

CHAPTER 78

NJ FAMILYCARE

Authority

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

Source and Effective Date

R.2006 d.347, effective September 1, 2006.
See: 38 N.J.R. 2602(a), 38 N.J.R. 3095(a), 38 N.J.R. 4222(a).

Chapter Expiration Date

Chapter 78, NJ FamilyCare, expires on September 1, 2011.

Chapter Historical Note

Chapter 78, NJ FamilyCare, was adopted as special new rules by R.2000 d.393, effective September 6, 2000, to expire March 5, 2001. See: 32 N.J.R. 3603(a). The provisions of R.2000 d.393 were readopted as R.2001 d.113, effective March 5, 2001. See: 32 N.J.R. 3603(a), 33 N.J.R. 1126(a).

Subchapter 9, Premium Support Program (PSP), was adopted as special new rules by R.2001 d.286, effective July 20, 2001. See: 33 N.J.R. 2913(a). Subchapter 9, Premium Support Program (PSP), expired on January 20, 2002.

Subchapter 9, Premium Support Program (PSP), was adopted as new rules by R.2002 d.199, effective July 1, 2002. See: 33 N.J.R. 2913(a), 34 N.J.R. 2331(b).

Subchapter 11, Provisions Governing Former New Jersey Health Access Enrollees, was adopted as special new rules by R.2002 d.29, effective December 21, 2001. See: 34 N.J.R. 602(a), 38 N.J.R. 2602(a), 38 N.J.R. 2828(a).

Chapter 78, NJ FamilyCare, was readopted as R.2006 d.347, effective September 1, 2006. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. INTRODUCTION

10:78-1.1 Program outline

(a) This chapter contains the criteria for NJ FamilyCare eligibility for certain uninsured parents, caretakers, and caretaker relatives and children not eligible under the provisions of N.J.A.C. 10:69, AFDC-Related Medicaid, and 10:79, NJ FamilyCare Children's Program, as well as certain uninsured single individuals and couples without dependent children not eligible under the provisions of N.J.A.C. 10:90, Work First New Jersey Program. Prior to June 15, 2002, NJ FamilyCare also provided subsidized health insurance to those legal immigrants who were lawfully admitted for permanent residence and who met all other qualifications under the provisions of N.J.A.C. 10:69, 10:72 and 10:79, but for the Federal immigrant residency restrictions. After June 14, 2002, no applications were accepted from individuals who were parents, caretakers and caretaker relatives. However, as of September 1, 2005, the program was reopened to new applicants who are parents, or caretakers, of dependent children under the age of 19 and who meet the eligibility criteria contained in N.J.A.C. 10:78-3.4(a)6 and this chapter.

(b) Individuals financially ineligible for Medicaid under the provisions of N.J.A.C. 10:71, 10:72 or 10:69 and who are income ineligible for FamilyCare under the provisions of this chapter shall be evaluated for eligibility as Medically Needy under the provisions of N.J.A.C. 10:70.

(c) Eligibility under the provisions of this chapter shall be limited to those individuals not otherwise eligible for Medicaid or NJ FamilyCare, including:

1. Parents and caretakers of children under the age of 19;

2. Pregnant women whose income is over 185 percent, but does not exceed 200 percent, of the Federal poverty level (FPL);

3. Immigrant pregnant women lawfully admitted for permanent residence who would be eligible for Medicaid but for Federal immigrant residency restrictions;

4. Single individuals and couples without dependent children; and

5. Children under the age of 21.

(d) Persons found eligible for NJ FamilyCare will receive services as set forth in N.J.A.C. 10:78-7.1, Scope of services.

Special amendment, R.2002 d.214, effective June 10, 2002 (to expire March 5, 2006).

See: 34 N.J.R. 2338(a).

Rewrote (a) and (b).

Amended by R.2006 d.347, effective October 2, 2006.

See: 38 N.J.R. 2602(a), 38 N.J.R. 3095(a), 38 N.J.R. 4222(a).

Rewrote (a); in the introductory paragraph of (c), substituted "FamilyCare" for "KidCare"; in (c)2, inserted ", but does not exceed 200 percent," and substituted "level (FPL)" for "line".

