

CHAPTER 51

PHARMACEUTICAL SERVICES MANUAL

Authority

N.J.S.A. 30:4D-6, 7 and 12.

Source and Effective Date

R.2004 d.26, effective December 16, 2003.
See: 35 N.J.R. 3788(a), 36 N.J.R. 558(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 51, Pharmaceutical Services Manual, expires on June 14, 2009. See: 41 N.J.R. 1144(a).

Chapter Historical Note

Chapter 51, Pharmacy Manual, was adopted as R.1971 d.29, effective March 5, 1971. See: 3 N.J.R. 25(a), 3 N.J.R. 62(b).

Pursuant to Executive Order No. 66(1978), Chapter 51, Pharmacy Manual, was readopted as R.1985 d.594, effective October 28, 1985. See: 17 N.J.R. 2223(a), 17 N.J.R. 2772(a).

Pursuant to Executive Order No. 66(1978), Chapter 51, Pharmaceutical Services Manual, was readopted as R.1990 d.530, effective October 9, 1990. See: 22 N.J.R. 2217(a), 22 N.J.R. 3372(a).

Chapter 51, Pharmaceutical Services Manual, was repealed and a new Chapter 51, Pharmaceutical Services Manual, was adopted by R.1993 d.434, effective September 7, 1993. See: 24 N.J.R. 3053(a), 25 N.J.R. 4082(a).

Pursuant to Executive Order No. 66(1978), Chapter 51, Pharmaceutical Services Manual, was readopted as R.1998 d.488, effective August 28, 1998. See: 30 N.J.R. 2169(b), 30 N.J.R. 3538(a).

Subchapter 4, Pharmaceutical Assistance to the Aged and Disabled (PAAD), was recodified as N.J.A.C. 8:83C by R.1998 d.464, effective September 8, 1998. See: 30 N.J.R. 2197(a), 30 N.J.R. 3309(a).

Chapter 51, Pharmaceutical Services Manual, was readopted as R.2004 d.26, effective December 16, 2003. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PHARMACEUTICAL SERVICES

10:51-1.1 Introduction

(a) This chapter provides information about the provision of pharmaceutical services under the New Jersey Medicaid program and NJ FamilyCare program. It is divided into three subchapters.

1. N.J.A.C. 10:51-1 provides a pharmacy operating under a retail permit with the policies and procedures relevant to the provision of services to New Jersey Medicaid and NJ FamilyCare fee-for-service beneficiaries, excluding those residing in a nursing facility.

2. N.J.A.C. 10:51-2 pertains to a pharmacy providing pharmaceutical services to Medicaid beneficiaries in a nursing facility.

3. N.J.A.C. 10:51-3 explains the responsibility of a pharmacist acting as a consultant in a nursing facility or other public medical institution.

(b) Incorporated by reference into this chapter as Appendix D is the Fiscal Agent Billing Supplement that provides information about claim processing and related activities.

Amended by R.1998 d.488, effective September 21, 1998.
See: 30 N.J.R. 2169(b), 30 N.J.R. 3538(a).

In (a), substituted references to the NJ KidCare program for references to the Pharmaceutical Assistance to the Age and Disabled program in the introductory paragraph, inserted a reference to NJ KidCare fee-for-service beneficiaries in 1, and deleted a former 4.

Amended by R.2004 d.26, effective January 20, 2004.
See: 35 N.J.R. 3788(a), 36 N.J.R. 558(a).

In (a), substituted "NJ FamilyCare" for "NJ KidCare" throughout.

Case Notes

Out-of-state applicant could not be deemed an institutional pharmacy because: (1) the applicant's Wisconsin license stated only that it was a "pharmacy" and did not further describe the licensee as either retail or institutional; (2) the Justice Department registration recognized petitioner as a retail pharmacy; (3) an "institutional pharmacy" under New Jersey regulations must be within a healthcare facility or system licensed as such by the Board; and (4) the New Jersey regulations also state that the term "pharmacy" standing alone indicates a retail pharmacy. Because the applicant was not deemed an institutional pharmacy, its authorization as a Medicaid provider was not proscribed under N.J.A.C. 10:51-2.2(b)1. *Phoenix Pharmacy, Inc. v. DMAHS*, OAL Dkt. No. HMA 03266-07, 2007 N.J. AGEN LEXIS 489, Initial Decision (July 6, 2007).

New Jersey Division of Medical Assistance and Health Services' policy of not authorizing out-of-state pharmacies that service in-state affiliated facilities was an unwarranted expansion of the clear language of the regulations. *Phoenix Pharmacy, Inc. v. DMAHS*, OAL Dkt. No. HMA 03266-07, 2007 N.J. AGEN LEXIS 489, Initial Decision (July 6, 2007).

10:51-1.2 Participation of eligible providers

(a) A pharmacy, with a retail or institutional permit, may apply to participate in the Medicaid or NJ FamilyCare program as a provider of pharmaceutical services and/or as a medical supplier providing medical supplies and durable medical equipment and/or as a provider of parenteral nutrition and/or intravenous therapy. The requirements for approval as

a provider of these services are listed in (b) through (d) below.

(b) To be approved as a provider of pharmaceutical services, the pharmacy shall:

1. Operate under a valid retail and/or institutional permit issued by the Board of Pharmacy of the State of New Jersey or by the Board of Pharmacy of the state in which the pharmacy is located. However, an application for approval as a retail pharmacy submitted by a pharmacy operating under an out-of-State institutional permit will be denied; a pharmacy operating under an out-of-State institutional permit and applying for approval as a retail pharmacy may not participate as an approved provider in the New Jersey Medicaid or NJ FamilyCare program; and

2. File an application and sign an agreement with the Division of Medical Assistance and Health Services.

i. Upon sale or other change of ownership of an approved pharmacy, the agreement is automatically terminated. To execute a new agreement to participate in the New Jersey Medicaid and NJ FamilyCare programs, the new owner(s) shall apply to the Division of Medical Assistance and Health Services, Department of Human Services, by contacting the Provider Enrollment Unit (see N.J.A.C. 10:49, Administration Chapter, Enrollment Process) or the fiscal agent Provider Enrollment Unit (see Appendix D, Fiscal Agent Billing Supplement).

(c) To enroll as a Medicaid and NJ FamilyCare provider of pharmaceutical services, a pharmacy shall contact the fiscal agent Provider Enrollment Unit (see Appendix D, Fiscal Agent Billing Supplement).

(d) A pharmacy may also apply to the Division to participate as a medical supplier. The Medical Supplier chapter, N.J.A.C. 10:59, available from the fiscal agent, provides information concerning the provision of and reimbursement for covered medical supplies and durable medical equipment provided by a medical supplier.

1. A pharmacy may apply to participate as a medical supplier by contacting the Provider Enrollment Unit (see N.J.A.C. 10:49—Administration Chapter, Enrollment Process) or the fiscal agent Provider Enrollment Unit (see Appendix D, Fiscal Agent Billing Supplement).

(e) Requirements for approval as a provider of parenteral nutrition and/or intravenous therapy are as follows:

1. In addition to the requirements for approval as a pharmacy provider listed in this section, a pharmacy who supplies parenteral nutrition and/or intravenous therapy shall:

i. Comply with all the requirements of N.J.A.C. 13:39 (providers may view or print a copy of N.J.A.C. 13:39 by accessing the LexisNexis website at www.LexisNexis.com/njoal); or