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**CHILDREN AND FAMILIES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH
SERVICES**

**DIVISION OF THE CHILDREN'S SYSTEM OF CARE
Psychiatric Residential Treatment Facility Services
for Individuals Under Age 21**

**Proposed Readoption with Amendments: N.J.A.C.
10:75**

Authorized By: Elizabeth Connolly, Acting Commissioner,
Department of Human Services and Allison Blake,
Commissioner, Department of Children and Families.
Authority: N.J.S.A. 9:3A-7, 30:4D-1 et seq., and 30:4J-8 et seq.
Calendar Reference: See Summary below for explanation of
exception to calendar requirement.
Agency Control Number: 16-P-03.
Proposal Number: PRN 2016-110.

Submit comments by September 18, 2016, to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10:75, Psychiatric Residential Treatment Facility Services for Individuals Under Age 21, is scheduled to expire on June 11, 2016. As the agency submitted this notice of proposal to Office of Administrative Law prior to that date, the expiration date is extended 180 days to December 8, 2016, pursuant to N.J.S.A. 52:14B-5.1c.2. The Department of Human Services and Department of Children and Families (Departments) have made the determination that N.J.A.C. 10:75 should be readopted with amendments.

The manual contains requirements for Medicaid/NJ FamilyCare-approved providers who render Psychiatric Residential Treatment Facility (PRTF) services. The chapter is divided into five separate subchapters: Subchapter 1, General Provisions; Subchapter 2, Program Requirements; Subchapter 3, Emergency Safety Interventions; Subchapter 4, Reimbursement; and Subchapter 5, Healthcare Common Procedure Coding System (HCPCS).

General Amendments

Throughout the chapter, the following general amendments are proposed:

1. All references to the "Department of Health and Senior Services" are replaced with references to the "Department of Health" to reflect the current name of that Department, pursuant to P.L. 2012, c. 17.

2. The name of the "Division of Mental Health Services" or "DMHS" is changed to the "Division of Mental Health and Addiction Services" or "DMHAS" to reflect the current name of that division within the Department of Human Services.

3. All references to the "Partnership for Children" or "PFC" are replaced with references to "the Division of the Children's System of Care" or "DCSOC" to reflect the current name of that division within the Department of Children and Families.

4. References to the "Division of Youth and Family Services" or "DYFS" are deleted because that Division no longer exists. All such references are replaced with the name of the State agency that currently fulfills the duty described in each specific instance.

5. The name of the Medicaid/NJ FamilyCare fiscal agent is changed from "Unisys" to "Molina Medicaid Solutions" to reflect the name of the Division of Medical Assistance and Health Services' current fiscal agent.

6. The terms "Joint Commission on Accreditation of Healthcare Organizations" and "JCAHO" are replaced with a definition that reflects that organization's new name, "The Joint Commission (TJC)." Additionally, text is revised to indicate that accrediting agencies authorized by DHS and DCF are acceptable in addition to TJC.

7. References to Level III codes are deleted because those codes are not acceptable for use under current Federal Medicaid law.

Specific Amendments

At N.J.A.C. 10:75-1.2, in the definition for "Care Management Organization," the reference to the Department of Human Services is changed to reference the Department of Children and Families/Division of Children's System of Care to indicate the correct Department and Division that has oversight of the care management organizations.

At N.J.A.C. 10:75-1.2, in the definition for "contract pricing," the references to the Division of Mental Health Services, the Division of Youth and Family Services, and the Division of Medical Assistance and Health Services as agencies that would negotiate a contract are replaced with a reference to the Department of Children and Families/Division of Children's System of Care or the Department of Human Services, based on current practice.

At N.J.A.C. 10:75-1.2, in the definition for "contracted system administrator," the reference to the Department of Human Services is changed to reference the Department of Children and Families/Division of Children's System of Care to indicate the correct Department/Division that contracts with the contracted system administrator, based on current practice. Also, the description of duties is revised to indicate that duties include providing utilization management and care coordination activities for services to children, not just tracking such services. Also, the reference to the Partnership for Children providing mental health services is updated to instead refer to the Division of the Children's System of Care, the current agency that provides such services. Finally, a reference to approving continued lengths of stay in hospitals is revised to instead refer to approving continued lengths of stay in Division of Children's System of Care programs.

At N.J.A.C. 10:75-1.2, a definition of "Department of Children and Families (DCF)" is added.

At N.J.A.C. 10:75-1.2, a definition of "Division of the Children's System of Care (DCSOC)" is added. As described above, this is the new name of the Partnership for Children; accordingly, the definition for the term "Partnership for Children" is being deleted.

At N.J.A.C. 10:75-1.2, the definition for "Division of Youth and Family Services," is deleted as the division no longer exists and there is no reference made to its successor entity, the Division of Child Protection and Permanency in this chapter.

At N.J.A.C. 10:75-1.2, the definitions of "hospital leave" and "therapeutic leave" are amended to indicate the absence is temporary. A further amendment is proposed to "therapeutic leave" to include visits with "foster parents and guardians" in addition to parents and other caregivers.

At N.J.A.C. 10:75-1.2, the definition of "interdisciplinary team" is revised to correct an internal cross-reference.

At N.J.A.C. 10:75-1.2, the definition of "Joint Commission on Accreditation of Healthcare Organizations (JCAHO)" is replaced with a definition that reflects that organization's new name, "the Joint Commission (TJC)."

At N.J.A.C. 10:75-1.2, the definition of "serious injury" is amended to add that the injuries may be self-inflicted or inflicted by someone else.