10:78-1.2 Purpose

(a) The purpose of the rules contained within this chapter is to:

1. Set forth eligibility criteria for the NJ FamilyCare program; and

2. Specify the rights and responsibilities of program applicants and beneficiaries.

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

(c) The director of the eligibility determination agency shall assign copies of this chapter to administrative staff, all staff responsible for the determination of NJ FamilyCare eligibility, social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its requirements in order to apply the policies and procedures consistently.

(d) The Division of Medical Assistance and Health Services shall issue amendments to this chapter as they are promulgated in accordance with New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(e) At least one administrative copy of all obsolete pages of this chapter shall be maintained by the eligibility determination agency.

(f) This chapter is a public document. All copies in use shall be updated accurately as amendments are issued. The chapter is available as follows:

10:78-3.2 Citizenship

(a) In order to be eligible for the NJ FamilyCare program, an individual shall be a citizen of the United States, an alien lawfully admitted for permanent residence, or an alien who can be classified as an eligible alien in accordance with this chapter.

1. The term "citizen of the United States" includes persons born in Puerto Rico, Guam, the Virgin Islands, Swain's Island, American Samoa, and the Northern Mariana Islands.

(b) The following aliens, regardless of the date of entry into the United States, if they otherwise meet the eligibility criteria, are entitled to NJ FamilyCare benefits:

1. An alien lawfully admitted for permanent residence;
2. A refugee admitted pursuant to section 207 of the Immigration and Nationality Act;
3. An asylee admitted pursuant to section 208 of the Immigration and Nationality Act;
4. An alien whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act;
5. An alien who has been granted parole for at least one year by the United States Citizenship and Immigration Services (USCIS) pursuant to section 212(d)(5) of the Immigration and Nationality Act;
6. An alien who has been granted conditional entry pursuant to section 203(a)(7) of the immigration law in effect prior to April 1, 1980;
7. An alien who is granted status as a Cuban or Haitian entrant as defined by section 501(e) of the Refugee Education Assistance Act of 1980;
8. An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply;
9. A member of an Indian tribe as defined in section 4(e) of the Indian Self Determination and Education Assistance Act;
10. An alien who is admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;
11. An alien who is honorably discharged or who is on active duty in the United States Armed Forces and his or her spouse and the unmarried dependent children of the alien or spouse; and
12. Certain qualified aliens who are victims of domestic violence and when there is a substantial connection between the battery or cruelty suffered by an alien and his or

her need for NJ FamilyCare benefits, subject to certain conditions described below:

- i. The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent.
- ii. The alien has been battered or subjected to extreme cruelty in the United States by a member of the spouse's or parent's family residing in the same household of the alien and the spouse or parent acquiesced to such battery or cruelty.
- iii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or the parent of the alien (without the active participation of the alien in the battery or cruelty).
- iv. The alien's child has been battered or subjected to extreme cruelty in the United States by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent acquiesced to and the alien did not actively take part in such battery or cruelty.
- v. In addition to the conditions described in (b)12i through iv above, if the individual responsible for the battery or cruelty continues to reside in the same household as the individual who was subjected to such battery or cruelty, then the alien shall be ineligible for full NJ FamilyCare benefits.
- vi. The eligibility determination agency shall apply the definitions "battery" and "extreme cruelty" and the standards for determining whether a substantial connection exists between the battery or cruelty and the need for NJ FamilyCare as issued by the Attorney General of the United States under his or her sole and unreviewable discretion, in accordance with 8 U.S.C. § 1641.

(c) Persons claiming to be eligible aliens shall provide the eligibility determination agency with documentation of alien status.

1. If an applicant presents an expired USCIS document or is unable to present any document demonstrating his or her immigration status, the eligibility determination agency shall refer the applicant to the local office of USCIS to obtain evidence of status. If, however, the applicant provides an alien registration number, but no documentation, the eligibility determination agency shall file USCIS Form G-845 along with the alien registration number with the local office of USCIS to verify status.
2. The following sets forth acceptable documentation for eligible aliens:
 - i. Lawful Permanent Resident—USCIS Form I-551, or for recent arrivals, a temporary I-551 stamp in a foreign passport or on Form I-94.

