

(“IND” column) and as modifiers (“MOD” column). They assist the provider in determining the appropriate procedure codes to be used, the area to be covered, the minimum requirements needed, and any additional parameters required for reimbursement purposes.

1. Providers shall consider these symbols and letters when billing because the symbols/letters reflect requirements, in addition to the narrative that accompanies the CPT/HCPCS procedure code, for which the provider is liable. These additional requirements shall be fulfilled before reimbursement is requested.

i. (No change.)

(e) The general and specific requirements of the New Jersey Medicaid/NJ FamilyCare programs that pertain to HCPCS follow:

1.-6. (No change.)

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**NJ FamilyCare-Children’s Programs Manual
Readoption with Amendments: N.J.A.C. 10:79**

Proposed: August 1, 2016, at 48 N.J.R. 1490(a).

Adopted: November 2, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: December 13, 2016, as R.2017 d.011, **without change**.

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

Agency Control Number: 16-A-04.

Effective Dates: December 13, 2016, Readoption;

January 17, 2017, Amendments.

Expiration Date: December 13, 2023.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The Federal standards contained in the Social Security Act (Act) allow a state, at its option, to provide health care coverage for uninsured children under age 19. The law extends to the states a degree of leeway in the manner in which coverage is provided to these children.

Sections 2101 through 2103 and 2110 of the Act (42 U.S.C. §§ 1397aa, 1397bb, 1397cc and 1397jj); Section 1902(a)(10)(A)(ii) of the Act (42 U.S.C. § 1396a(a)(10)(A)(ii)); and Section 1905 of the Act (42 U.S.C. § 1396(d)) have been reviewed by the Division in regard to the rules proposed for readoption.

In addition, Section 2102 of the Act, 42 U.S.C. § 1397bb(b)(1)(A), specifies requirements regarding the eligibility of certain children for the NJ FamilyCare-Children’s Program, including gathering information regarding access to, or coverage under, other health coverage programs as a condition of eligibility. The provisions in this chapter regarding other health insurance coverage do not exceed the Federal standards.

42 CFR Part 457 contains the regulatory requirements regarding the implementation of the above described provisions of the Act.

The Department has reviewed the Federal statutory and regulatory requirements and has determined that the rules readopted with amendments do not exceed Federal standards. Therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:79.

Full text of the adopted amendments follows:

SUBCHAPTER 1. INTRODUCTION

10:79-1.2 Definitions

Words and terms used in this chapter shall have the meanings specified below, unless specifically defined otherwise in this chapter, or the context clearly indicates otherwise.

“County welfare agency (CWA)” means that agency of county government, which is charged with the responsibility for determining eligibility for public assistance programs, including AFDC-Related Medicaid, Temporary Assistance to Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), and NJ FamilyCare and Medicaid. Depending on the county, the CWA might be identified as the board of social services, the welfare board, the division of welfare, or the division of social services.

“Managed Care Organization” (MCO) shall have the same meaning as that contained in the definitions section at N.J.A.C. 10:74-1.4, as amended and supplemented.

SUBCHAPTER 2. CASE PROCESSING

10:79-2.3 Application processing

(a) The Statewide eligibility determination agency or CWA shall screen all mail-in and walk-in applications against the existing Medicaid eligibility file. Applications that involve family members who are already enrolled in the Medicaid program shall be forwarded to the applicable eligibility determination agency for inclusion in the existing case, as appropriate. The eligibility determination agencies are required to refer any child found not eligible for Medicaid or any child losing eligibility for Medicaid or NJ FamilyCare-Children’s Program-Plan A to the NJ FamilyCare-Children’s Program-Plan B, C, and D program. The CWA should process all applications mailed or forwarded to them or all walk-ins for NJ FamilyCare-Children’s Program-Plan A if the child’s family income appears to meet the income standards. NJ FamilyCare-Plan A cases that are enrolled in a managed care organization (MCO) that are under the jurisdiction of the CWA and who would qualify for NJ FamilyCare-Plan B solely due to an increase of household income can be retained at the CWA.

(b)-(e) (No change.)

(f) For any application for NJ FamilyCare-Children’s Program benefits under the provisions of this chapter, the eligibility determination agency must accomplish disposition of the application as soon as all factors of eligibility are met and verified but not later than 30 days from the date of application, or from the date of the inquiry form PA-1C, if applicable. Exceptions to the timeliness standard appear in (f)2 below.

1.-4. (No change.)

(g) (No change.)

10:79-2.4 Application processing for the unborn NJ FamilyCare-Children’s Program-Plan C and Plan D

(a)-(b) (No change.)

(c) At the time of the application, the pregnant woman should select the unborn child’s MCO coverage, and provide the appropriate premium.

(d) The pregnant woman shall notify both the eligibility determination agency and the selected MCO of the birth of the child within 10 calendar days of the birth. Failure to report the birth, select the MCO, if not already selected, and pay the premium, if not yet paid, within 10 calendar days of the birth shall negate the original application, and the applicant for the newborn shall have to refile a new application with verification of eligibility reprocessed before eligibility can occur for the newborn. In the instance where a new application must be processed, the eligibility rules in this subchapter through N.J.A.C. 10:79-4 are effective.

10:79-2.5 Date of initial eligibility

(a) (No change.)

(b) Eligibility under Plan B, C, or D is established with the first date of enrollment with an MCO and payment of applicable premiums (see N.J.A.C. 10:79-6.7).

1. Exception: For newborns, as indicated in N.J.A.C. 10:79-2.4, there is eligibility for fee-for-service Plan C and Plan D services from the date of birth until enrollment of the child into the MCO, if all the requirements of N.J.A.C. 10:79-2.4 are met.

10:79-2.6 Retroactive eligibility—Plan A only

(a) Retroactive eligibility is available to cover unpaid medical bills for up to three months prior to the date of application if the requirements are met in all or any of the three months.

(b) If the applicant for NJ FamilyCare-Children's Program-Plan A benefits has unpaid medical bills from DMAHS-enrolled providers for services rendered during the retroactive eligibility period, the eligibility determination agency shall assist the applicant with applying for payment of unpaid medical bills.

(c)-(d) (No change.)

10:79-2.7 Redetermination of eligibility

(a)-(b) (No change.)

(c) The eligibility determination agency shall also reassess program eligibility as follows:

1. (No change.)

2. Promptly after information is obtained by the eligibility determination agency that indicates changes that may affect program eligibility. No adverse action shall be taken based on this information prior to the annual redetermination. If reevaluation of eligibility considering this new information appears to result in an increase in benefit level to the beneficiary through enrollment in a Plan that does not require co-payments or premiums, such action shall be instituted immediately. For example:

i.-ii. (No change.)

(d) No case shall be terminated before evaluating for continued eligibility using data available from other sources, such as the Supplemental Nutrition Assistance or WorkFirst New Jersey Programs.

10:79-2.8 Case transfer between eligibility determination agencies

(a)-(c) (No change.)

(d) For cases that are determined eligible for the NJ FamilyCare-Children's Program-Plan A program:

1. The county of origin has the responsibility to:

i. Transfer, within five working days from the date it is notified of the actual move, a copy of pertinent material to the CWA in the receiving county. Such material shall include, at a minimum, a copy of the first application and most recent application form, with all verification, Social Security number(s), and the new address in the receiving county;

ii.-iv. (No change.)

2. The receiving CWA shall have the responsibility to:

i.-iii. (No change.)

iv. Accept responsibility for the case, provided application to transfer has been made, effective with the next month if the initial case material has been received before the 10th of the month;

v. Accept responsibility for the case, provided application to transfer has been made, for the second month after the month of receipt of initial case material when such material is received on or after the 10th of the month;

vi.-viii. (No change.)

10:79-2.9 Case transfer from one State-approved eligibility determination agency to another

(a) When an individual's eligibility transfers from one State-approved eligibility determination agency to another, responsibility for the case shall be transferred in a manner, so as not to adversely affect the rights of any individual to program entitlement.

1.-2. (No change.)

3. The receiving agency shall have the responsibility to:

i.-iii. (No change.)

iv. Accept responsibility for the case, provided application to transfer has been made, effective with the next month if the initial case material has been received before the 10th of the month;

v. Accept responsibility for the case, provided application to transfer has been made, for the second month after the month of receipt of initial case material when such material is received on or after the 10th of the month;

vi.-ix. (No change.)

x. Assist in the selection of a managed care organization (MCO), as needed.

SUBCHAPTER 3. NONFINANCIAL ELIGIBILITY FACTORS

10:79-3.2 Citizenship

(a) (No change.)

(b) The following aliens, if present in the United States prior to August 22, 1996, and if otherwise meeting the eligibility criteria, are entitled to full NJ FamilyCare-Children's Program benefits:

1.-11. (No change.)

12. Certain legal 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-Children's Program benefits, subject to certain conditions described below:

i.-ii. (No change.)

