the informant of his or her eligibility, by mail, at the most recent address supplied by the individual or entity. It is the individual's or entity's responsibility to ensure that the reward program has been notified of any change in their address or other relevant information (for example, change of name, phone number).

1. If the individual or entity has relocated to an unknown address, the individual or entity or their legal representative may claim the reward by contacting DMAHS within one year from the date on which DMAHS first attempted to notify the individual or entity about a reward. DMAHS does not consider the individual or entity or their legal representative eligible for a reward more than one year after the date on which it first attempted to give notice. DMAHS does not pay interest on rewards that are not immediately claimed.

2. If an individual has become incapacitated or has died, an executor, administrator, or other legal representative may claim the reward on behalf of the individual or the individual's estate. The claimant shall submit certified copies of the letters testamentary, letters of administration, or other similar evidence to show his or her authority to claim the reward. The claim shall be filed within one year from the date, on which DMAHS first gave or attempted to give notice of the reward.

(e) The following pertain to the amount and payment of a reward: