

9. Satisfaction of any conditions or requirements previously imposed by the Medicaid or the NJ KidCare program.

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

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

In (a)9 substituted "Medicaid program" for "Division".

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).

In (a)9, inserted a reference to the NJ KidCare program.

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

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 KidCare 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.

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 NJ KidCare-Plans B, C and D of provisions relating to fraud and abuse investigations and administrative actions, third party liability and recoveries

All of the relevant provisions pertaining to fraud and abuse investigations and administrative actions, third party liability, and recoveries which are contained in N.J.S.A. 30:4D-1 et seq. and this chapter are fully applicable to the NJ KidCare program, including, but not limited to, N.J.S.A. 30:4D-6c, 6f, 7h, 7i, 7k, 7l, 7.1, 12, 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, 5.4, 6.1(a)3, 7.3, 7.4, 7.5, 9.5 through 9.8, 11.1, 12.1 through 12.7, 13.1, 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).

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 KidCare 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 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:

1. In determining whether it shall pay a reward and, if so, the amount of the reward, DMAHS shall take into account all relevant factors, including the significance of the information furnished in relation to the ultimate resolution of the case and the recovery.

2. The amount of the reward represents what DMAHS considers to be adequate compensation in the particular case, not to exceed 10 percent of the overpayments recovered in the case, or \$1,000, whichever is less.

3. If more than one individual or entity is eligible to receive a reward in a particular case, DMAHS shall allocate the total reward amount (not to exceed 10 percent of the overpayments recovered in that case, or \$1,000, whichever is less) among the participants.

4. DMAHS bases rewards only on recovered overpayments, not on amounts collected as interest, penalties and/or fines, and not on estimates of cost savings or cost avoidance.

5. DMAHS shall make payments as promptly as the circumstances of the case permit, but not until it has collected all overpayments, interest, penalties and fines.

6. No Division employee may make any offer or promise or otherwise bind DMAHS or DHS with respect to the payment or any reward under this subsection or the amount of the reward.

(f) An individual or entity may submit information on persons or entities engaging in, or that have engaged in, health care-related fraud and/or abuse against the programs listed in (a) above to Bureau of Program Integrity, Division of Medical Assistance and Health Services, PO Box 712, Trenton, NJ 08625-0712, or by calling the DMAHS Fraud and Abuse Hotline at 1-888-9 FRAUD-5 (1-888-937-2835).

1. A participant interested in receiving a reward shall provide his or her name, address, telephone number, and any other requested identifying information so that he or she may be contacted, if necessary, for additional information and, when applicable, for the payment of a reward upon resolution of the case.

(g) DMAHS shall not reveal a participant's identity to any person, except as required by law.

(h) If, after a reward is accepted, DMAHS finds that the awardee was ineligible to receive the reward, neither DMAHS nor DHS shall be liable for the reward, and the awardee shall refund all monies received.

(i) Receipt of a reward under this section by any applicant for or beneficiary of PAAD or GA benefits shall not affect that individual's eligibility or continued eligibility for those benefits. However, unless and until Federal approval is received by DMAHS, receipt of a reward may affect the eligibility of applicants for or beneficiaries of those programs administered by DMAHS that receive Federal financial participation.

New Rule, R.2000 d.288, effective July 17, 2000.
See: 31 N.J.R. 2673(b), 32 N.J.R. 2613(a).

SUBCHAPTER 14. RECOVERY OF PAYMENTS AND SANCTIONS

10:49-14.1 Recovery of payments correctly made

(a) Correctly paid benefits shall only be recoverable from the estate of an individual who was 65 years of age or older when the individual received medical assistance if:

1. The individual leaves no surviving spouse;