- ii. Refugee—USCIS Form I-94 annotated with stamp showing entry as refugee under section 207 of the Immigration and Nationality Act and date of entry into the United States; USCIS Form I-688B annotated “274a.12(a)(3),” I-766 annotated “A3,” or I-571. Refugees usually adjust to Lawful Permanent Resident status after 12 months in the United States, but for purposes of determining NJ FamilyCare eligibility they are considered refugees. Refugees whose status has been adjusted will have, USCIS Form I-551 annotated “RE-6,” “RE-7,” “RE-8,” or “RE-9.”
 - iii. Asylees—USCIS Form I-94 annotated with a stamp showing grant of asylum under section 208 of the Immigration and Nationality Act, a grant letter from the Asylum Office of either the Immigration and Naturalization Service or the USCIS, Forms 688B annotated “274a.12(a)(5),” or I-766 annotated “A5.”
 - iv. Deportation Withheld—Order of an Immigration Judge showing deportation withheld under section 243(h) of the Immigration and Nationality Act and the date of the grant, or USCIS Form I-688B annotated “274a.12(a)(10)” or I-766 annotated “A10.”
 - v. Parole for at Least a Year—USCIS Form I-94 annotated with stamp showing grant of parole under section 212(d)(5) of the Immigration and Nationality Act and a date showing granting of parole for at least a year.
 - vi. Conditional Entry under Law in Effect before April 1, 1980—USCIS Form I-94 with stamp showing admission under section 203(a)(7) of the Immigration and Nationality Act, refugee-conditional entry, or USCIS Forms I-688B annotated “274a.12(a)(3)” or I-766 annotated “A3.”
 - vii. Cuban Haitian Entrant—USCIS Form I-94 stamped “Cuban/Haitian Entrant under section 212(d)(5) of the INA.”
 - viii. An American Indian born in Canada—USCIS Form I-551 with code S13 or an unexpired temporary I-551 stamp (with code S13) in a Canadian passport or on Form I-94.
 - ix. A member of certain Federally recognized Indian tribes—a membership card or other tribal document showing membership in tribe is acceptable documentation.
 - x. Amerasian Immigrant—USCIS Form I-551 with the code AM1, AM2, or AM3 or passport stamped with an unexpired temporary I-551 showing a code AN6, AM7, or AM8.
3. For aliens who entered the United States on or after August 22, 1996, the date of entry into the United States shall be determined as follows:
- i. On USCIS Form I-94, the date of admission should be found on the refugee stamp. If missing, the

eligibility determination agency should contact the local office of the USCIS by filing Form G-845, attaching a copy of the document;

- ii. If the alien presents USCIS Form I-688B (Employment Authorization Document), I-766, or I-571 (Refugee Travel Document), the eligibility determination agency shall ask the alien to present Form I-94. If that form is not available, the eligibility determination agency shall contact the USCIS via the submission of Form G-845, attaching a copy of the documentation presented;

- iii. If the alien presents a grant letter or court order, the date of entry shall be derived from the date of the letter or court order. If missing, the eligibility determination agency shall contact the USCIS by submitting a Form G-845, attaching a copy of the document presented.

4. For aliens who present themselves as on active duty or honorably discharged from the United States Armed Forces, the following shall serve as documentation:

- i. For discharge status, an original, or notarized copy of the veteran’s discharge papers issued by the branch of service in which the applicant was a member;

- ii. For active duty military status, an original, or notarized copy, of the applicant’s current orders showing the individual is on full-time duty with the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard (full-time National Guard duty does not qualify), or a military identification card (DD Form 2 (active));

- iii. A self-declaration under penalty of perjury may be accepted pending receipt of acceptable documentation.

(d) As a condition of eligibility, all applicants for NJ FamilyCare shall sign a declaration under penalty of perjury that they are citizens of the United States or aliens in a satisfactory immigration status. In the case of a child or incompetent applicant, another individual on the applicant’s behalf shall complete the same written declaration under penalty of perjury.

Amended by R.2006 d.347, effective October 2, 2006.
See: 38 N.J.R. 2602(a), 38 N.J.R. 3095(a), 38 N.J.R. 4222(a).

In (b)5, substituted “United States Citizenship and Immigration Services (USCIS)” for “Immigration and Naturalization Service”; and rewrote (c)1, (c)2 and (c)3.