At N.J.A.C. 10:75-1.3(a), the phrase "as a PRTF" is deleted as it is unnecessary.

At N.J.A.C. 10:75-1.3(c)1, reference to the DCF Office of Licensing replaces an existing reference to DYFS and a reference to N.J.A.C. 10:128 is added to accurately reflect the process as it actually occurs. The term "residential child care facility" is also consequently broadened to "residential facility" for accuracy in describing the types of facilities collectively approved under N.J.A.C. 10:127 and 128. Outdated references to psychiatric community residences licensed by the Division of Mental Health Services under N.J.A.C. 10:37B (which has been repealed), or by the Department of Health, are deleted to reflect current practice.

At N.J.A.C. 10:75-1.3(c)2 and 3, proposed amendments allow for any accreditation agency approved by the Department of Human Services and the Department of Children and Families to provide accreditation for PRTF providers, not just the Joint Commission.

At N.J.A.C. 10:75-1.3(d)1, proposed amendments remove an incorrect reference to NJ DYFS and correct a typographical error.

At N.J.A.C. 10:75-1.3(d)2 and 3 and (g), proposed amendments allow for any accreditation agency approved by the Department of Human Services and the Department of Children and Families to provide accreditation for PRTF providers, not just the Joint Commission.

At N.J.A.C. 10:75-1.3(f), a reference to "PRTF" is added for clarity.

At N.J.A.C. 10:75-1.5(a) and (e), amendments add DCF as an agency that may require the production of records and to which records may be disclosed.

At N.J.A.C. 10:75-1.6(a), a repetition of the definition of "serious occurrence" is deleted because it is unnecessary.

At N.J.A.C. 10:75-1.6(c), (d), (e), (f), and (g), the references to the Division of Youth and Family Services and the Division of Mental Health Services are deleted and replaced with references to the Department of Children and Families/Division of Children's System of Care (DCF/DCSOC), to indicate that the licensure and contracting of PRTF providers is under the purview of that Department and Division.

At N.J.A.C. 10:75-2.1(b)2, the term "JCAHO" is being replaced with a reference to "TJC," and text is revised to indicate that accrediting agencies authorized by DHS and DCF are also acceptable in addition to "TJC."

At N.J.A.C. 10:75-2.2, the reference to the Department of Human Services is changed to the Department of Children and Families/Division of Children's System of Care to indicate the division that is to be represented on the interdisciplinary team being discussed.

At N.J.A.C. 10:75-2.3, amendments would replace the majority of the existing text of subsection (b) to state that, for children/youth/young adults who are enrolled with the DCF/DCSOC, upon review of an Individual Service Plan, authorization for services will be provided by the Department of Children and Families/Division of Children's System of Care, or its designee, the State's Contracted Systems Administrator (CSA), with the certification of need. A proposed amendment would also delete existing subsection (c), which also addressed authorization for services.

At N.J.A.C. 10:75-2.5(b)3ii, the phrase "individuals with behavioral health challenges" is proposed to replace mentally ill individuals.

At N.J.A.C. 10:75-2.7(a)1 and 2, the definitions of "hospital leave" and "therapeutic leave" are deleted because they are unnecessary.

At N.J.A.C. 10:75-3.1, the reference to "Medicaid" is being replaced with "Medicaid/NJ FamilyCare." A cross-reference to the Code of Federal Regulations is also corrected.

At N.J.A.C. 10:75-4.1(a) and (a)1, proposed amendments correct the term "PRTC" to read "PRTF" and remove the term JCAHO to be consistent with the proposed language at N.J.A.C. 10:75-1.3(c), which allows for PRTFs to be accredited by other approved accrediting agencies.

N.J.A.C. 10:75-4.1(c) is proposed for deletion because the last State-operated PRTF has been closed. N.J.A.C. 10:75-4.1(d) is proposed for deletion because this subsection no longer applies.

N.J.A.C. 10:75-5.1(a) is amended because Level III codes are no longer acceptable to be used for billing or reporting purposes. For that same reason, paragraph (a)3 is proposed for deletion.

At N.J.A.C. 10:75-5.2, references to agency names and to accrediting agencies are revised, as discussed above.

The Department has determined that the comment period for this notice of proposal will be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Social Impact

During State Fiscal Year 2015, a monthly average of approximately 494 individual beneficiaries received PRTF services from approximately 41 providers.

The rules proposed for re-adoption with amendments will allow the Division to continue to effectively administer medically necessary PRTF

services to eligible Medicaid/NJ FamilyCare and DCF/DCSOC-enrolled beneficiaries, which will have a continuing positive social impact on beneficiaries.

The proposed amendments will allow recognition of other accrediting bodies that accredit PRTFs, which will allow more providers to enroll as Medicaid/NJ FamilyCare providers, if all of the other Medicaid/NJ FamilyCare requirements are met. This will have a positive social impact on the beneficiaries by increasing the number of PRTFs available to provide these services to eligible Medicaid/NJ FamilyCare beneficiaries and those individuals receiving services under the auspices of the Division of the Children's System of Care (DCSOC).

The proposed amendments should also have a positive impact on PRTFs, because facilities not accredited by JCAHO, but accredited through the other accreditation agencies approved by the State, will be able to apply to enroll as PRTF providers for Medicaid/NJ FamilyCare and DCSOC beneficiaries.

Economic Impact

During State Fiscal Year 2015, a monthly average of approximately 494 individual beneficiaries received PRTF services, with an annual expenditure of approximately \$75.3 million, State and Federal share combined.

The rules proposed for re-adoption with amendments are not expected to increase or decrease the annual State expenditures as a result of the potential for new providers. The addition of any new providers will provide additional resources for beneficiaries but will not increase the number of beneficiaries. Additionally, there are no proposed amendments that change the scope of eligibility requirements for beneficiaries, so an increase or decrease in the number of beneficiaries is not anticipated. Beneficiaries do not currently pay for services received in psychiatric residential treatment facilities and this will not change as a result of these rules.

The rules proposed for re-adoption with amendments regarding the licensure of the PRTF providers will have no negative effect on the providers. This change was instituted in 2006 as part of a reorganization of services when the Department of Children and Families was created. Those providers who were previously licensed prior to the reorganization did not lose their licensure as a result of the reorganization as long as they continued to meet the requirements of their license.

Federal Standards Statement

Section 1902(a)(9)(A) of the Social Security Act (42 U.S.C. § 1396a) requires the state health agency or other state medical agency to establish and maintain health standards for private and public institutions in which beneficiaries of medical assistance, under the State Plan, receive care or services. The Social Security Act, at section 1903(g), requires the Division to establish and maintain an effective program to review the utilization of services in inpatient settings. (See also 42 CFR 456.480 through 456.482). Section 1905 of the Social Security Act (42 U.S.C. § 1396d) lists and defines the services that may be covered under the State medical assistance program. Psychiatric residential treatment facilities conform to the definition of an inpatient setting as set forth at Section 1905(h). Regulations at 42 CFR 440.160 and 441.150 through 441.182 define inpatient psychiatric services for individuals under age 21 and describe the requirements and limits of such services. Regulations at 42 CFR 483.350 through 483.376 provide conditions of participation related to the use of restraints and seclusion, including procedural, reporting, and training mandates as imposed by the Children's Health Act of 2000 (Pub. L. 106-310), when providing mental health services to individuals under the age of 21 in psychiatric residential treatment facilities.

Section 2101 of the Social Security Act (42 U.S.C. § 1397aa) provides funds to a state to administer a program providing a State-operated children's health insurance program for targeted, low-income children.

Within these general guidelines, the Federal laws and regulations anticipate that a state will promulgate regulations that define the scope of service, and any limitations applied to the services. The Departments have reviewed the Federal legal and regulatory requirements and have determined the rules proposed for re-adoption with amendments do not exceed Federal standards.

Therefore, a Federal standards analysis is not required.

Jobs Impact

The Departments do not anticipate that the rules proposed for readoption with amendments will result in the creation or loss of jobs in the State of New Jersey.

Agriculture Industry Impact

Since the rules proposed for readoption with amendments concern the provision of PRTF services to Medicaid/NJ FamilyCare beneficiaries, the Departments anticipate that the proposed rulemaking will have no impact on the agriculture industry in the State of New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments affect those providers who provide inpatient psychiatric residential treatment facility services to individuals under age 21. Some of these providers may be considered small businesses, that is, they employ fewer than 100 full-time equivalent employees, under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments do not impose additional or new recordkeeping, compliance, or reporting requirements on the providers.

Existing providers, and providers who become newly eligible to enroll as Medicaid/NJ FamilyCare PRTF providers as a result of the proposed amendments must comply with all recordkeeping, compliance, and reporting requirements contained in N.J.A.C. 10:75. Providers must also comply with all Federal requirements regarding PRTFs.

All providers are required to maintain, and provide documentation of, State licensure, as well as accreditation as a psychiatric residential treatment facility. All providers are required to report any loss of accreditation or licensure.

All providers are required to comply with, and document compliance with, all applicable Federal standards for psychiatric residential treatment facilities (see 42 CFR Part 441, Subpart D).

Providers are required to employ sufficient professional staff to meet the service requirements of the chapter, which include the development and implementation of a professionally developed and supervised plan of care for each beneficiary, which is based on a complete evaluation of the beneficiary's medical, psychological, social, behavioral, and developmental needs.

The rules proposed for readoption also require the documentation and reporting of all serious occurrences as defined by the Federal government. These reporting requirements, depending on the gravity of the individual situation, include notification of the parent/guardian of the child, the appropriate State government and advocacy agencies, appropriate law enforcement officials, and/or the Centers for Medicare and Medicaid and Medicaid Services' regional office.

Federal regulations at 42 CFR 483.350 through 483.376 mandate the procedural, reporting, training, and documentation requirements regarding the use of restraint and seclusion. All providers are required to comply with these Federal requirements and maintain documentation of such compliance. Providers will be required to document that the rules concerning the use of restraint and seclusion, including beneficiary rights and the notification procedures, were provided to the beneficiary and the beneficiary's parent or legal guardian.

Providers are required to submit claims to the Division's fiscal agent in approved formats and to maintain accurate records of the services rendered. Medicaid/NJ FamilyCare providers are required to maintain records to fully disclose the name of the beneficiary who received the service, date of service, and any additional information as may be required by N.J.A.C. 10:49 and N.J.S.A. 30:4D-1 et seq.

The requirements contained in the rules must be equally applicable to all providers regardless of size, because all claims must be submitted in a common format in order to assure that they can be electronically processed through the Division's fiscal agent. All supporting documentation for those claims must be consistent throughout the provider community. Providers will have to ensure that they employ sufficient professional staff to meet the service requirements of this chapter.

