

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CHILDREN AND FAMILIES

(a)

DIVISION ON WOMEN

Address Confidentiality Program

Proposed Redoction with Amendments: N.J.A.C. 3A:71

Proposed Repeals: N.J.A.C. 3A:71-4.3, 5.3, and 6.2

Authorized By: Christine Norbut Beyer, M.S.W., Commissioner,
Department of Children and Families.

Authority: N.J.S.A. 47:4-4 and 52:27D-43.9a.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2024-013.

Submit written comments by March 16, 2024, to:

Kristin Matera
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Department of Children and Families
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The agency proposal follows:

Summary

The Department of Children and Families (Department) proposes to readopt N.J.A.C. 3A:71, Address Confidentiality Program, with amendments and repeals. In accordance with N.J.S.A. 52:14B-5.1, the chapter was scheduled to expire on December 12, 2023. As the Department submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to June 9, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2).

P.L. 1997, c. 369, effective January 19, 1998, created the Address Confidentiality Program (ACP), N.J.S.A. 47:4-1 et seq. Pursuant to N.J.S.A. 47:4-1 et seq., eligible applicants, who are attempting to escape real or threatened violence, may be certified to participate in the ACP and receive a designated alternate address for use in public records instead of their actual address. This statute, as amended at P.L. 2019, c. 175, on September 17, 2019, requires the Department's Division on Women (Division) to implement standards and procedures to administer the Address Confidentiality Program. The rules at N.J.A.C. 3A:71, proposed for readoption with amendments and repeals, implement N.J.S.A. 47:4-1 et seq., by establishing standards for ACP eligibility, applications, certification and recertification, termination, withdrawal, and appeals. Chapter 71 further includes requirements related to public agencies and disclosure of participant information and records.

In addition to clarifying and updating the rules to align with current program practices, the proposed amendments and repeals incorporate the statutory changes required at P.L. 2019, c. 175, including, expanding the ACP eligibility criteria to include, in addition to victims of domestic violence, individuals who are victims of stalking and sexual assault, and reproductive health service patients and providers, as well as the family members of any such person. The Department has reviewed the chapter and has determined that the rules at N.J.A.C. 3A:71 should be readopted with amendments and repeals because they are necessary, reasonable, and adequate for the purposes for which they were originally promulgated.

A summary of the rules proposed for readoption with amendments and repeals follows.

Subchapter 1. Purpose and Scope

N.J.A.C. 3A:71-1.1(a) sets forth the purpose of the chapter's provisions to establish uniform Statewide program procedures for maintaining confidentiality of ACP participant information in State and local government agency records. N.J.A.C. 3A:71-1.1(b) sets forth the applicability of the chapter's rules.

The Division proposes to clarify that the chapter's provisions relate only to the confidentiality of participant's address information, pursuant to N.J.S.A. 47:4-6 et seq., by deleting the reference to participant's name information at N.J.A.C. 3A:71-1.1(a). Additionally, pursuant to N.J.S.A. 47:4-2 et seq., the Division proposes to add the expanded ACP eligibility categories, in particular, victims of "stalking and sexual assault and reproductive health service patients and providers" at N.J.A.C. 3A:71-1.1(a) and (b). The Division further proposes to update N.J.A.C. 3A:71-1.1(b), by replacing "Commissioner of the Department of Children and Families" with the "Director of the Division on Women" to reflect the name and location of the current agency official who is authorized to certify ACP participants, to align with the statutory changes to N.J.S.A. 47:4-1 et seq.

Subchapter 2. Definitions

N.J.A.C. 3A:71-2.1 sets forth the definitions of the terms used in the chapter.

The Division proposes to clarify that the term "agency" refers to a "public agency" which is a State or local governmental entity that is statutorily required to comply with the ACP's address confidentiality provisions unless otherwise provided pursuant to N.J.S.A. 47:4-6 et seq. To align N.J.A.C. 3A:71 with the authorizing statute, N.J.S.A. 47:4-1 et seq., the Division further proposes to delete the similar term "provider agency" from N.J.A.C. 3A:71-2.1 and to replace references to "provider agency" throughout the chapter with "public agency." The use of "public agency" as defined at N.J.A.C. 3A:71-2.1, identifies which entities are considered to be ACP providers and, therefore, must comply with the chapter's provider-related requirements. Public agencies include only State and local governmental agencies, who are statutorily required to

accept a program participant's request to use an alternate address, unless an applicable exception applies.

The Division further proposes to amend the definition of "application assistant," to specify the Director can also designate employees of private entities to assist individuals in completing an ACP application, and to remove language that requires non-profit entities to provide counseling, referral, or shelter services to victims of domestic violence, as this is no longer a program requirement. Likewise, the Division seeks to modify the definition of application assistant to allow application assistants to either complete the 40-hour training requirement or to be designated by the Director to assist individuals in completing ACP applications. The proposed amendments are necessary to ensure the continued availability of application assistant services in view of the recently expanded ACP eligibility criteria. For instance, relevant training, referral, counseling, and shelter services may be limited in certain contexts, including reproductive healthcare, and may be unavailable for certain qualified persons, such as family members. Finally, the Division proposes to add stalking or sexual violence to the categories of mandatory training that application assistants are required to complete pursuant to the expansion of ACP eligibility criteria at P.L. 2019, c. 175.

The Division proposes to amend N.J.A.C. 3A:71-2.1 by deleting "Commissioner" and its meaning and adding "Director," pursuant to N.J.S.A. 47:4-3 to reflect the current location of the ACP in the Division on Women (Division) and to designate the Division's Director or the Director's designee as the official authorized to oversee the ACP in place of the Commissioner or Commissioner's designee.

Pursuant to P.L. 2019, c. 175, codified at N.J.S.A. 47:4-3, additional proposed amendments include adding the terms: "qualified person," "reproductive health service provider," "reproductive health services," "stalking," and "sexual assault," as defined at N.J.S.A. 2C:14-2. In addition, the Division further proposes to amend the definition of "program participants" to match the statutory language used to define the corresponding term at N.J.S.A. 47:4-3. The definition of "qualified person" further incorporates the applicant requirements pursuant to N.J.S.A. 47:4-4.a(1)(a).

Subchapter 3. Application and Certification Process

Subchapter 3 sets forth the Division's ACP application and certification procedures and requirements. The Division proposes technical amendments at N.J.A.C. 3A:71-3.1(a) and (b) to replace "All applicants" with the singular form, "Each applicant" to reduce ambiguity, and proposes to add the words "filing" and "the" at subsection (a) for grammatical accuracy. Additional proposed technical amendments at N.J.A.C. 3A:71-3.1(b), reflect current program practices and remove outdated terminology. The Division seeks to remove the language "standard" and "form and authorization" from the ACP application requirements. The proposed amendments reflect systemwide updates related to the implementation of an automated authorization card system. Authorization cards are provided to participants upon certification and are used to identify the participant and provide their alternate mailing address.

Prior to this update, program participants received paper "identification" cards, which were manually filled in by the participant as a part of the ACP application process. In particular, the ACP application included an authorization form for applicants to fill in with the information specified at N.J.A.C. 3A:71-3.1(b)2. The applicant's authorization form would then be completed by ACP program staff upon certification and returned to the participant. The current system eliminates the paper authorization form entirely, PVC authorization cards are instead created using automated processes utilizing the information provided in the single-form application. Therefore, references to a "form and authorization" throughout the rules should be removed. It is likewise unnecessary to specify that applicants must submit a "standard" application, as the ACP distributes only one version of the application, and, as such, it is not possible to submit an alternate, non-standard application. The Division further proposes to amend subsection (b) to expand the locations where applications may be obtained to encompass "sexual violence agencies, and other agencies as designated by the Division of Women" in addition to local domestic violence programs and to likewise provide that information for all of the specified programs is available by contacting the ACP.

The Division proposes to amend the application requirements at N.J.A.C. 3A:71-3.1(b)1iii to specify the applicant must submit a "sworn" statement affirming that any acts of domestic violence, stalking, or sexual assault have been reported to a law enforcement agency or court. The proposed amendments further align the application requirements with N.J.S.A. 47:4-4.a(1)(a), which provides that ACP applicants may also include persons who have applied for an order pursuant to the Victim's Assistance and Survivor Protection Act, N.J.S.A. 2C:14-13.

The Division proposes to amend N.J.A.C. 3A:71-3.1(b)1v to require the submission of a "sworn" statement affirming that the applicant has relocated, or will relocate, to a location that is not known in the public record. The proposed amendments also delete the domestic violence specific term "batterer." Additional technical amendments update the designation of the applicant's agent for service of process from the Commissioner or Commissioner's designee to the Director or the Director's designee at N.J.A.C. 3A:71-3.1(b)1viii. The Division proposes to delete the requirements related to the authorization card form at N.J.A.C. 3A:71(b)2, which is no longer a component of the ACP application.

Proposed amendments to the certification requirements at N.J.A.C. 3A:71-3.2 include technical changes to correct grammatical errors and replace "identification" with "authorization" to reference the name of the ACP identification card that participants may provide to public agencies when requesting use of an alternate designated address. The Division further proposes the deletion of the signature requirement for authorization cards at N.J.A.C. 3A:71-3.2(a), as this no longer reflects program practice.

Subchapter 4. Recertification

Subchapter 4 sets forth the standards for certification of renewal applications and administration procedures related to the recertification process. Pursuant to N.J.S.A. 47:4-4.c, qualified participants are certified for a four-year term following the date of filing a completed application. Thereafter, a participant may apply to be recertified every four years, pursuant to N.J.S.A. 47:4-4.d. Subchapter 4 implements these statutory provisions. N.J.A.C. 3A:71-4.1 sets forth the recertification application requirements. The Division proposes amendments at N.J.A.C. 3A:71-4.1(a) to clarify that participants may renew their ACP participation by submitting a recertification packet. The proposed amendment further directs participants to submit completed packets to the ACP program manager by mail. The proposed amendments remove language that is no longer applicable to the recertification process, including the former name of recertification packet, "certification renewal application" as well as the "authorization card form" which is no longer used. Recertification applications are now known as recertification packets, which no longer include a new authorization card form. The ACP now issues PVC authorization cards in place of the previously issued paper identification cards. The former process required ACP applicants to fill out and submit the authorization card form both during the application and the recertification process. The authorization card form would then be signed by the Commissioner, laminated, and returned to participants to be used as ACP identification cards. The current system eliminates this process by using an automated system to create the PVC authorization card after the application or recertification packet is certified.

N.J.A.C. 3A:71-4.1(b) describes the information that is required to complete the recertification form contained within the recertification packet. The Division proposes amendments to update the application name, recertification packet, which includes a recertification form. Paragraphs (b)1 through 8 include information required to complete the recertification form. Proposed amendments at N.J.A.C. 3A:71-4.1(b)2 remove references to the domestic violence specific term "batterer," in both the statement that the applicant fears further violent acts and the confirmation of relocating to a location that is not known in the public record. Proposed amendments at paragraphs (b)2 and 3 delete the requirement that the applicants provide a new address. ACP participants are certified for four-year terms, to seek recertification, applicants do not need to show recent relocation. Paragraph (b)3 includes updates that require applicants to provide a current or updated address for which confidentiality is requested. Proposed technical changes further include replacing "Commissioner" with "Director" at paragraph (b)5 to identify

who applicants must designate as their agent for service of process, and to update the name of the recertification application to “recertification packet” at paragraph (b)8. The Division proposes similar technical changes at N.J.A.C. 3A:71-4.2, to replace “renewal application form” with “recertification packet,” and to remove the new authorization card form requirement. Finally, N.J.A.C. 3A:71-4.3 is proposed for repeal, as this is no longer a program requirement.

Subchapter 5. Certification Withdrawal, Invalidation, Expiration and Termination

Subchapter 5 sets forth the Division’s requirements for withdrawal and termination from ACP participation. The Division proposes to amend N.J.A.C. 3A:71-5.1 by removing the requirement for participants to return their identification cards when submitting a notice of withdrawal. Given the voluntary nature of the ACP, any requests to withdraw from the program are necessarily accepted, even where an identification card has not been returned. Therefore, the Division seeks to remove the provision from the withdrawal notice requirements.

The Division proposes to amend N.J.A.C. 3A:71-5.2 by replacing the words “her or his” with the gender-neutral wording, “the participant’s” to conform with grammatical standards found throughout Title 3A rules. N.J.A.C. 3A:71-5.2(d) is proposed for deletion, as the material is no longer practiced in the ACP. N.J.A.C. 3A:71-5.3, which requires the program manager to provide written notification of a participant’s withdrawal, termination, or certificate invalidation or expiration to authorized personnel of provider agencies, is proposed for repeal, as these requirements are no longer valid and do not reflect current program practices.

Subchapter 6. Appeal and Certification Termination

Subchapter 6 provides the procedures and standards for appealing the termination of ACP certification, including filing and decision-making requirements. N.J.A.C. 3A:71-6.1(b) is proposed for deletion, as the contents are accurately covered at subsection (a).

N.J.A.C. 3A:71-6.2 requires the program manager to provide the Commissioner with a written explanation of the grounds for participant’s termination within five days of receipt of an appeal. This section is proposed for repeal as the Director is now responsible for receiving and reviewing ACP appeals, and the program manager is no longer required to review and provide a written explanation.

Subchapter 7. Program Participant Privileges

Subchapter 7 delineates the privileges of ACP participation. The Division proposes technical amendments throughout N.J.A.C. 3A:71-7.1, including deleting “his or her,” clarifying that participants may request address confidentiality when a public agency record is created and updated, and as provided for pursuant to N.J.S.A. 47:4-6. Proposed amendments at N.J.A.C. 3A:71-7.1(c) further add the word “authorization” to clarify the type of card to be presented to public agencies for verification when requesting use of the participant’s designated alternate address.

The Division proposes to amend N.J.A.C. 3A:71-7.2(b), (b)1, and (c) by adding the word “authorization” to accurately identify the name of the ACP participation card and replace “provider agency” with “public agency” to clarify the entities that participants may request use of a designated address. Proposed changes further update references from Commissioner to Director pursuant to N.J.S.A. 47:4-1 et seq.

Subchapter 8. Disclosure of Information

Subchapter 8 sets forth the requirement for the ACP program manager to maintain the confidentiality of participant records unless otherwise provided. The Division proposes to change “provider” agency to “public” agency to clarify the entities that may accept ACP participant requests to use a designated alternate address.

Subchapter 9. Information to Release to Law Enforcement Agencies or Upon Court Order

Subchapter 9 sets forth the procedures and requirements related to release of ACP participant information to law enforcement agencies. The Division proposes to amend N.J.A.C. 3A:71-9.1(a) by removing the wording “[a]n application, record or other,” as this language is no longer

used in the requirement of the release of information to law enforcement agencies or upon court orders by the ACP. The Division further proposes to amend N.J.A.C. 3A:71-9.1(a) with incidental grammatical corrections and to remove the language “his or her.” The Division proposes to amend N.J.A.C. 3A:71-9.2(a) by correcting the zip code to the accurate ACP PO Box address. The Division proposes to amend N.J.A.C. 3A:71-9.3 by replacing “his or her” to specify that an application, record, or other information may be disclosed if the program manager determines that an emergency situation exists.

Subchapter 10. Agency Exemption Requests

Subchapter 10 sets forth the requirements for public agencies requesting an exemption from compliance with the ACP’s rules. The Division proposes to amend N.J.A.C. 3A:71-10.1(a)1 by removing language that is no longer essential to the process of agency exemption requests. The Division further proposes to amend N.J.A.C. 3A:71-10.1(a)4 to require that the public agency requesting the exemption must specify, both who will have access to the record, and how the agency will maintain confidentiality of the address. Additionally, the Division proposes to amend N.J.A.C. 3A:71-10(a)6 by removing extraneous language and adding mandatory language addressing the manner in which a disclosed confidential address of a program participant will be used for the statutory purpose in question, and not made available or disclosed to any other person or agency. N.J.A.C. 3A:71-10.2(d) is proposed for amendment to set forth the notification requirements of exemptions to the participant and the ACP program manager, which is relocated from subsection (e), which is proposed for deletion.

Subchapter 11. Protected Voter Records

Subchapter 11 sets forth requirements that are specific to ACP participant voter records. The Division proposes to amend N.J.A.C. 3A:71-11.2 by removing “victims of domestic violence” and replacing it with “all ACP program participants” to be inclusive of all the categories of ACP program participants who will be afforded protected voter records while in the ACP program.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments and repeals will have a positive social impact in that they protect the safety of victims of domestic violence, sexual assault, stalking, reproductive health services patients and providers, and other qualified persons, by maintaining the confidentiality of their addresses. The ACP provides an extra layer of protection for qualified persons by reducing the risk of physical, mental, and emotional harm, as well as death, which may be inflicted by their assailant. This is accomplished by eliminating the assailant’s access to State and local government records which contain the addresses of their victims and which would thereby allow them to locate the victims and continue the abusive, or threatening behavior. The ACP, thus, provides victims of domestic violence, sexual assault, and other qualified persons with a means of escaping domestic violence, physical assault, or various threats of harm.

Economic Impact

The rules proposed for readoption with amendments and repeals have a minor economic impact on State and local government agencies by requiring those agencies that create and maintain records containing the addresses of ACP participants to make any changes to their systems that are necessary to ensure that address confidentiality is maintained in their records. These costs may include the purchase and maintenance of secured files, computer hardware, and software. No costs are incurred by program participants.

Federal Standards Statement

The rules proposed for readoption with amendments and repeals are not subject to Federal standards or requirements, and a Federal standards analysis is not required for this rulemaking.

Jobs Impact

The Department anticipates no impact, either positive or negative, on job creation due to the rules proposed for readoption with amendments and repeals.

Agriculture Industry Impact

The rules proposed for readoption with amendments and repeals will have no impact on the agriculture industry.

Regulatory Flexibility Statement

These rules proposed for readoption with amendments and repeals affect victims of domestic violence, sexual assault, and other qualified persons who are seeking anonymity from their assailants or persons threatening harm, and do not impose any reporting, recordkeeping, or compliance obligations upon “small businesses,” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments and repeals only affect victims of domestic violence, sexual assault, or other qualified persons, and State and local government agencies. Cost associated with maintaining the Address Confidentiality Program is absorbed by the Division and not the participants.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and repeals have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption with amendments and repeals would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments and repeals pertain to the Address Confidentiality Program.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and repeals have no impact on smart growth and there is an extreme unlikelihood that the rules proposed for readoption with amendments and repeals would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments and repeals pertain to the Address Confidentiality Program managed by the Division on Women.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3A:71.

Full text of the proposed amendments and repeals follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. PURPOSE AND SCOPE

3A:71-1.1 Purpose and scope

(a) The purpose of this program is to establish uniform Statewide procedures for maintaining the confidentiality of [name and] address information of victims of domestic violence, **stalking, sexual assault, and reproductive health service patients and providers, as provided for at N.J.S.A. 47:4-1 et seq.**, in the records of State and local government agencies.

(b) The provisions of this chapter shall be applicable to victims of domestic violence, [and/or individuals] **stalking, sexual assault, and reproductive health service patients and providers**, who are certified by the [Commissioner] **Director** of the [Department of Children and Families] **Division on Women** as eligible to participate in the Address Confidentiality Program (ACP) and State and local government agencies or nonprofit agencies authorized to assist program participants with ACP applications.

SUBCHAPTER 2. DEFINITIONS

3A:71-2.1 Definitions

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

...
 [“Agency” means an office, department, division, bureau, board, commission or other statutory unit of State or local government or any functional subdivision of that agency.]

...
 [“Application assistant” means an employee of a State or local government agency, [or] **private entity**, or [of] a nonprofit program [that provides counseling, referral or shelter services to victims of domestic violence,] who meets the minimum training requirements of 40 hours of domestic violence, [training and is designated by the agency, and accepted and registered by the Commissioner] **stalking, or sexual violence training, or is designated by the Director** to assist individuals in the completion of program participation applications.

...
 [“Commissioner” means the Commissioner of the Department of Children and Families or his or her designee.]

...
 [“**Director**” means the **Director of the Division on Women in the Department of Children and Families, or the Director’s designee.**]

...
 [“Program manager” means the agency employee designated by the [Commissioner] **Director** with responsibility for developing and administering the Address Confidentiality Program in accordance with the provisions [of] **at N.J.S.A. 47:4-1 et seq.**

...
 [“Program participant” means a **qualified** person [and his or her minor children who meet the requirements for admission to] **certified by the Director as eligible to participate** in the Address Confidentiality Program [and are certified by the Commissioner and/or his or her designee as eligible to participate in the Address Confidentiality Program] **established by this chapter.**

...
 [“Provider agency” means an agency from which a program participant is applying for or receiving services.]

...
 [“**Public agency**” means an **office, department, division, bureau, board, commission, or other statutory unit of State or local government or any functional subdivision of that agency, which a program participant may request the use of the alternate address designated by the Director as the program participant’s address pursuant to N.J.S.A. 47:4-6 et seq.**

...
 [“**Qualified person**” means a **reproductive health service patient or provider, a victim of domestic violence, sexual assault, or stalking, or a person who has applied for an order pursuant to N.J.S.A. 2C:14-13 et seq., or a family member.**

...
 [“**Reproductive health service provider**” means a **physician, employee, volunteer, or contractor of the provider, hospital, clinic, physician’s office, or facility that provides reproductive health services.**

...
 [“**Reproductive health services**” means **medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of pregnancy.**

...
 [“**Sexual assault**” means an act of sexual assault as defined at N.J.S.A. 2C:14-2, if the act has been reported to a law enforcement agency or court.

...
 [“**Stalking**” means an act defined in section 1 at P.L. 1992, c. 209 (N.J.S.A. 2C:12-10), if the act has been reported to a law enforcement agency or court.

...
 [“Substitute mailing address” means a mailing address designated by the [Commissioner] **Director**, which is not the program participant’s residential address as documented on [his or her] **the participant’s** application but is an alternative address to which mail is to be mailed.

SUBCHAPTER 3. APPLICATION AND CERTIFICATION PROCESS

3A:71-3.1 Requirements for participation in the ACP

(a) [All] **Each** applicant[s] **filing** for participation in the ACP must be 18 years of age or over, an emancipated minor, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person.

(b) [All] **Each** applicant[s] shall complete [a standard] **an** application [form and an authorization form], which may be obtained from a local domestic violence program, **sexual violence agency, or other agencies, as designated by the Division on Women.** Information about how to contact the [local domestic violence] **aforementioned** programs can be obtained by contacting the New Jersey Address Confidentiality Program at 1-877-218-9133.

1. The [standard] application form shall require the provision of the following:

i.-ii. (No change.)

iii. A **sworn** statement that [an] **any** act or acts of domestic violence, **stalking, or sexual abuse that form the underlying basis for the applicant's ACP eligibility** has been reported to a law enforcement agency and/or court **or that the applicant has applied for an order pursuant to N.J.S.A. 2C:14-13 et seq.;**

iv. (No change.)

v. [The applicant's] A **sworn** statement that the applicant fears further violent acts [from the batterer] and that the applicant has relocated **or will be relocating** to a location [unknown to the batterer] **that is not known in the public record;**

vi.-vii. (No change.)

viii. The applicant's designation of the [Commissioner] **Director** as [her or his] **the applicant's** agent for service of process and for receipt of mail;

ix.-xi. (No change.)

