

**CHAPTER 51**

**PHARMACEUTICAL SERVICES MANUAL**

**Authority**

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

**Source and Effective Date**

R.1998 d.488, effective August 28, 1998.  
See: 30 N.J.R. 2169(b), 30 N.J.R. 3538(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 51, Pharmaceutical Services Manual, expires on August 28, 2003.

**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 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 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Chapter 51, Pharmaceutical Services Manual, was repealed and a new Chapter 51, Pharmaceutical Services Manual, was adopted by R.1993 d.434, effective September 7, 1993.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: 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 KidCare 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 KidCare 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.

#### 10:51-1.2 Participation of eligible providers

(a) A pharmacy, with a retail or institutional permit, may participate in the Medicaid or NJ KidCare program as a provider of pharmaceutical services; 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. A pharmacy operating under an out-of-state institutional permit may not participate as an approved provider in the New Jersey Medicaid or NJ KidCare 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 KidCare 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).

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

(c) A pharmacy may also 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).

(d) 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 under (b) above, a pharmacy who supplies parenteral nutrition and/or intravenous therapy shall:

i. Comply with all the requirements of N.J.A.C. 13:39; or

ii. Comply with similar applicable requirements of the state in which the applicant is located and submit a copy of the requirements of that state when applying for participation. A copy of N.J.A.C. 13:39 is available from West Group at 1-800-808-WEST.

2. Parenteral nutrition and/or intravenous therapy may be provided by either a pharmacy/medical supplier or a medical supplier approved to provide these services by the New Jersey Medicaid and NJ KidCare programs; however, billing for the ancillary supplies associated with parenteral nutrition and/or intravenous therapy are subject to the requirements of the Medical Supplier Chapter (N.J.A.C. 10:59).

i. "Ancillary supplies" means medical supplies and/or durable medical equipment which are medically necessary to facilitate administration of parenteral or intravenous therapy.

Amended by R.1998 d.488, effective September 21, 1998.

See: 30 N.J.R. 2169(b), 30 N.J.R. 3538(a).

Inserted references to NJ KidCare throughout; in (b)2i and (c)1, deleted "Medicaid" preceding "Provider"; in (c), deleted "Medicaid" preceding "fiscal agent" in the introductory paragraph; and in (d)1, rewrote i and ii.

#### 10:51-1.3 Conditions for participation as a provider of pharmaceutical services

(a) All participating pharmacies shall provide complete prescription services, including injectables and injectable anti-neoplastic agents, compounding, and prescription refill services, when allowable. Prescriptions must be dispensed in compliance with all current existing Federal and State laws.

(b) The usual and customary charge to the Medicaid or NJ KidCare program is defined as the amount a provider charges the general public for a prescription for the same drug product (same NDC number) in the same quantity as the prescription being dispensed to a Medicaid or NJ KidCare beneficiary. "Usual and customary charge" means the actual charge made to the majority (51 percent) of the total patient population served by the individual pharmacy.

1. The provider shall not charge the programs more than would be charged to a cash customer when the general public, including private third party plans, accounts for more than 50 percent of a provider's total prescription volume.

i. In the event Medicaid, NJ KidCare and/or PAAD represent more than 50 percent of a provider's total prescription volume, then, for reimbursement purposes, the provider's usual and customary charge may be considered the amount the programs would reimburse for the same services.

Amended by R.1998 d.488, effective September 21, 1998.  
See: 30 N.J.R. 2169(b), 30 N.J.R. 3538(a).  
In (b), inserted references to NJ KidCare throughout.

**10:51-1.11 Covered pharmaceutical services**

(a) All covered pharmaceutical services shall be provided within the scope of the N.J.A.C. 10:49, Administration, and this chapter, and billed to the fiscal agent on the claim form or other approved billing method (see Appendix, Fiscal Agent Billing Supplement).

(b) Covered pharmaceutical services include:

1. Prescribed legend drugs (for their medically accepted indication) as defined in Section 1927(k)(6) of the Social Security Act. "Legend drugs" mean those drugs whose labels include the legend statement "Caution: Federal Law Prohibits Dispensing Without a Prescription."

2. Non-legend drugs, as follows, for which Federal Financial Participation (FFP) is available:

- i. Contraceptive devices and contraceptive supplies (such as diaphragms, jellies, foams and condoms);
- ii. Over-the-counter, family planning supplies (such as pregnancy test kits);
- iii. Pharmaceutical inhalation devices;
- iv. Diabetic testing materials;
- v. Insulin needles and/or syringes;
- vi. Insulin; and
- vii. Antacids.

3. In addition, coverage of non-legend drugs for beneficiaries under the age of 21 shall also include:

- i. Analgesics, Salicylates;

- ii. Analgesics/Antipyretics, Non-salicylate;
- iii. Antidiarrheals;
- iv. Anti-Emetics;
- v. Antiflatulents;
- vi. Antihistamines;
- vii. Antipruritics;
- viii. Antitussives, non-narcotic;
- ix. Cathartics;
- x. Cough and cold preparations;
- xi. Decongestants
- xii. Emetics;
- xiii. Expectorants;
- xiv. Hematinics;
- xv. Iron replacement supplements;
- xvi. Laxatives;
- xvii. Lice treatment products;
- xviii. Multiple vitamin preparations;
- xix. Oral anti-inflammatory agents;
- xx. Pediatric vitamin preparations;
- xxi. Vitamins A, B, C, D, E, K, B1, B2, B6, B12 preparations;
- xxii. Polymixin and derivatives;
- xxiii. Topical preparations, antibacterial;
- xxiv. Topical antibiotics; and
- xxv. Topical anti-inflammatory preparations.

