

Adopted: November 13, 2023, by Sarah Adelman, Commissioner, Department of Human Services.

Filed: November 14, 2023, as R.2023 d.140, **without change**.

Authority: N.J.S.A. 30:1-12; and P.L. 2023, c. 13.

Effective Date: December 18, 2023.

Expiration Date: November 16, 2029.

Summary of Public Comment and Agency Response:

The official comment period ended October 6, 2023. **No comments were received.**

Federal Standards Statement

New N.J.A.C. 10:87-13 was adopted pursuant to the authority at N.J.S.A. 44:10-111, which refers to the Federal SNAP program (Food and Nutrition Act of 2008, 7 U.S.C. §§ 2011 et seq.). The adopted new subchapter establishes a State-funded State SNAP benefit equal to the difference between a Federal SNAP household's monthly Federal SNAP benefit and \$95.00. The State SNAP Minimum Benefit Program is subject to the same standards and rules as Federal SNAP to the extent practicable. This benefit is provided by statute, therefore, the Department does not have the authority to make any independent policy determinations to exceed the standards imposed by Federal law, and similarly did not undertake a cost-benefit analysis to support a determination. The additional SNAP standard is achievable under current technology, and the Commissioner certifies that the analysis permits the public to understand accurately and plainly the purposes and expected consequences of the adopted new rules.

Full text of the adopted new rules follows:

SUBCHAPTER 13. STATE SNAP MINIMUM BENEFIT PROGRAM

10:87-13.1 Authority and purpose

(a) The State SNAP Minimum Benefit Program is established in the New Jersey Department of Human Services, Division of Family Development, as authorized pursuant to N.J.S.A. 44:10-111.

(b) The purpose of the State SNAP Minimum Benefit Program is to reduce hunger and improve nutrition among NJ SNAP recipients by increasing their ability to purchase food and meet their nutritional needs.

10:87-13.2 Eligibility and benefit amount

(a) NJ SNAP households whose monthly Federally funded SNAP benefit is less than \$95.00 shall receive a monthly State SNAP supplement equal to the difference between the household's Federally funded monthly benefit and \$95.00. The State SNAP supplement shall be provided in addition to the Federal SNAP benefit.

1. If Federal SNAP funds become available to pay NJ SNAP households a comparable SNAP supplement, Federal SNAP funds shall be used first, before any State funds are spent.

(b) To be eligible for the State SNAP Minimum Benefit Program, a household must meet all eligibility requirements of the NJ SNAP.

(c) The household must be certified for a full month of participation in the Federal SNAP, with a full monthly benefit amount of at least one dollar, but less than \$95.00 per month, to be eligible for the State program. Households are eligible for the State supplement only in months where the household receives a full monthly Federal SNAP allotment. Prorated monthly allotments are not eligible for a State SNAP supplement.

(d) A household eligible for the State SNAP Minimum Benefit Program shall be automatically enrolled in the program. No separate application besides the standard NJ SNAP application is required.

(e) The State SNAP supplement is calculated before any allotment reduction for recoupment of overpayments. The amount of the State SNAP supplement is determined by subtracting the amount of the household's Federal SNAP monthly benefit, before any overpayment recoupments have been applied, from \$95.00.

(f) If a household becomes ineligible for Federal SNAP benefits, eligibility for the State SNAP supplement ends at the same time.

10:87-13.3 Benefit distribution and use

(a) The Families First Program rules at N.J.A.C. 10:88, including, but not limited to, those concerning the distribution, use, and expungement of

NJ SNAP benefits, shall apply to the State SNAP supplement to the greatest extent practicable.

(b) The State SNAP supplement shall be distributed to a household on their Families First EBT account.

10:87-13.4 Applicability of Federal SNAP rules

The State SNAP Minimum Benefit Program shall be subject to the State rules and procedures that implement the Federal SNAP to the greatest extent practicable. The State SNAP supplement must be used solely for the purchase of food, as defined by Federal SNAP law.

(a)

OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

Notice of Readoption

Standards for Community Residences for Persons with Head Injuries

Readoption: N.J.A.C. 10:44C

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:11B-1 et seq., specifically 30:11B-4.