[2. The authorization card form shall require the provision of the following:

- i. The applicant's name;
- ii. The applicant's birth date;
- iii. The applicant's signature; and
- iv. The application date.]

[3.] **2.** (No change in text.)

3A:71-3.2 Certification

(a) An applicant who has filed a completed application form shall be certified as a program participant and [issue] **issued** an ACP [program participant identification card ("identification card") which] **authorization card. The authorization card** shall contain the program participant's name, authorization code, substitute mailing address, certification expiration date, birth date, and **the applicant's** signature[, and the signature of the Commissioner or his or her designee].

(b) A program participant's certification shall be valid for four years following the date [her or his identification] **the authorization** card is issued unless the certification is withdrawn, terminated, or invalidated before that date, in accordance with N.J.A.C. 3A:71-5.

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

SUBCHAPTER 4. RECERTIFICATION

3A:71-4.1 Requirements for recertification

(a) A program participant may renew [his or her] **their** program participation [certification] by [filing a certification renewal application form and a new authorization card form with the ACP] **submitting a completed recertification packet to the ACP program manager by mail.**

(b) The certification renewal [application form] **packet** shall [require the provision of the following:] **include a recertification form. The recertification form shall require the provision of the following:**

1. (No change.)

2. The applicant's statement that the applicant fears further violent acts [from the batterer] and that the applicant has relocated to a location [unknown to the batterer] **that is not known in the public record;**

3. The applicant's [new] **current or updated** residential address, mailing address, [if different from the residential address,] work address, [and/or] **or** school address, for which confidentiality is being requested;

4. (No change.)

5. The applicant's designation of the [Commissioner] **Director** as [her or his] **the applicant's** agent for service of process and for receipt of mail;

6.-7. (No change.)

8. The [certification renewal application] **recertification packet** date.

3A:71-4.2 Recertification

(a) Upon the program manager's receipt of the completed [certification renewal application form and the new authorization card form] **recertification packet**, the program manager shall:

1. (No change.)

2. Issue to the program participant a new [identification] **authorization** card.

3A:71-4.3 [Notice of recertification to provider agencies] (**Reserved**)

[When a program participant's certification has been renewed, he or she shall provide written notification of the certification renewal to authorized personnel of provider agencies.]

SUBCHAPTER 5. CERTIFICATION WITHDRAWAL, INVALIDATION, EXPIRATION, AND TERMINATION

3A:71-5.1 Withdrawal

A program participant may withdraw from the ACP by submitting written notification of withdrawal [and her or his current identification card] to the program manager. Certification shall be withdrawn on the date of the program manager's receipt of this notification.

3A:71-5.2 Termination

(a) The program manager may terminate a program participant's certification and invalidate [her or his] **the program participant's** authorization card if:

1. (No change.)

2. Any information provided [by] **in** the program participant's [on his or her] application is false;

3-4. (No change.)

(b) The program manager shall notify the program participant [that she or he has been terminated] **of the termination** from the ACP by a method most likely to result in contact with the program participant. Such methods may include, but shall not be limited to, telephone contact with the program participant or telephone and/or mail contact with the program participant's designated contact person.

(c) (No change.)

[(d) Following termination of a program participant's certification, the program manager may disclose information contained in the program participant's application.]

3A:71-5.3 [Notice to State and/or local government agency]

(**Reserved**)

[The program manager shall provide written notification of the program participant's certification withdrawal, invalidation, expiration or termination to authorized personnel of the appropriate provider agencies within 30 days unless an appeal is received in accordance with N.J.A.C. 3A:71-6.]

SUBCHAPTER 6. APPEAL OF CERTIFICATION TERMINATION

3A:71-6.1 Filing procedures

[(a)] A program participant may appeal [her or his] **their** termination from the ACP by submitting a written explanation disputing the grounds for termination to the [Commissioner] **Director** within 20 business days of receipt of notice of termination from the program. The written explanation shall be accompanied by all information and documentation which supports the appeal.

[(b)] A copy of the appeal and supporting information and documentation shall be served on the program manager at the time they are submitted to the Commissioner.]

3A:71-6.2 [Program manager response] **(Reserved)**

[Upon receipt of the program participant's appeal and supporting documentation, the program manager shall provide the Commissioner with a written explanation of the grounds for termination within five days. The explanation shall include all information and/or documentation which is relevant to the termination and the Commissioner's consideration of the appeal.]

3A:71-6.3 [Commissioner's] **Director's** decision

(a) The [Commissioner] **Director** or [her or his] **the Director's** designee shall review all submissions and render a decision based on the written record within 20 business days of receipt of the appeal.

(b) The [Commissioner's] **Director's** decision shall be final.