10:78-3.3 State residency

(a) In order to be eligible for the NJ FamilyCare program, an individual shall be a resident of the State of New Jersey. The term “resident” shall be interpreted to mean a person who is living in the State voluntarily and not for a temporary purpose, that is, with no intention of presently removing therefrom.

1. If an individual leaves New Jersey with the intent to establish permanent residence elsewhere, or for an indefinite period for purposes other than a temporary visit, he or she ceases to be eligible to receive NJ FamilyCare from this State.

2. When an individual enters this State in order to receive medical care and applies for NJ FamilyCare to meet all or a portion of the costs of such care, the fact that the immediate purpose of the move was to secure medical care does not, in and of itself, have the effect of making the person ineligible for the NJ FamilyCare program. It is the responsibility of the eligibility determination agency to evaluate all such cases and to make an eligibility determination, considering carefully all the following criteria:

i. Whether the move is a temporary one, being solely for the purpose of receiving medical care for a limited time;

ii. Whether there is clear expression of intent on the part of the individual to remain permanently in this State;

iii. Whether there is objective evidence that the individual has, in fact, abandoned or not abandoned residence in the State from which he or she came; and

iv. Whether the state in which the individual previously resided recognizes him or her as having continuing eligibility under the Medicaid program (or other program providing payment for medical care) of that jurisdiction.

3. If, after full consideration of the above factors, the eligibility determination agency is satisfied that the individual has become a resident of this State, NJ FamilyCare eligibility may be established.

10:78-3.4 Beneficiaries

(a) Except as specified in (b) below, the following persons who meet all the eligibility criteria of this chapter and are not eligible to receive Medicaid or NJ FamilyCare Children's Program coverage under current provisions shall be eligible for NJ FamilyCare benefits:

1. Parents and caretakers of dependent children under the age of 19 whose gross family income does not exceed 200 percent of the Federal Poverty level (see N.J.A.C. 10:78-4), who applied as such for NJ FamilyCare benefits prior to June 15, 2002, and continuously have received those benefits;

2. Single adults or couples without dependent children whose gross family income does not exceed 100 percent of the Federal Poverty level (see N.J.A.C. 10:78-4) who applied as such for NJ FamilyCare benefits prior to September 1, 2001, and continuously have received those benefits.

i. A couple shall be defined as a man and a woman who are legally married, or who have been determined to be a couple by the Social Security Administration, or who are living together in the same household and presenting themselves to the community in which they live as husband and wife;

3. Pregnant women of any age during the term of a medically verified pregnancy whose gross family income does not exceed 200 percent of the Federal Poverty level.

i. A pregnant woman who is determined eligible under the criteria of this chapter shall, for purposes of eligibility, be considered to be a pregnant woman until the end of the 60-day period beginning with the last day of her pregnancy. Her eligibility as a pregnant woman shall end on the last day of the month in which the 60-day period ends;

4. Individuals under the age of 21 lawfully admitted for permanent residence and who qualify under the provisions in N.J.A.C. 10:69 or 10:79 but for Federal immigration residency restrictions;

5. Any child born to a woman eligible under the provisions of this chapter (except to a presumptively eligible pregnant woman who has subsequently been found ineligible for the month the child was born) shall remain eligible for a period of not less than 60 days from his or her birth and up to one year, so long as the mother remains eligible for NJ FamilyCare, or would remain eligible if pregnant, whether or not application has been made, if the child lives with his or her mother.

i. Notwithstanding (a)5 above, any child resulting from the pregnancy shall be eligible for NJ FamilyCare, if not otherwise eligible for Medicaid or the NJ FamilyCare Children's Program, without regard to changes in the household unit's income for a period of not less than 60 days and up to a period of one year, so long as the mother remains eligible for NJ FamilyCare, or would remain eligible if pregnant, and the child remains in the mother's custody;

6. As of September 1, 2005, new applicants who are parents, or caretakers, of dependent children under the age of 19 and who meet the eligibility criteria contained in subparagraphs (a)6i through iii below and in this chapter.

i. Effective September 1, 2005, parents, or caretakers, of dependent children under the age of 19 whose gross family income does not exceed 100 percent of the Federal Poverty Level shall be eligible to apply for NJ FamilyCare.

ii. Effective September 1, 2006, parents, or caretakers, of dependent children under the age of 19 whose gross family income does not exceed 115 percent of the Federal Poverty Level shall be eligible to apply for NJ FamilyCare.

iii. Effective September 1, 2007, parents, or caretakers, of dependent children under the age of 19 whose gross family income does not exceed 133 percent of the Federal Poverty Level shall be eligible to apply for NJ FamilyCare; and

7. Any individual receiving NJ FamilyCare under the provisions of this chapter who is receiving inpatient services covered by NJ FamilyCare shall continue to be eligible for FamilyCare until the end of the stay for which the inpatient services are furnished, notwithstanding any other provision of this chapter.