Effective Date: November 14, 2023.

New Expiration Date: November 14, 2030.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:44C were scheduled to expire on January 10, 2024. These rules constitute the minimum administrative, physical plant, fire safety, as well as program and staffing requirements for community residences for persons with head injury, licensed by the Department of Human Services (Department) to serve persons who have sustained such injury. The purpose of the rules is to protect the health, safety, welfare, and human rights of the persons who reside in these facilities, and to allow such individuals to develop their fullest potential while residing in an environment which is normalized and supportive. The rules provide for individualized delivery of services to persons served, the establishment and maintenance of a safe environment, the provision to undertake dignified risk, and the delineation of personal rights to protect them and to assist them in maximizing their potential.

A summary of each subchapter follows:

Subchapter 1, General Provisions, includes a description of the purpose and scope of the rules, a statement of severability, definitions of words and terms used in the rules, as well as a description of the process for application, licensing, inspection, and renewal. The rules provide specific requirements for licensing agency responsibilities, procedure manuals, waivers or variances, search warrants, and complaints. The subchapter also addresses the suppression of illegal operations, voluntary closure, administrative hearings, as well as the denial, revocation, non-renewal, or suspension of a license.

Subchapter 2, Organization and Administration, addresses general organization and administration requirements; staff qualifications and personnel standards, including the training required and the minimum staffing levels; development of policy and procedure manuals; records and reporting requirements for incidents, general programming, and financial matters; as well as recordkeeping requirements for persons served.

Subchapter 3, Advocacy and Rights, specifies standards for notifying persons served regarding their right to advocacy services and an enumeration of rights of residents. The subchapter also provides rules for a residence, self-advocacy, informed consent, and guardianship, as well as the safeguards that must be in place whenever rights are restricted or modified.

Subchapter 4, Service Delivery/Rehabilitation/Habilitation, addresses service delivery and treatment including: pre-admission and admission requirements, changes in supports or services, discharges, or transfers from service, and Individual Treatment Plan (ITP) requirements.

Subchapter 5, Health and Safety, specifies general medical and health standards; requirements for the storage and administration of prescription,

over-the-counter, and psychotropic medications; emergency telephone numbers; food; clothing; vehicle safety; and workplace safety.

Subchapter 6, Fire Safety and Physical Environment, addresses fire safety requirements, as well as physical plant requirements and maintenance standards including: fire evacuation plans, egress protocols, group classification, fire extinguishers, general home requirements, certificate of occupancy, exits, heat sources, water, railings, stairs and hallways, windows, bedrooms, bathrooms, kitchens, and basement use.

The rules are necessary to implement the Department's statutory mandate to license community residences for persons with head injuries. The Department has reviewed the rules and has determined that they are necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were promulgated, as required pursuant to Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(a)

DIVISION OF AGING SERVICES

Notice of Readoption

Provision of Pharmaceutical Services Under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program

Readoption: N.J.A.C. 10:167A

Authority: N.J.S.A. 30:4D-24; and P.L. 2012, c. 17.

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

Effective Date: November 14, 2023.

New Expiration Date: November 14, 2030.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:167A were scheduled to expire on January 31, 2024. N.J.A.C. 10:167A establishes the rules that govern the participation of providers of pharmaceutical services for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program.

The following is a summary of N.J.A.C. 10:167A.

N.J.A.C. 10:167A-1.1 sets forth the introduction and summary of the PAAD program.

N.J.A.C. 10:167A-1.2 sets forth for the definition of terms used in the chapter.

N.J.A.C. 10:167A-1.3 details the requirements that providers must satisfy and maintain in order to qualify as a PAAD provider.

N.J.A.C. 10:167A-1.4 is reserved.

N.J.A.C. 10:167A-1.5 details the conditions necessary for pharmacy participation in PAAD.

N.J.A.C. 10:167A-1.6 details the restrictions that affect payment for prescribed drugs pursuant to PAAD.

N.J.A.C. 10:167A-1.7 sets forth the basis of payment for legend or certain non-legend drugs.

N.J.A.C. 10:167A-1.8 is reserved.

N.J.A.C. 10:167A-1.9 details the prescription dispensing fee paid to providers pursuant to the PAAD program.