(c) Where the [Commissioner] **Director** has upheld the certification termination, the program participant will be permitted to remain in the program for 10 business days after notification of the [Commissioner's] **Director's** decision has been received.

SUBCHAPTER 7. PROGRAM PARTICIPANT PRIVILEGES

3A:71-7.1 Request for confidentiality

(a) A program participant may request that a [provider] **public** agency [use the substitute address as her or his residence] **keep the participant's residential**, work, [and/or] **and** school address **confidential** when [it creates] **creating** a new record or [updates] **updating** an existing record.

(b) A program participant may request that [her or his] **the program participant's** name and address information be kept confidential **to the extent permitted at N.J.S.A. 47:4-6**.

(c) [A] **The** program participant [requesting that her or his name and address be kept confidential] shall show [her or his identification] **the authorization** card to [provider] **public** agency personnel in order to verify [that she or he is a] program [participant] **participation** and to require the [provider] **public** agency's use of the designated address noted **on the card** in lieu of [her or his] **the program participant's** actual location.

3A:71-7.2 [Provider] **Public** agency requirements

(a) When a program participant makes a request noted [in] **at N.J.A.C. 3A:71-7.1(a) or (b)**, the [provider] **public** agency shall maintain the confidentiality of all applications or records and ensure that they are accessible only to authorized personnel, except as provided [in] **at N.J.A.C. 3A:71-8 and 9**.

(b) When verifying that an individual is an ACP program participant, authorized personnel may make a file photocopy of the program participant's [identification] **authorization** card.

1. The [identification] **authorization** card shall be returned to the program participant immediately upon completion of the photocopying; and

2. The photocopy shall be kept with the confidential records of the program participant during the time the records are filed and maintained by the [provider] **public** agency.

(c) A [provider] **public** agency shall use the designated mailing address requested by the program participant and verified by the ACP [identification] **authorization** card unless the [provider] **public** agency has received a written exemption determination from the [Commissioner under] **Director pursuant to** the provisions [of] **at N.J.A.C. 3A:71-10**.

SUBCHAPTER 8. DISCLOSURE OF INFORMATION

3A:71-8.1 Disclosure

No record or related information maintained [under] **pursuant to** the ACP shall be disclosed by the program manager or [provider] **public** agencies without the expressed written authorization of the program participant or by court order unless release of the record or information is otherwise provided for by this chapter.

SUBCHAPTER 9. INFORMATION RELEASE TO LAW ENFORCEMENT AGENCIES OR UPON COURT ORDER

3A:71-9.1 Release to law enforcement agencies generally

(a) [An application, record or other information] **Information** about a program participant may be released to a law enforcement agency if:

1. The program participant [gives his or her] **provides** written authorization;

2. (No change.)

3. The law enforcement agency making the request has a bona fide [statutory or administrative] requirement to have access to a program participant's actual address which meets the requirements [of] **at N.J.A.C. 3A:71-9.2**.

3A:71-9.2 Request for release of records to law enforcement agencies

(a) A request for the release of [an application, record or other] information concerning a program participant to a law enforcement agency may be honored only if the law enforcement agency submits by mail, a written request on official letterhead to the [Commissioner] **Director** or [his or her] **the Director's** designee at ACP, PO Box 717, Trenton, NJ [08602-0717] **08625-0717**, which contains:

1.-4. (No change.)

3A:71-9.3 Emergency release of records

The program manager may disclose an application, record, or other information about a program participant to a law enforcement agency if [she or he] **the program manager** determines that an emergency situation exists, and that the safety or health of a program participant is imperiled by withholding this information.

SUBCHAPTER 10. AGENCY EXEMPTION REQUESTS

3A:71-10.1 Requirements of request for exemption

(a) A [provider] **public** agency requesting an exemption from the provisions of this chapter shall provide a written request to the [Commissioner] **Director** which includes the following:

1. Identification of the statute [or administrative rule] which demonstrates the [provider] **public** agency's bona fide requirement and authority for the use of the actual address of an individual;

2.-3. (No change.)

4. Identification of the individuals who will have access to the record **and how the public agency will maintain confidentiality of the address**;

5. An explanation of how the [provider] **public** agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified [in] **at (a)1** above; and

6. An explanation of [why the provider agency cannot meet its statutory or administrative obligations by a change in its internal procedures.] **how the disclosed confidential address of the program participant will be used only for the statutory purpose specified at (a)1 above and the public agency's confirmation that the disclosed address will not be further disclosed or made available in any way to any other person or agency**.

3A:71-10.2 Exemption determination

(a) The [Commissioner's] **Director's** decision to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided [under] **pursuant to** N.J.A.C. 3A:71-10.1. The decision shall be rendered within 20 days receipt of the [provider] **public** agency's request for exemption.