(b) Effective June 15, 2002, applicants who are restricted alien children shall be uninsured and financially eligible for the NJ FamilyCare Children's Program Plans A, B, C, or D, in accordance with the provisions of N.J.A.C. 10:79.

Special amendment, R.2002 d.214, effective June 10, 2002.

See: 34 N.J.R. 2338(a).

In (a), substituted "Except as specified in (b) below, the" for "The", inserted "the" preceding "eligibility criteria" and substituted "shall be" for "are" in the introductory paragraph; added (b) and (c).

Amended by R.2006 d.347, effective October 2, 2006.

See: 38 N.J.R. 2602(a), 38 N.J.R. 3095(a), 38 N.J.R. 4222(a).

Rewrote the section.

10:78-3.5 Household unit

(a) The term "household unit" means those persons whose income is counted in the determination of eligibility under the provisions of this chapter. The following persons, if they reside with the program applicant or beneficiary, shall be considered members of the household unit:

1. In the case of a parent or caretaker:

- i. The parent or caretaker;
- ii. The spouse of the parent or caretaker;
- iii. The parent or caretaker's natural or adoptive children under the age of 21;
- iv. The blood-related siblings (including those of half-blood) of the parent or caretaker's children who are under the age of 21; and
- v. The natural or adoptive father of any children in the household unit;

2. In the case of a single adult who does not meet the definition of dependent child under N.J.A.C. 10:69, the single adult only;

3. In the case of the couple without dependent children, the couple only;

4. In the case of a child who does not qualify for NJ FamilyCare Plan A because of Federal immigrant residency restriction or health insurance (see N.J.A.C. 10:79):

- i. The child;
- ii. The child's natural or adoptive parents;

iii. The child's blood-related (including half-blood) and adoptive siblings under the age of 21; and

iv. At the option of the household, the child's stepparent;

5. In the case of a child who does not qualify for NJ FamilyCare Plans B, C, or D because of alien residency restrictions (see N.J.A.C. 10:79):

- i. The child;
- ii. The child's natural or adoptive parents;
- iii. The child's blood-related (including half-blood) and adoptive siblings under the age of 21;
- iv. The natural or adoptive father of any child(ren) in the household unit; or
- v. The stepparent if the stepparent is married to the natural parent; and

6. In the case of a pregnant woman:

- i. The pregnant woman and the unborn child (or children, when it is medically verified that there is more than one fetus);
- ii. The pregnant woman's spouse;
- iii. The pregnant woman's natural or adoptive children under the age of 21;
- iv. The blood-related siblings (including those of half-blood) of the pregnant woman's children who are under the age of 21; and
- v. The natural or adoptive father of any children in the household unit.

Amended by R.2006 d.347, effective October 2, 2006.

See: 38 N.J.R. 2602(a), 38 N.J.R. 3095(a), 38 N.J.R. 4222(a).

In (a)4 and (a)5, substituted "FamilyCare" for "KidCare".

10:78-3.6 Third party liability and other health insurance

(a) Program applicants and beneficiaries are required to identify to the eligibility determination agency any third party (individual, entity, or program) that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or beneficiary.

(b) For the purposes of this section, the terms "health insurance" or "group health plan" do not include:

- 1. Student coverage which is defined as a limited coverage policy covering injuries sustained during school or school-sponsored activities;
- 2. Accident-only coverage (including death and dismemberment);
- 3. Disability income insurance;
- 4. Credit insurance;

agency. No other NJ FamilyCare beneficiary will be responsible for a premium payment or a copayment.

1. No cost sharing shall be imposed on children who are American Indians or Alaska Natives as defined at 42 CFR 457.10. Proof of Federally recognized AI/AN tribal status shall be provided in the form of a tribal card or letter.