(c) For beneficiaries in the Medically Needy component of the New Jersey Care . . . Special Medicaid programs, pharmaceutical services are available to pregnant women, dependent children and aged, blind or disabled Medically Needy beneficiaries residing in nursing facilities. For information on how to identify a Medicaid beneficiary, see N.J.A.C. 10:49, Administration.

Amended by R.1995 d.358, effective July 3, 1995.  
See: 27 N.J.R. 1104(a), 27 N.J.R. 2614(b).

In (b) added 3.  
Amended by R.1998 d.488, effective September 21, 1998.  
See: 30 N.J.R. 2169(b), 30 N.J.R. 3538(a).

In (b), inserted a new xi, recodified former xi through xv as xii through xvi, inserted a new xvii, recodified former xvi as xviii, inserted a new xix, and recodified former xvii through xxii as xx through xxv; and rewrote (c).

### 10:51-1.12 Personal Contribution to Care Requirements for NJ KidCare-Plan C

(a) General policies regarding the collection of personal contribution to care for NJ KidCare-Plan C are set forth at N.J.A.C. 10:49-9.

(b) Personal contribution to care for NJ KidCare-Plan C services are \$1.00 per dispensing for generics and \$5.00 per dispensing for brand name drugs. Included in drugs are insulin, needles and syringes.

(c) Pharmacies are required to collect the personal contribution to care for the above mentioned NJ KidCare-Plan C services if the NJ KidCare Identification Card indicates that a personal contribution to care is required and the beneficiary does not have a NJ KidCare form which indicates that the beneficiary has reached their cost share limit and no further personal contributions to care is required, until further notice. Personal contribution to care charges cannot be waived.

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).

Former N.J.A.C. 10:51-1.12, Noncovered pharmaceutical services, recodified to N.J.A.C. 10:51-1.13.

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.

### 10:51-1.13 Non-covered pharmaceutical services

(a) The following classes of prescription drugs or conditions are not covered under the New Jersey Medicaid or NJ KidCare fee-for-service programs. For beneficiaries in the Medically Needy component of the New Jersey Care . . . Special Medicaid programs, pharmaceutical services are not available to the aged, blind nor the disabled who are residing in a long-term care facility (except a nursing facility) or in the community. For information on how to identify a covered person, see N.J.A.C. 10:49, Administration.

1. Prescriptions which are not for medically accepted indications as defined in Section 1927(k)(6) of the Social Security Act;
2. Antiobesics and anorexiant when used in treatment of obesity (see N.J.A.C. 10:51-1.14, Prior authorization);
3. Drug products for which adequate and accurate information is not readily available, such as, but not limited to, product literature, package inserts and price catalogues;
4. Experimental drugs;
  - i. Exception: Drugs available only for treatment through an Investigational New Drug (IND) application shall be prior authorized;
5. Medication furnished by a prescriber or an employee of a prescriber;

6. Medication prescribed for hospital inpatients;

7. Non-legend drugs other than antacids; contraceptive devices and contraceptive supplies; diabetic testing materials; over-the-counter (OTC) family planning supplies; inhalation devices (pharmaceutical); insulin; and insulin needles and/or syringes;

- i. Exception: Non-legend drugs described in N.J.A.C. 10:51-1.11, for beneficiaries under 21 years of age.

8. Prescriptions written and/or dispensed with nonspecific directions;

9. Food supplements, milk modifiers, infant formulas, therapeutic diets, special liquid or powdered diets used in the treatment of obesity;

- i. Exception: Enteral nutritional products and electrolyte replacement supplements;

10. Methadone in any form (tablets, capsules, liquid, injectables, or powder) when used for drug detoxification or addiction maintenance (see N.J.A.C. 10:51-1.14, Prior authorization);

11. Drug products for which final orders have been published by the Food and Drug Administration, withdrawing the approval of their new drug application (NDA);

12. Drugs or drug products not approved by the Food and Drug Administration, when such approval is required by Federal law and/or regulation;

13. Radiopaque contrast materials (for example, Telepaque);

14. Drugs for which Federal Financial Participation (FFP) is not available, including:

- i. Drug Efficacy Study Implementation (DESI) drugs and identical, similar and related drugs (see N.J.A.C. 10:51-1.21); and

- ii. Drugs not covered by rebate agreements as defined in Section 4401 of OBRA '90 and Section 1927(a) of the Social Security Act (see N.J.A.C. 10:51-1.22);

15. Any bundled drug service (see N.J.A.C. 10:51-1.23);

16. Preventive vaccines, biologicals and therapeutic drugs distributed to hospital clinics and/or community health centers by the New Jersey Department of Health and Senior Services.

17. Drugs provided primarily for the treatment of infertility or which may be used to treat other conditions related to infertility, including fertility preparations and gonadotropic (follicle stimulating and luteinizing) hormones.