There should be no capital costs associated with these requirements.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern the provision of PRTF services to Medicaid/NJ FamilyCare beneficiaries.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules concern the provision of PRTF services to Medicaid/NJ FamilyCare beneficiaries.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:75.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:75-1.1 Purpose and scope

(a) This chapter outlines the policies and procedures relevant to the provision of psychiatric residential treatment facility services to individuals under age 21 enrolled in Medicaid/NJ FamilyCare-Plan A. The rules of this chapter also apply to children/youth/young adults enrolled [in the Partnership for Children (PFC)] **with the Division of the Children's System of Care (DCSOC)**, whether or not they are eligible for Medicaid/NJ FamilyCare.

(b) (No change.)

10:75-1.2 Definitions

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

...
 "Care Management Organization (CMO)" means the community-based Department of [Human Services] **Children and Families/Division of the Children's System of Care (DCF/DCSOC)** contracted entity that is responsible for creating, coordinating, and implementing [a system-wide] **an individualized** plan of care for children with emotional and behavioral disturbances that are in need of intensive care coordination services.

...
 "Contract pricing" means the facility-specific rate, based on the rate determined in the contract negotiated with the [Division of Mental Health Services, the Division of Youth and Family Services or the Division of Medical Assistance and Health Services] **DCF/DCSOC or the Department of Human Services.**

"Contracted System Administrator (CSA)" means the entity contracted by the Department of [Human Services] **Children and Families/DCSOC** to [track] **provide utilization management and care coordination activities for services to children, including** all mental health services provided to individuals as part of the [PFC] **DCSOC**, to monitor the quality of care, to prior authorize mental health services, and approve continued lengths of stay in [hospitals] **DCSOC's programs.**

...
 "**Department of Children and Families (DCF)**" means the New Jersey Department of Children and Families, created by P.L. 2006, c. 47.

"**Division of the Children's System of Care (DCSOC)**" means the Department of Children and Families' division that provides a comprehensive system of care approach for the treatment of youth experiencing behavioral health challenges, services for youth with intellectual/developmental challenges, and services to youth with substance use challenges. **DCSOC beneficiaries are those individuals under the age of 21 that have been determined by the Department of Children and Families/DCSOC to be eligible for enrollment into the DCSOC, independent of their eligibility for Medicaid/NJ FamilyCare coverage.**

“Division of Mental Health **and** Addiction Services [(DMHS) **(DMHAS)**” means the organizational component of the New Jersey Department of Human Services [which] **that** is responsible for the administration of the State’s mental health **and** addiction programs.

“[Division of Youth and Family Services (DYFS)” means the organizational component of the New Jersey Department of Human Services which administers the Title IV-E program of the Social Security Act, 42 U.S.C. §§ 670 through 679b.]

“Healthcare Common Procedure Coding System (**HCPCS**)” means a nationwide [three-level] **two-level** coding system. Level [1] **I** codes are adapted from codes published by the American Medical Association in the Common Procedure Terminology (CPT) and are utilized primarily by physicians and independent clinical laboratories. Level [2] **II** codes are assigned by CMS for physician and non-physician services that are not in the CPT. [Level 3 codes are assigned by DMAHS and are used for services not identified by the CPT or CMS assigned codes.]

“Hospital leave” means [an] a **temporary** absence from the facility for more than 24 consecutive hours due to the resident receiving inpatient treatment in a hospital, including treatment in a psychiatric unit of a hospital.

“Interdisciplinary team,” as described in Federal regulations in 42 [C.F.R.] **CFR** 441.156, is comprised of those employed by, or those who provide services to Medicaid/NJ FamilyCare or [PFC] **DCF/DCSOC** beneficiaries in the PRTF, and is responsible for the review of the treatment needs of a resident receiving mental health services to ensure that the most appropriate level of care is provided. The team shall include, at a minimum, the professional staff listed at N.J.A.C. 10:75-[2.2(b)]**2.5(b)**.

“[Joint Commission on Accreditation of Healthcare Organizations (JCAHO)” means the nationwide, independent, not-for-profit organization that evaluates and accredits health care organizations and programs, including, but not limited to, behavioral health care organizations including, but not limited to, psychiatric residential treatment facilities.]

“[Partnership for Children (PFC)” means the Department of Human Services initiative developed to provide a comprehensive approach to the treatment of behavioral and mental disturbances in children, adolescents and young adults. PFC beneficiaries are those individuals under the age of 21 that have been determined by the Department of Human Services to be eligible for enrollment into the PFC, independent of their eligibility for Medicaid/NJ FamilyCare coverage.]

“Serious injury” means any significant impairment of the physical condition of the resident as determined by qualified medical personnel, including, but not limited to, burns, lacerations, bone fractures, substantial hematoma(s), and injuries to internal organs, **whether self-inflicted or inflicted by someone else.** (See 42 [C.F.R.] **CFR** 483.352.)

“**The Joint Commission (TJC)**” means the nationwide, independent, not-for-profit organization that evaluates and accredits health care organizations and programs, including, but not limited to, behavioral health care organizations including, but not limited to, psychiatric residential treatment facilities.

“Therapeutic leave” means [an] a **temporary** absence from the facility, greater than 24 consecutive hours, deemed therapeutic, approved by the treatment team and included in the resident’s plan of care. Reasons for such absence include, but are not limited to, visits with parents, **foster parents, guardians**, or other caregivers, attendance at a residential camp, or residence in a temporary shelter.

