

**CHAPTER 70**

**MEDICALLY NEEDEY PROGRAM**

**Authority**

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

**Source and Effective Date**

R.2006 d.364, effective September 12, 2006.  
See: 38 N.J.R. 2368(a), 38 N.J.R. 4480(c).

**Chapter Expiration Date**

Chapter 70, Medically Needy Program, expires on September 12, 2011.

**Chapter Historical Note**

Chapter 70, Medically Needy Program, was adopted as R.1986 d.237, effective June 16, 1986 (operative July 1, 1986). See: 18 N.J.R. 831(a), 18 N.J.R. 1294(a).

Pursuant to Executive Order No. 66(1978), Chapter 70, Medically Needy Program, was readopted as R.1991 d.331, effective June 7, 1991. See: 23 N.J.R. 964(a), 23 N.J.R. 2042(a).

Pursuant to Executive Order No. 66(1978), Chapter 70, Medically Needy Program, was readopted as R.1996 d.263, effective May 9, 1996. See: 28 N.J.R. 1463(a), 28 N.J.R. 3001(a).

Pursuant to Executive Order No. 66(1978), Chapter 70, Medically Needy Program, was readopted as R.2001 d.183, effective May 8, 2001. See: 33 N.J.R. 977(a), 33 N.J.R. 1918(b).

Chapter 70, Medically Needy Program, was readopted as R.2006 d.364, effective September 12, 2006. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. INTRODUCTION**

**10:70-1.1 Program scope**

(a) The Medically Needy Program, enacted by P.L. 1985, Chapter 371, extends limited Medicaid program benefits to certain groups of medically needy persons whose income and/or resources exceeds the standards for the Medicaid program but are within the standards for the Medically Needy Program, or whose income exceeds the standards for the Medically Needy Program but is insufficient to meet their medical expenses as determined in this chapter.

(b) Eligibility for the Medically Needy Program is limited to the following eligibility groups within the family and adult eligibility categories:

1. AFDC-related:
  - i. Pregnant women; and
  - ii. Children under 21 years of age.
2. SSI-related:
  - i. Persons 65 years of age or older;
  - ii. Persons who are blind; and
  - iii. Persons who are disabled.

(c) The medical services covered under the Medically Needy Program are limited to eligibility group and by the spend-down provisions of N.J.A.C. 10:70-6. All restrictions

and limitations on services applicable to the Medicaid program apply to services for the Medically Needy. The services covered under the Medically Needy Program (by eligibility group) are described in N.J.A.C. 10:49-5.3.

(d) Retroactive eligibility for the Medically Needy Program is available beginning with the third month prior to the month of application, if members of an eligibility group have incurred expenses for covered services within that period which have not yet been paid and the members would have been eligible for the Medically Needy coverage in the month in which the services were received. Members of the eligibility group need not be eligible for the program at the time of application in order to be eligible for retroactive eligibility. Application for retroactive eligibility may be made on behalf of a deceased person so long as the person was alive during a portion of the retroactive eligibility period and he or she incurred medical expenses for covered services.

1. Retroactive coverage is not available for any period prior to July 1, 1986, the effective date of the Medically Needy Program.

Amended by R.1996 d.263, effective June 3, 1996.

See: 28 N.J.R. 1463(a), 28 N.J.R. 3001(a).

Amended by R.2006 d.364, effective October 16, 2006.

See: 38 N.J.R. 2368(a), 38 N.J.R. 4480(c).

In (c), substituted "N.J.A.C. 10:70-" for "subchapter" and updated N.J.A.C. reference at end.

#### Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 980) adopted, which found that although the term "gross income" is not specifically defined for the Medically Needy program found at N.J.A.C. 10:70-1.1 et seq., the Medicaid Only program does contain definitions for earned and unearned income under N.J.A.C. 10:71-5.1(b) and both N.J.A.C. 10:71-5.4 and N.J.A.C. 10:71-5.6 make reference to gross income; thus, while not a paradigm of clarity, the regulations imply that gross income is the proper figure to use in making eligibility determinations for the Medically Needy program as well as the Medicaid Only program. J.O. v. DMAHS, OAL Dkt. No. HMA 4407-06, 2006 N.J. AGEN LEXIS 935, Final Decision (October 24, 2006).

#### 10:70-1.2 Purpose of the Medically Needy Manual

(a) Purpose of the regulations contained within this chapter is to:

1. Set forth eligibility for the Medically Needy Program;
2. Establish policy for calculating spend-down liability for persons whose income exceeds the Medically Needy Income Level; and
3. Specify the rights and responsibilities of program applicants and eligible persons.

(b) Circumstances which are neither specifically nor generally addressed in these regulations shall be referred to designated staff of the Division of Medical Assistance and Health Services for resolution.

(c) The directors of the county boards of social services shall assign copies of this manual to administrative staff, all Medically Needy Program staff working with applicants and beneficiaries, and to social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its contents in order to apply the required policy and procedures consistently.

(d) The Division of Medical Assistance and Health Services will issue revisions to the Manual as necessary. It is the responsibility of each holder of the Manual to maintain its accuracy by inserting new material and removing obsolete pages promptly.

1. At least one administrative copy of all obsolete pages of the Manual must be maintained by the county board of social services.

(e) This manual is a public document. It is important that all copies in use be absolutely accurate and up-to-date. The manual is available as follows:

1. Copies are available in the State office of the Division of Medical Assistance and Health Services and in each county board of social services office for examination or review during regular office hours.

2. Specific policy material necessary for an applicant or beneficiary or his or her representative to determine whether a fair hearing is to be requested or to prepare for a fair hearing shall be provided to such persons without charge.

3. All public and university libraries which have agreed to keep the manual up-to-date will have a copy available under their regulations.

4. Each legal services office will be furnished with a copy of this manual.

5. Welfare, social service, and other nonprofit organizations will be furnished with a copy of this manual at no cost upon an official written request on agency letterhead to the Division of Medical Assistance and Health Services.

6. A current up-to-date copy of the manual or any part of it is available from the Division of Medical Assistance and Health Services at the cost of printing and mailing to anyone who requests it in writing.

Amended by R.2006 d.364, effective October 16, 2006.

See: 38 N.J.R. 2368(a), 38 N.J.R. 4480(c).

In (c), substituted "directors" for "director" and "beneficiaries" for "recipients"; in (c), (d)1 and (e)1, substituted "board of social services" for "welfare agency"; and in (e)2, substituted "beneficiary" for "recipient".

#### 10:70-1.3 Administrative organization

The Medically Needy Program is administered by the county welfare agencies under the supervision of the Division of Medical Assistance and Health Services of the Department of Human Services.