(f) Drugs used exclusively to treat AIDS and HIV shall not be included in the FamilyCare services packages, but shall be made available to FamilyCare beneficiaries through the ADDP program in accordance with N.J.A.C. 8:61-3.

(g) Effective July 1, 2002, for WFNJ/GA-eligible individuals, no managed care services will be provided. WFNJ/GA-eligible individuals will receive medical services in accordance with N.J.A.C. 10:49-24.3. Effective July 1, 2003, all substance abuse services for WFNJ/GA-eligible individuals will be administered through the Substance Abuse Initiative (SAI).

1. Effective June 15, 2002, hospital services for WFNJ/GA-eligible individuals shall be submitted for reimbursement through charity care.

(h) Childless adults with incomes below 100 percent of the Federal poverty level who are not eligible for WFNJ/GA and who are enrolled in NJ FamilyCare on June 30, 2002 shall receive the Plan H service package described at N.J.A.C. 10:49-5.8.

1. Effective June 15, 2002, hospital-based behavioral health services for childless adults with incomes below 100 percent of the Federal poverty level who are not eligible for WFNJ/GA shall be submitted for reimbursement through charity care.

(i) Contingent upon continuing approval by the Centers for Medicare & Medicaid Services of New Jersey's Health Insurance Flexibility and Accountability Act (HIFA) waiver, certain parents/caretakers of children enrolled in NJ FamilyCare who have earned incomes below 134 percent of the Federal poverty level shall receive the Plan D benefit package described at N.J.A.C. 10:49-5.7. Those parents/caretakers who are awaiting enrollment in a managed care organization or who meet the standards for exemption from the requirement for enrollment in managed care will receive the Plan D benefit package on a fee-for-service basis, which shall be called Plan I. Services available under Plan I are described at N.J.A.C. 10:49-5.10.

1. Parents who are eligible for NJ FamilyCare Plan A in accordance with N.J.A.C. 10:69, AFDC-Related Medicaid, shall continue to receive the Plan A benefit package.

(j) Effective November 1, 2003, all restricted alien parents shall be enrolled in Plan H and shall receive the services described in N.J.A.C. 10:49-5.8.

Special amendment, R.2001 d.304, effective July 31, 2001 (operative September 1, 2001).

See: 33 N.J.R. 2912(a).

In (d), substituted "shall not" for "may" preceding "be eligible"; added (g) and (h).

Special amendment, R.2002 d.214, effective June 10, 2002.

See: 34 N.J.R. 2338(a).

Rewrote (a), (d), (g) and (h).

Amended by R.2002 d.371, effective November 18, 2002.

See: 34 N.J.R. 2244(a), 34 N.J.R. 2549(b), 34 N.J.R. 3978(c).

Added b(1); added e(1).

Special amendment, R.2003 d.98, effective January 31, 2003 (to expire March 3, 2006).

See: 35 N.J.R. 1303(a).

In (b), rewrote the first sentence in the introductory paragraph; in (e), rewrote the introductory paragraph; added (i).

Special amendment, R.2003 d.417, effective September 26, 2003 (operative November 1, 2003).

See: 35 N.J.R. 4913(a).

Rewrote (d); in (g), substituted "2003" for "2002"; added (j).

Amended by R.2006 d.347, effective October 2, 2006.

See: 38 N.J.R. 2602(a), 38 N.J.R. 3095(a), 38 N.J.R. 4222(a).

Rewrote the section.

SUBCHAPTER 8. BENEFICIARY RIGHTS AND RESPONSIBILITIES

10:78-8.1 Grievance reviews

(a) All NJ FamilyCare applicants and beneficiaries shall be afforded the opportunity for a grievance review.

1. Those agency actions which adversely affect an applicant or beneficiary and may be grieved shall include, but shall not be limited to:

- i. Determination of household composition;
- ii. Earned and unearned income calculations; and
- iii. Interpretation of residency, citizenship and age requirements.

(b) A grievance shall not be considered for those circumstances in which eligibility is precluded by Federal or State statute. These circumstances include, but are not limited to: income standard, age requirement, and citizenship requirements. A grievance shall not be considered for non-payment of premiums.