(b) If the [Commissioner] **Director** determines that a [provider] **public** agency has a bona fide statutory [or administrative] requirement for the use of a program participant's actual address information and that the actual address information will be used only for those statutory [and administrative] purposes, the [Commissioner] **Director** may issue a written exemption determination to the [provider] **public** agency.

(c) A decision granting the request for exemption shall include:

1. A statement as to the [provider] **public** agency's obligation to maintain the confidentiality of a program participant's address information;

2. (No change.)

3. The term during which the exemption is authorized for the [provider] **public** agency where the [provider] **public** agency is making procedural changes that would allow it to accept the substitute address;

4. (No change.)

5. Designation of an address information disposition date after which the [provider] **public** agency may no longer maintain a record of the address information.

(d) A [Commissioner’s] **Director’s** denial of a [provider] **public** agency’s exemption request shall be made, in writing, and include a statement of the specific reasons for the denial. [(e)] When a program participant requests use of the substitute address in a record, and the [provider] **public** agency has received an exemption determination for that record, the [provider] **public** agency shall immediately provide a copy of the [Commissioner’s] **Director’s** written decision to the program participant. The [provider] **public** agency shall notify the **ACP’s** program manager of the applicant’s request for use of the substitute address and its decision to deny the request.

3A:71-10.3 Appeal of denial of request for exemption

(a) A [provider] **public** agency may appeal the denial of its request for exemption by providing additional data and information evidencing the steps that have been or are being taken to resolve the basis for the [Commissioner’s] **Director’s** denial determination.

(b) During the review, evaluation, and appeal of a [provider] **public** agency’s exemption request, the [provider] **public** agency shall accept the use of a program participant’s substitute address.

SUBCHAPTER 11. PROTECTED VOTER RECORDS

3A:71-11.2 Processing of protected voter records

Voter records of program participants shall be processed in accordance with the procedures adopted by the county elections superintendent that ensure the confidentiality of the [names and] addresses of [victims of domestic violence] **all ACP program participants**.

HUMAN SERVICES

(a)

**DIVISION OF FAMILY DEVELOPMENT
New Jersey Supplemental Nutrition Assistance
Program (NJ SNAP)
Standard Mileage Reimbursement Rate for
Transportation Expenses**

Proposed Amendment: N.J.A.C. 10:87-5.10

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

Authority: N.J.S.A. 30:1-12.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-008.

Submit comments by March 16, 2024, to:

Megan R. Mazzoni, Administrative Practice Officer
Division of Family Development
PO Box 716
Trenton, New Jersey 08625-0716
or Email: DFD-Regulations@dhs.nj.gov

The agency proposal follows:

Summary

As the Department of Human Services (Department) is providing a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Elderly or disabled recipients of New Jersey Supplemental Nutrition Assistance Program (NJ SNAP) benefits can deduct excess medical

expenses, including transportation expenses for medical treatment, from countable NJ SNAP income. The proposed amendment at N.J.A.C. 10:87-5.10(a)3i(9) provides that the standard State mileage reimbursement rate, as established by the New Jersey Department of the Treasury, Office of Management and Budget, must be used when calculating transportation expenses incurred while using a privately owned vehicle to obtain medical treatment or services. The State mileage reimbursement rate is used in lieu of the actual expenses of transportation. Codifying the standard mileage reimbursement rate is necessary so that excess medical deduction calculations are standardized throughout the State. The current State mileage reimbursement rate is \$0.47, and is subject to decrease or increase as established by legislation or State law.

Social Impact

The proposed amendment will have no social impact on the State.

Economic Impact

The proposed amendment will ensure that the standard mileage rate deduction is applied uniformly throughout the State and ensure that NJ SNAP clients can receive the maximum benefit they are eligible to receive. There may be a negligible economic impact on recipients and the State depending on the number of individuals who utilize their private vehicles and receive the reimbursement, as well as future changes to the reimbursement rate.

Federal Standards Statement

The Department has reviewed the applicable Federal laws and regulations, specifically 7 CFR 273.9, Supplemental Nutrition Assistance and Food Distribution Service, and has determined that the proposed amendment does not exceed Federal standards. Therefore, a Federal standards analysis is not required.

Jobs Impact

The proposed amendment will not result in the generation or loss of jobs.

Agricultural Industry Impact

The proposed amendment will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendment has been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment imposes no reporting, recordkeeping, or other compliance requirements on small businesses and, thus, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed amendment will not have an impact on the affordability of housing in New Jersey. It is highly unlikely that the proposed amendment would evoke a change in the average costs associated with housing because the proposed amendment provides the rate for transportation cost for recipients of the New Jersey Supplemental Nutritional Assistance Program.

Smart Growth Development Impact Analysis

The proposed amendment will not have an impact on smart growth. It is highly unlikely that the proposed amendment would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendment provides the rate for transportation cost for recipients of the New Jersey Supplemental Nutritional Assistance Program.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):