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.-vi. (No change.)

(c)-(f) (No change.)

(g) As a condition of eligibility, all applicants for NJ FamilyCare-Children's Program, except for those applying solely for services related to the treatment of an emergency medical condition, shall declare whether or not they are a citizen of the United States or an alien in a satisfactory immigration status. In the case of a child or incompetent applicant, another individual on the applicant's behalf shall declare whether or not they are citizens of the United States or an alien in a satisfactory immigration status.

1.-5. (No change.)

10:79-3.3 State residency

(a) In order to be eligible for the NJ FamilyCare-Children's Program, the applicant/child must be a resident of the State of New Jersey. The term "resident" shall be interpreted to mean an applicant who is living in the State voluntarily and not for a temporary purpose, that is, with no intention of presently removing therefrom.

1. (No change.)

2. When the authorized agent of a child or the applicant enters the State in order to receive medical care and applies for NJ FamilyCare-Children's Program 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 child/applicant ineligible for the NJ FamilyCare-Children's 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.-iii. (No change.)

iv. Whether the state in which the authorized agent or applicant previously resided recognizes him or her as having continuing eligibility under the state's Medicaid or Title XXI children's health assistance program, or other program providing payment for medical care, of that jurisdiction.

3. (No change.)

10:79-3.5 Household unit for NJ FamilyCare-Children's Program-Plan A

(a) For NJ FamilyCare-Children's Program-Plan 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:

Recodify existing i. and ii. as 1. and 2. (No change in text.)

3. The child's blood-related siblings, including those of half-blood, and adoptive siblings under the age of 21; and

4. (No change in text.)

(b)-(c) (No change.)

10:79-3.6 Household unit for NJ FamilyCare-Children's Program-Plan B, C, and D

(a) For Plan B, C, or D, 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 as members of the household unit:

- 1.-2. (No change.)
- 3. The child’s blood-related siblings, including those of half-blood, and adopted siblings under the age of 21;
- 4.-5. (No change.)

10:79-3.7 Third-party liability

(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)-(d) (No change.)

10:79-3.8 Health insurance coverage eligibility rules

(a) For the purposes of this chapter, the term “health insurance” does not include:

- 1. (No change.)
 - 2. Accident-only coverage, including coverage for accidental death and dismemberment only;
 - 3.-12. (No change.)
- (b)-(c) (No change.)

(d) Eligibility for coverage under a health insurance policy which is not readily accessible to the child shall not preclude the child from eligibility for NJ FamilyCare-Children’s Program-Plan A.

- 1.-2. (No change.)
- (e) (No change.)
- (f) Exceptions to (e) above are listed below:

- 1.-4. (No change.)
- 5. Coverage or eligibility for coverage, as applicable, under a group health benefits plan, whether sponsored through a governing entity or private employer, for the three-month period shall not be used to preclude the child’s eligibility for NJ FamilyCare-Children’s Program-Plans B, C, and D when:
 - i.-ii. (No change.)
 - iii. The employer has ceased operations in this State, and the succeeding employer has altered the terms of a non-contributory group health plan to require a premium contribution for a class of employee to which the child’s household member belongs; or
 - iv. (No change.)
- 6. (No change.)

10:79-3.9 Persons sanctioned under TANF or AFDC rules

Persons who are ineligible for TANF or would have been ineligible for AFDC-related Medicaid using the rules in effect as of July 16, 1996, due to the imposition of a sanction of ineligibility for a factor of AFDC or TANF eligibility that does not apply in NJ FamilyCare-Children’s Program, such as noncooperation with work registration, shall have eligibility determined under this chapter without regard to the sanction.

SUBCHAPTER 4. FINANCIAL ELIGIBILITY

10:79-4.1 Income eligibility limits

(a)-(e) (No change.)

SUBCHAPTER 5. ADMINISTRATION

10:79-5.1 Eligibility determination agencies—Plans B, C, and D

Financial eligibility for the NJ FamilyCare-Children’s Program-Plan A is administered by either the Statewide eligibility determination agency or the county welfare agencies under the supervision of the Division of Medical Assistance and Health Services. Financial eligibility for the NJ FamilyCare-Children’s Program-Plans B, C, and D is administered by the Statewide eligibility determination agency under the supervision of the Division of Medical Assistance and Health Services. If a change in the family’s financial eligibility level necessitates a transfer from NJ FamilyCare-Children’s Program-Plan A to Plan B, the responsibility for the administration of the case may be retained by the CWA if the child is enrolled in an MCO.

10:79-5.5 Material distributed to NJ FamilyCare-Children’s Program applicants or eligible persons

- (a) (No change.)
- (b) (No change in text.)

SUBCHAPTER 6. BENEFICIARY RIGHTS AND RESPONSIBILITIES

10:79-6.1 Notice of the eligibility determination agency decision-Plan A

(a) The eligibility determination agency shall promptly notify any applicant for, or beneficiary of, the NJ FamilyCare-Children’s Program-Plan A in writing of any agency decision affecting the applicant or beneficiary. When a decision relates to any adverse action which may entitle a beneficiary to a fair hearing, the action may not be implemented until at least 10 days after the mailing of the notice.

- 1.-3. (No change.)
- (b) (No change.)
- (c) All notices of denial or termination shall include an explicit statement of the reason for program ineligibility and, except in the case of the death of an applicant or beneficiary, advise of the right to reapply whenever the applicant or beneficiary believes that circumstances have changed, such that the reason for program ineligibility no longer exist.

- 1. (No change.)
- (d)-(e) (No change.)

10:79-6.3 Notice of the Statewide determination agency decision-Plans B, C, and D

- (a)-(b) (No change.)
- (c) All notices of denial or termination shall include an explicit statement of the reason for program ineligibility and, except in the case of the death of an applicant or beneficiary advise of the right to reapply whenever the applicant or beneficiary believes that circumstances have changed, such that the reason for program ineligibility no longer exists.

- 1. (No change.)
- (d) (No change.)

10:79-6.5 Grievances and appeals for NJ FamilyCare-Children’s Program-Plan B, C, and D

(a) It is the right of every applicant for, or beneficiary of, NJ FamilyCare-Children’s Program-Plan B, C, or D, to be afforded the opportunity for a grievance review in the manner established in the policies and procedures set forth below. The notification of the right to a grievance review shall be incorporated in or attached to each adverse action notice and shall include explanation on how to request a grievance. Appropriate complaints and grievances regarding NJ FamilyCare-Children’s Program should be referred to:

NJ FamilyCare-Children’s Program
 PO Box 8367
 Trenton, NJ 08650-9802

- (b) (No change.)
- (c) In a situation where a beneficiary is denied services through the MCO provider, the beneficiary should be referred to the MCO’s complaint and/or grievance system.
- (d) (No change.)

10:79-6.7 Premiums

(a) Effective July 1, 2015, families with income above 150 percent and at or below 200 percent of the Federal poverty level eligible for NJ FamilyCare-Children’s Program-Plan C do not have to pay a monthly premium.

(b) Effective July 1, 2015, for children in families with gross income above 200 percent and at or below 250 percent of the Federal poverty level eligible for NJ FamilyCare-Children’s Program-Plan D, a monthly premium shall be required. There shall be a single dollar premium of \$43.00 per month per family that applies to all families, regardless of income and regardless of the number of children in the family.

(c) Effective July 1, 2015, for children in families with gross income above 250 percent and at or below 300 percent of the Federal poverty level eligible for NJ FamilyCare-Children’s Program-Plan D, a monthly premium shall be required. There shall be a single dollar premium of

\$86.00 per month per family that applies to all families, regardless of income and regardless of the number of children in the family.

(d) Effective July 1, 2014, for children in families with gross income above 300 percent and at or below 350 percent of the Federal poverty level eligible for NJ FamilyCare Children's Program-Plan D, a monthly premium shall be required. There shall be a single dollar premium of \$144.50 per month per family that applies to all families, regardless of income and regardless of the number of children in the family.

(e)-(f) (No change.)

**SUBCHAPTER 7. NJ FAMILYCARE-CHILDREN'S PROGRAM
BENEFICIARY FRAUD AND ABUSE
POLICIES**

**10:79-7.2 Application for readmission subsequent to termination of
eligibility**

After at least one year has elapsed from the date of the final agency decision terminating the eligibility of an applicant or beneficiary of NJ FamilyCare-Children's Program-Plan B, C, or D for good cause under N.J.A.C. 10:79-7.1, the terminated individual, or anyone with authority to act on his or her behalf, may apply to the Director for readmission to the NJ FamilyCare-Children's Program-Plan B, C, or D. The Director has full discretion to approve or deny such an application. Any individual whose application for readmission has been denied may request an administrative law hearing on the denial, and/or may submit another application to the Director when at least two years have elapsed from the date of the final agency decision denying readmission.

