

CHAPTER 61

ACQUIRED IMMUNODEFICIENCY SYNDROME

Authority

N.J.S.A. 26:1A-15 and 26:5C-20.

Source and Effective Date

R.1996 d.509, effective November 4, 1996.
See: 28 N.J.R. 4019(a), 28 N.J.R. 4202(a), and 28 N.J.R. 4787(a).

Executive Order No. 66(1978) Expiration Date

Chapter 61, Acquired Immunodeficiency Syndrome, expires on October 4, 2001.

Chapter Historical Note

Chapter 61, Acquired Immunodeficiency Syndrome, was adopted as R.1986 d.407, effective October 6, 1986. Subchapter 2, Eligibility Criteria to Participate in the Retrovir Drug Program (now AIDS Drug Distribution Program), was adopted as emergency new rules by R.1987 d.437, effective October 7, 1987. The concurrent proposal of R.1987 d.437 was adopted as R.1988 d.6. See: 19 N.J.R. 2067(a), 20 N.J.R. 89(b).

Pursuant to Executive Order No. 66(1978), Chapter 61 was readopted as R.1991 d.538, effective October 4, 1991. See: 23 N.J.R. 2245(b), 23 N.J.R. 3332(a).

Pursuant to Executive Order No. 66(1978), Chapter 61 was readopted as R.1996 d.509, effective October 4, 1991. See: Source and Effective Date. As part of R.1996 d.509, Subchapter 3, HIV Counseling and Testing of Pregnant Women, and Subchapter 4, Disclosure of Information to Prospective Foster or Adoptive Parents by DYFS or Licensed Agency, were adopted as new rules, effective November 4, 1996. See, also, section annotations.

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SUBCHAPTER 1. PARTICIPATION AND ATTENDANCE AT SCHOOL BY INDIVIDUALS WITH HIV INFECTION

8:61-1.1 Attendance at school by pupils or adults infected by Human Immunodeficiency Virus (HIV), also known as HTLV-III or LAV

(a) For purposes of this chapter, the following words shall have the following meanings:

“Adult” means a teacher, administrator, food service employee or other school staff member.

“AIDS” means acquired immunodeficiency syndrome, a disease that meets the criteria for the diagnosis specified by the Centers for Disease Control and Prevention of the United States Public Health Service, in the “1993 Revised Classifications System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults,” as published by the Centers for Disease Control and Prevention in the Morbidity and Mortality Weekly Report 1992, volume 41, No. RR-17, and in the “1994 Revised Classification System for Human Immunodeficiency Virus Infection in Children Less than 13 Years of Age,” as published by the Centers for Disease Control and Prevention in the Morbidity and Mortality Weekly Report 1994, volume 43, No. RR-12 (1-7), as appropriate.

“Department” means the New Jersey Department of Health and Senior Services.

“HIV” means human immunodeficiency virus, the causative agent of AIDS.

“Pupil” means an individual who is entitled to attendance at school in grades K-12, as well as a pre-kindergarten child who is entitled to attendance at school.

“Physician” means an individual currently licensed to practice medicine and surgery pursuant to N.J.S.A. 45:9-1 et seq.

(b) Pupils with HIV infection shall not be excluded from attending school for reason of the HIV infection. Exclusion of HIV-infected pupils can only be for reasons that would lead to exclusion of any other pupil.

(c) Adults with HIV infection in all school settings shall not be restricted from their normal employment for reason of the HIV infection unless they have another illness which would restrict that employment.

(d) No pupil or adult shall be excluded from school solely by virtue of the fact of living with or being related to an HIV-infected individual.

(e) Any pupil or adult, with or without HIV infection, shall be removed from school if and when the individual has weeping skin lesions that cannot be covered.