10:75-1.3 Program participation criteria

(a) A psychiatric residential treatment facility (PRTF) that is not licensed as a hospital, but meets the requirements in 42 [C.F.R. part] **CFR Part** 441 [subpart] **Subpart** D and 42 [C.F.R. part] **CFR Part** 483 [subpart] **Subpart** G, shall be eligible for participation [as a PRTF] in the New Jersey Medicaid/NJ FamilyCare program.

(b) (No change.)

(c) A PRTF located in New Jersey that provides services for New Jersey Medicaid/NJ FamilyCare or [PFC] **DCF/DCSOC** beneficiaries under the age of 21 shall, in order to participate in the Medicaid/NJ FamilyCare program:

1. Be licensed by the New Jersey [Division of Youth and Family Services] **DCF Office of Licensing** as a residential [child care] facility in accordance with N.J.A.C. 10:127 or [by the Division of Mental Health Services as a psychiatric community residence for youth in accordance with N.J.A.C. 10:37B or by the New Jersey Department of Health and Senior Services] **10:128** or other State agencies with the authority to license such facilities to provide care to children;

2. Be accredited as a PRTF by [the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)] **TJC or any other accrediting agency authorized by DHS and DCF**; and

3. Provide a copy of their license and a copy of their [JCAHO Accreditation] **accreditation** to [DMAHS, at the address in (b) above, as a condition of enrollment as a Medicaid/NJ FamilyCare provider] **DCF/DCSOC**.

(d) A PRTF located out of New Jersey that provides services for New Jersey Medicaid, NJ FamilyCare, or [NJ PFC] **DCF/DCSOC** beneficiaries under the age of 21 shall, in order to participate in the New Jersey Medicaid/NJ FamilyCare program:

1. Be licensed as a health care provider by the appropriate State agency [(NJ DYFS),] or be enrolled as a provider of inpatient psychiatric services for children in the Medicaid program in the [State] **state** in which they are located;

2. Be accredited by [the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)] **TJC or any other accrediting agency authorized by DCF and DHS** as a provider of inpatient psychiatric services for children; and

3. Provide a copy of their license, or their Medicaid enrollment agreement, and a copy of their [JCAHO Accreditation] **accreditation** to [the New Jersey DMAHS, at the address in (b) above, as a condition of enrollment as a Medicaid/NJ FamilyCare provider] **DCF/DCSOC**.

(e) (No change.)

(f) Upon approval as a Medicaid/NJ FamilyCare **PRTF** provider, providers shall comply with the provisions of N.J.A.C. 10:49, in addition to this chapter.

(g) All providers, in-State or out-of-State, shall notify the DMAHS Office of Provider Enrollment (Provider Enrollment) at the address in (b) above, if their license or [JCAHO] accreditation is terminated, suspended, or not renewed, within five business days of the action taken against their license or accreditation.

1.-3. (No change.)

10:75-1.4 Beneficiary eligibility

(a) Medicaid/NJ FamilyCare beneficiaries under age 21, and those non-Medicaid/NJ FamilyCare-eligible children who are enrolled [in the Partnership for Children (PFC)] **with the DCSOC** who require PRTF services, shall be eligible to receive services in a psychiatric residential treatment facility (PRTF).

(b) A Medicaid/NJ FamilyCare or [PFC] **DCSOC** resident who was receiving services immediately prior to attaining age 21 may continue to receive services until they are no longer needed or until the resident reaches age 22, whichever occurs first.

10:75-1.5 Recordkeeping

(a) PRTFs shall keep such legible individual records for each resident as are necessary to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. This information shall be available upon the request of the DHS **and/or DCF/DCSOC** or its authorized agents, including, but not limited to, DMAHS, the Care Management Organization (CMO) and/or the Contracted Systems Administrator (CSA), as well as the Department of Health [and Senior Services (DHSS)], and the Centers for Medicare and Medicaid Services (CMS).

(b) An individual record shall be maintained for each Medicaid/NJ [FamilyCare/NJ FamilyCare/PFC] **FamilyCare DCF/DCSOC** resident. The record shall include the individual’s medical, nursing, social, and related treatment and care in accordance with this chapter and all accepted professional standards.

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

(e) All information contained in the clinical records shall be treated as confidential and shall be disclosed only to authorized persons, including the Department and its agents, **DCF/DCSOC**, the CSA, and the CMO.

10:75-1.6 Serious occurrences

(a) [A serious occurrence is defined as the death, suicide attempt or serious injury of a resident. A serious injury is defined as any significant impairment of the physical condition of the resident as determined by qualified medical personnel, including, but not limited to, burns, lacerations, bone fractures, substantial hematoma(s) and injuries to internal organs, whether self-inflicted or inflicted by someone else.] In the event of any serious occurrence, all PRTF providers shall report the occurrence to the appropriate authorities in accordance with 42 [C.F.R.] **CFR** 483.374(b) and (b) through (d) below.

(b) (No change.)

(c) In-State PRTF providers who are licensed by, and under contract with, [the Division of Youth and Family Services (DYFS) or the Division of Mental Health Services (DMHS)] **DCF/DCSOC** shall report all serious occurrences as follows:

1.-4. (No change.)

(d) In-State PRTF providers who are licensed by, and under contract with, agencies other than [DYFS or DMHS] **DCF/DCSOC** shall report all serious occurrences as follows:

1.-4. (No change.)

(e) Out-of-State PRTF providers licensed by, and under contract with, NJ [DYFS or DMHS] **DCF/DCSOC** shall report all serious occurrences as follows:

1.-4. (No change.)