**SUBCHAPTER 8. PRESUMPTIVE ELIGIBILITY FOR NJ
FAMILYCARE-CHILDREN'S PROGRAM**

10:79-8.2 Period of presumptive eligibility

(a) The period of presumptive eligibility shall begin on the date an approved presumptive eligibility entity determines that, based on information provided by the family of the presumptively eligible beneficiary, the child meets the requirements and standards of this chapter.

(b) The period of presumptive eligibility shall terminate:

1. (No change.)

2. If the child, or the child's parent, guardian, caretaker, or authorized agent fails to cooperate in the application process with the eligibility determination agency, on the last day of the month subsequent to the month in which the child was determined presumptively eligible.

**10:79-8.4 Presumptive eligibility processing performed by the
presumptive eligibility determination entity**

(a) (No change.)

(b) For any child determined presumptively eligible, the approved presumptive eligibility determination entity shall:

1.-3. (No change.)

4. Give the child (if appropriate) or the parent, guardian, caretaker, or authorized agent of the presumptively eligible child a copy of the completed one-page PE application; and

5. (No change.)

(c) (No change.)

10:79-8.6 Responsibilities of the eligibility determination agency

(a) (No change.)

(b) If the child is not currently receiving Medicaid, Medically Needy, or NJ FamilyCare-Children's Program benefits, the eligibility determination agency shall, notwithstanding the application disposition standards in N.J.A.C. 10:79-2.3(f), arrive at a case disposition within the presumptive eligibility period.

1. (No change.)

2. The eligibility determination agency shall also provide the individual applying on the child's behalf with written notification, prior to the expiration of the presumptive eligibility period, of the specific reasons for the delay.

(c) (No change.)

10:79-8.8 Notification and fair hearing rights

(a) (No change.)

(b) (No change in text.)

LABOR AND WORKFORCE DEVELOPMENT

(a)

DIVISION OF WAGE AND HOUR COMPLIANCE

Notice of Readoption

Prevailing Wages and Safety Training for Construction Work on Public Utilities

Readoption with Technical Changes: N.J.A.C. 12:66

Authority: N.J.S.A. 34:13B-2.1.

Authorized By: Aaron R. Fichtner, Ph.D., Acting Commissioner,
Department of Labor and Workforce Development.

Effective Dates: December 19, 2016, Readoption;
January 17, 2017, Changes.

New Expiration Date: December 19, 2023.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 12:66 were scheduled to expire on January 19, 2017.

A summary of N.J.A.C. 12:66 follows:

N.J.A.C. 12:66-1 sets forth general provisions that apply to Chapter 66, including the purpose of the chapter and definitions of the terms used throughout the chapter.

N.J.A.C. 12:66-2 addresses the responsibilities of contractors and public utilities under N.J.S.A. 34:13B-2.1.

N.J.A.C. 12:66-3 addresses the Department's right to inspect records of the contractor, privately question employees or managerial executives of the contractor, including workers employed to perform construction work on a public utility, and require the contractor to submit written statements, including sworn statements, concerning wages, hours, names, addresses, and other information pertaining to the contractor's workers and their work. Subchapter 3 also addresses sanctions that may be imposed against a contractor who refuses to file material requested of the contractor pursuant to the Commissioner's inspection powers.

N.J.A.C. 12:66-4 addresses what constitutes a violation of N.J.S.A. 34:13B-2.1 and the chapter by a contractor. The subchapter also addresses the levying of penalties by the Department for a violation of N.J.S.A. 34:13B-2.1 or the chapter and sets forth the procedures to be followed when an alleged violator requests a formal hearing with regard to the imposition of a penalty. Furthermore, Subchapter 4 addresses the remitting of administrative fees to the Department by contractors on all payments due to workers, and also addresses the payment by contractors, under certain circumstances, of interest on awards of back pay. Finally, the subchapter addresses the situation where a contractor discharges, or in any other manner discriminates against a worker because that worker has made a complaint to the contractor, to the public utility, or to the Commissioner of Labor and Workforce Development, that he or she has not been paid wages in accordance with the provisions of N.J.S.A. 34:13B-2.1.

The Department of Labor and Workforce Development has reviewed these rules and has determined that the rules remain necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules do, however, require one technical amendment; specifically, at N.J.A.C. 12:66-1.2, Definitions, the Department must remove a superfluous quotation mark at the end of its definition for the term, "Department."

Therefore, pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 12:66 is readopted and shall continue in effect for a seven-year period.

Full text of the technical change follows (deletion indicated in brackets [thus]):