(f) All schools and day care facilities, regardless of whether pupils or adults with HIV are present, shall adopt routine procedures for handling blood and body fluids. District boards of education shall develop written policies and procedures for sanitation and hygiene when handling body fluids and make available training and appropriate supplies to all school personnel, in conformance with N.J.A.C. 6:29-2.5. All schools and day care facilities, regardless of whether pupils or adults with HIV are present, shall adopt written policies and procedures for post-exposure evaluation and follow-up. District boards of education shall develop written policies and procedures for post-exposure management, in conformance with the Occupational Safety and Health Administration (OSHA) Safety and Health Standards for Occupational Exposure to Bloodborne Pathogens, 29 C.F.R. 1910.1030, and the Public Employees Occupational Safety and Health Standards at N.J.A.C. 12:100-4.2.

(g) It is not necessary that anyone in the school be specially notified that an HIV-infected individual is registered to attend school or is an employee of the school. Should school officials receive notification of the presence of an HIV-infected individual, records containing identifying information regarding the HIV status of the individual must be kept confidential as required by N.J.S.A. 26:5C-5 et seq. Such information can be shared, only with the written consent of the pupil's parent or guardian, with those who need to know the status to determine the educational program for the pupil.

Correction: N.J.A.C. cites in (c) and (f) changed from 6:29-4.4 to 6:29-2.4.

Amended by R.1991 d.538, effective November 4, 1991.

See: 23 N.J.R. 2245(b), 23 N.J.R. 3332(a).

Exclusion of AIDS-infected pupils must be based on same standards as any other exclusion; written policies, education required for personnel handling body fluids; special notification not required; all AIDS information identified with a specific person to be held confidential. Amended by R.1996 d.509, effective November 4, 1996.

See: 28 N.J.R. 4019(a), 28 N.J.R. 4202(a), and 28 N.J.R. 4787(a).

Case Notes

Commissioner could override power of boards of education to exclude students from public schools due to health reasons; regulation establishing procedures for any exclusion from schools of Human Immunodeficiency Virus infected children were valid. Bd. of Educ., Plainfield v. Cooperman, 105 N.J. 587, 523 A.2d 655 (1987).

SUBCHAPTER 2. ELIGIBILITY CRITERIA TO PARTICIPATE IN THE AIDS DRUG DISTRIBUTION PROGRAM

8:61-2.1 Purpose; scope

The purpose of this subchapter is to describe the clinical and financial criteria which individuals must meet in order to become enrolled in the AIDS Drug Distribution Program.

Amended by R.1991 d.539, effective November 4, 1991.

See: 23 N.J.R. 2247(a), 23 N.J.R. 3334(a).

Drugs other than retrovir included in program.

8:61-2.2 Definitions

The following term, as used in this subchapter, shall have the following meaning:

“AIDS Drug Distribution Program” means the program by which eligible individuals will receive designated medications approved by the Federal Food and Drug Administration which have been recognized as either prolonging or enhancing the life of individuals with HIV infection from funds appropriated to the State from the Federal government.

1. The medications designated for coverage will be determined administratively within the Division of AIDS Prevention and Control based on considerations of cost, efficacy and frequency of use.

Amended by R.1991 d.539, effective November 4, 1991.

See: 23 N.J.R. 2247(a), 23 N.J.R. 3334(a).

Drugs other than retrovir included in program.

8:61-2.3 Clinical eligibility

To be considered clinically eligible to participate in the AIDS Drug Distribution Program, an individual must meet the clinical criteria established by the manufacturer of the drug, as determined by a physician.

Amended by R.1991 d.539, effective November 4, 1991.

See: 23 N.J.R. 2247(a), 23 N.J.R. 3334(a).

Stylistic changes.

8:61-2.4 Income eligibility

(a) In order to be eligible for this program, the individual(s) shall be a permanent resident of New Jersey and must have an annual income in accord with the following standards:

Number of Persons in Household	Annual Income
One	\$30,000
Two	\$40,000
Three	\$50,000
Four	\$60,000
Five or more	\$70,000