(f) Out-of-State PRTF providers who are not licensed by and under contract with NJ [DYFS or DMHS] **DCF/DCSOC** shall report all serious occurrences as follows:

1.-4. (No change.)

(g) All PRTF providers, both in-State and out-of-State, who are licensed by and under contract with [NJ] **New Jersey** agencies other than [DYFS or DMHS] **DCF/DCSOC**, shall conduct an internal review of the serious occurrence. The provider shall submit a written follow-up report to the DMAHS Incident Report Coordinator at the address in (d)1 above. This report shall be filed no later than 45 working days following the incident. A complete follow-up report shall include, at a minimum:

1.-6. (No change.)

(h)-(i) (No change.)

SUBCHAPTER 2. PROGRAM REQUIREMENTS

10:75-2.1 General requirements

(a) Reimbursable PRTF services under the Medicaid/NJ [FamilyCare/Partnership for Children] **FamilyCare/DCF/DCSOC** programs shall be those services determined to be medically necessary, using professionally developed criteria and standards of care, and shall be provided under the direction of a physician in a facility that meets the requirements of N.J.A.C. 10:75-1.3.

(b) PRTF services for Medicaid/NJ [FamilyCare/PFC] **FamilyCare/DCF/DCSOC** beneficiaries under age 21 shall meet the requirements of 42 [C.F.R.] **CFR** 441.151. The services shall be provided:

1. (No change)

2. By a facility [which] **that is [JCAHO] accredited by TJC or by an agency authorized by DHS and DCF;** and

3. (No change.)

10:75-2.2 Certification of need for PRTF services

(a) Prior to admission to the facility, PRTF services shall be certified in writing to be necessary, in accordance with 42 [C.F.R.] **CFR** 441.152. Certification of the need for services shall be made by an interdisciplinary team, composed of [Department of Human Services (DHS)] **DCF/DCSOC**, Care Management Organization (CMO), or the State's Contracted Systems Administrator (CSA) staff, who have knowledge of the child/youth/young adult's situation, are competent in the diagnosis and treatment of [mental illness] **mental/behavioral health challenges**, preferably in child psychiatry and include a physician.

1. For a beneficiary enrolled in the Medicaid/NJ [FamilyCare/PFC] **FamilyCare/DCF/DCSOC** program before the admission to the PRTF, the certification of need may be completed up to 45 days before admission. The form must be received by the facility prior to the admission of the child/youth/young adult.

2. For children/youth/young adults receiving services coordinated by the [PFC] **DCF/DCSOC**, this certification may be completed by the child's CMO or the CSA, if the teams assembled by the CMO or the CSA meet the requirements of 42 [C.F.R.] **CFR** 441.152.

(b) (No change.)

10:75-2.3 Authorization for PRTF services

(a) Authorization shall be required for all PRTF services rendered to children/youth/young adults who are enrolled [in the PFC] **with the DCF/DCSOC**. The agency arranging for the child/youth/young adult's admission to the PRTF shall secure the authorization as indicated in (b) and (c) below, and shall document the authorization in the agency record.

[(b) For children/youth/young adults who are enrolled in the PFC, upon registration of an ISP, the CSA will issue an authorization number for the services included in the approved ISP to the CMO. The CMO will provide this number, as needed, to the individual providers to use when seeking reimbursement.

(c) For all other beneficiaries receiving PRTF services, authorization for services will be provided by the Division of Youth and Family Services with the certification of need.]

(b) For children/youth/young adults who are enrolled with the DCF/DCSOC, upon review of an Individual Service Plan (ISP), authorization for services will be provided by the Department of Children and Families/Division of the Children's System of Care, or its designee, the State's Contracted Systems Administrator (CSA), with the certification of need.

10:75-2.4 Individual plan of care

(a) (No change.)

(b) The individual plan of care shall be based on a diagnostic evaluation that includes the examination of the medical, psychological, social, behavioral, and developmental aspects of the resident's current status and shall reflect the need for PRTF care. The appropriate professional personnel shall perform the evaluations.

1. For children/youth/young adults enrolled [in the PFC] **with the DCF/DCSOC**, the plan of care and the diagnostic evaluations shall be completed as part of their Individual Service Plan (ISP) developed by the CMO and shared with the provider who will render the service. See N.J.A.C. 10:73-3.

(c) The individual plan of care shall be developed by the team members identified at N.J.A.C. 10:75-2.4 and shall be developed in consultation with the resident and the resident's parents, legal guardians, or others into whose care the resident will be released once discharged from the facility.

1. For children/youth/young adults enrolled [in the PFC] **with the DCF/DCSOC**, the plan of care shall be developed in conjunction with the [PFC] **DCSOC** entity coordinating the beneficiary's care and shall be included in the ISP.

(d) (No change.)

(e) The individual plan of care shall include post-discharge plans, and coordination of inpatient services with partial care discharge plans and related community services to ensure the continuity of care with the resident's family school and community upon discharge.

1. For [PFC] **DCF/DCSOC** enrolled children/youth/young adults, [post discharge] **post-discharge** plans shall include and be coordinated with the ISP prepared by the child-family team (CFT) as facilitated and coordinated by the [child/youth/ young] **child/youth/young** adult's CMO care coordinator.

(f)-(g) (No change.)

10:75-2.5 Individual treatment teams

(a) (No change.)

(b) The treatment team shall include, at a minimum, either:

1.-2. (No change.)

3. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of

mental diseases, and a psychologist who has a master’s degree in clinical psychology or who has been certified by the State or by the State psychological association (see N.J.S.A. 45:14B-1 et seq.); and one of the following:

- i. (No change.)
- ii. A registered nurse with specialized training or one year’s experience in treating [mentally ill] individuals **with behavioral health challenges**; or
- iii. An occupational therapist who is licensed and who has specialized training or one year of experience in treating [mentally ill] individuals **with behavioral health challenges**.

(c) For a child/youth/young adult who is enrolled [in the PFC] **with the DCF/DCSOC**, the treatment team shall also include a minimum of one representative from the child-family team (CFT).

10:75-2.7 Temporary absence from the facility

(a) A provider may seek reimbursement for a resident’s temporary absence from the facility due to a hospital **leave** or therapeutic leave for periods of up to 14 continuous days per episode. If the beneficiary is present in the facility for any part of the day, beginning and ending at midnight, the HCPCS procedure codes for a day of service shall be used for that day. (See N.J.A.C. 10:75-5.2.)

[1. “Therapeutic leave” means a temporary absence (more than 24 consecutive hours) from the facility. Reasons for therapeutic leave include, but are not limited to, visits with parents, foster parents or guardians, attendance at a residential camp, or residence in a temporary shelter.

2. “Hospital leave” means a temporary absence (more than 24 consecutive hours) from the facility due to inpatient treatment in a hospital. Treatment in a psychiatric unit of a hospital may also be considered hospital leave.]

(b) (No change.)

SUBCHAPTER 3. EMERGENCY SAFETY INTERVENTIONS

10:75-3.1 Scope

This subchapter describes the requirements of 42 [C.F.R. 483.50] **CFR 483.350** through 483.376, related to the use of restraints and seclusion, as these requirements are applied to PRTF providers of Medicaid/NJ **FamilyCare** services.

10:75-3.12 Medical treatment for injuries resulting from the use of emergency safety interventions

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

(c) The agreements or affiliations shall ensure that:

1. (No change.)

2. Medical and other information needed for the care of the resident that is allowed to be exchanged in accordance with a State’s medical privacy law will be exchanged between the two facilities; **and**

3. Services are available 24 hours a day, seven days a week[; and].

[4.] **(d)** (No change in text.)

[**(d)**] **(e)** (No change in text.)

SUBCHAPTER 4. REIMBURSEMENT

10:75-4.1 Basis of reimbursement

(a) Reimbursement for [PRTC] **PRTF** services provided in [JCAHO] accredited facilities shall be on a per diem rate. These rates shall be based on reasonable [negotiated contracted] costs, as defined in the Department of Human Services’ Contract Reimbursement Manual and the Contract Policy and Information Manual. Providers have access to these manuals as indicated at N.J.A.C. 10:3-3.3(e)12.

1. [PRTCs] **PRTFs** shall submit claims only for those procedure codes that correspond to the allowable services included in their Medicaid/NJ FamilyCare provider application approval letter. Claims for reimbursement shall be submitted on the CMS-1500 claim form to:

[Unisys] **Molina Medicaid Solutions**
PO Box 4808

Trenton, New Jersey 08650-4808

(b) (No change.)

(c) Reimbursement for PRTC services provided in JCAHO accredited facilities that are operated by the State shall be based on reasonable costs

reported on quarterly cost reports prepared on a cost allocation plan for the Department of Human Services, in accordance with 45 C.F.R. 95.501 through 95.519. The costs for each quarter will be divided by the total number of days that the residents received services, resulting in a reimbursement rate based on actual costs to be used for monthly billings.

(d) Medicaid/NJ FamilyCare in-State providers of non-State operated PRTFs who meet the requirements in (a) through (c) above and that achieve a level of service above 85 percent will be eligible to receive a one-time incentive payment equal to one-half the difference between the actual level of service percentage and 85 percent. Any level of services above 90.5 percent shall not qualify for this incentive payment.

1. These incentive payments will take the form of an adjustment to the amount paid in excess of the provider’s reimbursable contract ceiling and will be determined at contract closeout.

2. The base used for determining the incentives will be the actual audited contract closeout data, limited to include service activity beginning on or after January 1, 2001 through the last date of the contract term ending on or prior to December 31, 2001. Future cost reports will not be adjusted to reflect this payment.]

[**(e)**] **(c)** (No change in text.)

SUBCHAPTER 5. HEALTHCARE COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:75-5.1 Introduction

(a) The New Jersey Medicaid/NJ FamilyCare program utilizes the Centers for Medicare and Medicaid Services’ Healthcare Common Procedure Coding System (HCPCS). HCPCS follows the American Medical Association’s Physicians’ Current Procedural Terminology (CPT) architecture, employing a five-position code and as many as two 2-position modifiers. Unlike the CPT numeric design, the CMS assigned codes and modifiers contain alphabetic characters. HCPCS [was developed as a three-level] **is a two-level** coding system.

1.-2. (No change.)

[3. Level III Codes: These codes are assigned by the Division to be used for those services not identified by CPT codes or HCFA-assigned codes. Level III codes identify services unique to the New Jersey Medicaid/NJ FamilyCare or PFC programs.]