(c) An applicant shall submit a description of the grievance to the agency in writing within 20 days of the date of the adverse action notice. The agency shall notify the applicant or beneficiary of its decision on the matter, specifying the reasons for the decision, within 60 days of the receipt of the complete documentation of the grievance.

(d) The grievance shall be heard by a panel comprised of State staff, who will make recommendations to the DMAHS Director. Within 60 days of receipt of the appeal, the DMAHS Director shall issue a disposition. The final agency decision is subject to judicial review in the Appellate Division.

(e) As a first step in the grievance process, the Division shall initiate an informal dispute resolution process upon receipt of the grievance board hearing the case. The informal dispute resolution process shall include reviewing the grievance, researching the issue involved, and may include contact with the individual filing the grievance. The intent of the informal dispute resolution process is to try and resolve the grievance prior to the grievance board hearing.

(f) The agency shall retain all correspondence and documentation relating to the grievance in the applicant's or beneficiary's file.

10:78-8.2 Fair hearing

No applicant or beneficiary of the NJ FamilyCare program shall be entitled to a fair hearing as a result of adverse agency action; however, nothing in this chapter shall prevent an applicant or beneficiary from requesting a fair hearing to which they may otherwise be entitled under the provisions of any other law, rule, or regulation.

10:78-8.3 Post-application responsibilities

Once determined eligible for NJ FamilyCare, the applicant shall have the on-going responsibility for reporting to the eligibility determination agency any changes in family circumstances and for providing information as delineated at N.J.A.C. 10:78-2.7. The applicant shall provide additional information as requested by the eligibility determination agency. At any time that the eligibility determination agency lacks sufficient information to confirm continuing program eligibility because of the unwillingness of the applicant or beneficiary to provide necessary information, the agency shall commence action to terminate the case and pursue recovery when warranted.

SUBCHAPTER 9. PREMIUM SUPPORT PROGRAM (PSP)

10:78-9.1 Purpose and scope

(a) The purpose of the Premium Support Program (PSP) is to provide financial support to adults and children to help defray the cost of employer-sponsored health insurance.

(b) The Premium Support Program is designed to cover individuals eligible for NJ FamilyCare who have access to employer-sponsored health plans. Assistance will be provided in the form of a direct subsidy payment to the beneficiary for a portion of the payroll deduction required for participation in the employer-sponsored health plan. Beneficiaries will be reimbursed on a regular schedule, to coincide with their employer's payroll deduction, so as to minimize any adverse financial impact on the beneficiary.

10:78-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Large employer" means any person, firm, corporation, partnership or political subdivision that is actively engaged in business that employed an average of more than 50 employees on business days during the preceding calendar year.

"Small employer" means any person, firm, corporation, partnership or political subdivision that is actively engaged in business that employed an average of at least two, but no more than 50, employees on business days during the preceding calendar year.

"Wraparound service" means any service that is not covered by the enrollee's employer plan that is an eligible service covered by NJ FamilyCare for the enrollee's category of eligibility.

10:78-9.3 Who is eligible to participate in NJ FamilyCare/Premium Support Program

(a) Single individuals, childless couples and families, as defined in N.J.A.C. 10:69, who have been determined eligible for NJ FamilyCare in accordance with this chapter shall be eligible to apply for participation in the Premium Support Program (PSP).

(b) An applicant shall have access to an employer-sponsored health plan prior to applying to participate in the PSP.

(c) In order to participate in the PSP, a PSP applicant employed by a large employer shall first have access to an employer-sponsored plan which provides coverage at least equal to the services provided in the NJ FamilyCare Plan D service package.

(d) If an applicant is employed by a small employer, the specific services available to the applicant shall be at least equal to the services in the NJ FamilyCare Plan D service package; however, the extent of coverage of the services need not be the same as the extent of coverage in the NJ FamilyCare Plan D service package. For a comprehensive listing of small employers health plans, refer to N.J.A.C. 11:21.

10:78-9.4 Premium Support Program enrollment process

(a) All applicants to the Premium Support Program shall first be found eligible for the NJ FamilyCare program. Applicants to the Premium Support Program shall provide information concerning employment and employer-sponsored health insurance benefits. If an otherwise eligible applicant has access to employer-sponsored health benefits, the applicant shall enroll in the Premium Support Program, in accordance with the provisions of this subchapter.