N.J.A.C. 10:167A-1.10 details the beneficiary copayment responsibility pursuant to PAAD and the provider's responsibility for the collection of the copayment at the Point of Sale (POS).

N.J.A.C. 10:167A-1.11 defines compounded prescriptions and the conditions pursuant to which they may be reimbursed by PAAD.

N.J.A.C. 10:167A-1.12 details the dispensing procedures for non-proprietary or generic prescription drugs pursuant to the PAAD program.

N.J.A.C. 10:167A-1.13 details how the provider's usual and customary charge is considered in reimbursement by PAAD.

N.J.A.C. 10:167A-1.14 details the pharmaceutical services covered pursuant to the PAAD program.

N.J.A.C. 10:167A-1.15 details the non-covered pharmaceutical services pursuant to the PAAD program.

N.J.A.C. 10:167A-1.16 details the quantity of medication covered pursuant to PAAD for both an initial prescription claim and a refill prescription claim.

N.J.A.C. 10:167A-1.17 details how the dosage and directions should be indicated on all PAAD eligible prescriptions. In addition, it directs the provider to indicate the number of days' supply reported for the days' supply in the appropriate field of the claim or a reasonable estimation of the drug's intended duration of use.

N.J.A.C. 10:167A-1.18 details how providers handle telephone-rendered, faxed, and electronically submitted original prescriptions.

N.J.A.C. 10:167A-1.19 details how the providers handle changes or additions to an original prescription.

N.J.A.C. 10:167A-1.20 details how a provider's claim should be submitted for prescription refills.

N.J.A.C. 10:167A-1.21 explains the Prescription Drug Price and Quality Stabilization Act and how it applies to PAAD covered claims.

N.J.A.C. 10:167A-1.22 explains the drug efficacy study implementation (DESI) and the conditions pursuant to which DESI drugs would not be eligible for reimbursement by PAAD.

N.J.A.C. 10:167A-1.23 explains bundled drug services and the conditions for reimbursement of the bundled drug services.

N.J.A.C. 10:167A-1.24 explains how providers must submit prescription drug claims for reimbursement pursuant to PAAD.

N.J.A.C. 10:167A-1.25 requires that PAAD applicants shall be determined to be eligible only if physically present in New Jersey at the time of application and utilization, in accordance with the provisions at N.J.A.C. 10:167. In addition, N.J.A.C. 10:167A-1.25 requires that benefits shall not be paid when recipients are in nursing facilities, hospitals, or special hospitals and are covered by other insurance benefits or if the prescriptions are covered in the daily rate of the facility.

N.J.A.C. 10:167A-1.26 requires pharmacies to verify that the beneficiary is covered by PAAD by requesting the beneficiary to produce a PAAD identification card.

N.J.A.C. 10:167A-1.27 details the POS claims adjudication system, and what is required by PAAD to process and approve these claims including hardware, software, format, and data.

N.J.A.C. 10:167A-1.28 details the Prospective Drug Utilization Review (PDUR) program and the pharmacies' requirements regarding the system. The program was established by the Department of Human Services (Department) and the Department of Health to assist pharmacy providers in monitoring drug utilization by beneficiaries. It is a component of the POS claims adjudication system and helps to identify problems including, but not limited to: drug interactions, dosage alerts, and duplications.

N.J.A.C. 10:167A-1.29 sets forth the Medical Exception Process (MEP) that permits the override of a claim denial, when medically necessary. The section states that PAAD will deny payment for claims subject to the MEP for which an authorization number has not been issued by the MEP contractor. The section also provides an appeal process for the beneficiary, pharmacy, or prescriber.

N.J.A.C. 10:167A-1.30 provides that reimbursement for legend drugs shall be limited to manufacturers who have entered into a PAAD rebate agreement with the Department of Human Services through the Division of Medical Assistance and Health Services.

While the Department is issuing this notice to avoid the expiration of these rules, it recognizes that further rulemaking is necessary to update these rules to reflect current practices. Thus, the Department will be proposing substantial amendments in an upcoming rulemaking.

The Department has reviewed the rules and determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 10:167A is readopted and shall continue in effect for seven years.