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

10:75-5.2 PRTF procedure codes

	<u>IND</u>	<u>Code</u>	<u>Mod</u>	<u>Description</u>	<u>Maximum Fee Allowance</u>
Y9947				Mental health rehabilitation services provided in [JCAHO] TJC or DHS/DCF authorized agency accredited RTCs licensed by [the Division of Mental Health Services] DCF .	Contract pricing
Y9948				Mental health rehabilitation services provided in [JCAHO] TJC or DHS/DCF authorized agency accredited PRTFs licensed by [the Division of Youth and Family Services] DCF .	Contract pricing
Y9949				Therapeutic Leave—[JCAHO] TJC or DHS/DCF authorized agency accredited PRTFs licensed by [the Division of Mental Health Services] DCF or enrolled by the Division of Medical Assistance and Health Services.	Contract pricing
Y9950				Hospital Leave—[JCAHO] TJC or DHS/DCF authorized agency accredited PRTFs licensed by the [Division of Mental Health Services] DCF or under contract with the Division of or enrolled by the	Contract pricing

	Division of Medical Assistance and Health Services.	
Y9951	Therapeutic Leave for beneficiaries residing in [JCAHO] TJC or DHS/DCF authorized agency accredited RTCs licensed by [DYFS] DCF.	Contract pricing
Y9952	Hospital Leave for beneficiaries residing in [JCAHO] TJC or DHS/DCF authorized agency accredited RTCs licensed by [DYFS] DCF.	Contract pricing

LAW AND PUBLIC SAFETY

(a)

**DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF EXAMINERS OF MASTER PLUMBERS**

**Temporary Courtesy License; Fee Schedule
Proposed New Rules: N.J.A.C. 13:32-2.8 and 7.5B
Proposed Amendment: N.J.A.C. 13:32-5.1**

Authorized By: New Jersey Board of Examiners of Master Plumbers, Rosemarie Baccile, Acting Executive Director.

Authority: N.J.S.A. 45:14C-7 and P.L. 2013, c. 264.

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

Proposal Number: PRN 2016-113.

Submit written comments by September 16, 2016, to:

Rosemarie Baccile, Acting Executive Director
New Jersey Board of Examiners of Master Plumbers
PO Box 45008
124 Halsey Street
Newark, New Jersey 07101
or electronically at: <http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>.

The agency proposal follows:

Summary

P.L. 2013, c. 264, established a procedure by which an individual who is licensed in another state and who is the spouse of an active duty member of the Armed Forces of the United States (Armed Forces) may obtain a courtesy temporary license in New Jersey. The Board of Examiners of Master Plumbers (Board) proposes new rules N.J.A.C. 13:32-2.8 and 7.5B to effectuate P.L. 2013, c. 264. Pursuant to the proposed new rules and amendment, an applicant who seeks a temporary courtesy license as a plumber or a temporary courtesy certification as a medical gas piping installer, brazer, or instructor will have to be licensed or certified in another state that has licensure or certification requirements equivalent to those in New Jersey, cannot be a resident of New Jersey, and must be the spouse of an active duty member of the Armed Forces who has been transferred to New Jersey. An applicant would not be eligible for a license or certification if he or she has committed an act that resulted in action being taken against his or her license or certification or was the subject of an investigation by a licensing entity in the other state. An applicant will be required to submit an application, application fee, license or certification fee, verification of licensure or certification from every state in which he or she was ever licensed or certified, and proof that he or she practiced for at least two of the last five years. A temporary courtesy license or certification would be valid for one year and could be renewed for an additional year upon application to the Board. The holder of a temporary courtesy license as a master plumber would be required to complete the continuing education requirements of N.J.A.C. 13:32-6.1.

The Board also proposes to amend N.J.A.C. 13:32-5.1 to introduce a new temporary courtesy license fee of \$80.00, a temporary courtesy certification fee as a medical gas piping installer or instructor of \$75.00, and a temporary courtesy certification fee as a medical gas piping brazer of \$25.00.

The Board has determined that the comment period for this notice of proposal will be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Social Impact

The proposed new rules and amendment will have a positive impact on master plumbers and medical gas piping installers, instructors, and brazers who are licensed or certified in another state and are the spouses of active duty members of the Armed Forces who have been transferred to New Jersey. Such individuals will be able to obtain temporary licenses or certifications and practice in New Jersey.

Economic Impact

The proposed new rules and amendment would have an economic impact on eligible individuals who seek temporary courtesy licenses or certifications in that they will be bearing the costs of submitting an application and the application fee and initial license or certification fee.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the proposed new rules and amendment.

Jobs Impact

The Board does not believe that the proposed new rules and amendment will increase or decrease the number of jobs in New Jersey.

Agriculture Industry Impact

The Board does not believe that the proposed new rules and amendment will have any impact on the agriculture industry of this State.

Regulatory Flexibility Statement

As applicants for temporary courtesy licenses or certifications are not licensed or certified and, therefore, cannot provide plumbing or medical gas piping services, they do not constitute "small businesses" for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed new rules and amendment will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed new rules and amendment would evoke a change in the average costs associated with housing because the rules concern temporary courtesy master plumber licenses and temporary courtesy medical gas piping certifications.

Smart Growth Development Impact Analysis

The proposed new rules and amendment will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed new rules and amendment would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules concern temporary courtesy master plumber licenses and temporary courtesy medical gas piping certifications.

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

SUBCHAPTER 2. APPLICATION, EXPERIENCE REQUIREMENTS, EXAMINATION

13:32-2.8 Temporary courtesy license

(a) An applicant may obtain a temporary courtesy license pursuant to P.L. 2013, c. 264, if he or she:

- 1. Is currently licensed in good standing in another state or territory of the United States, or the District of Columbia that has licensure requirements equivalent to those in New Jersey;**
- 2. Is not a resident of New Jersey;**
- 3. Has not committed an act in another jurisdiction that would have constituted grounds for the denial, suspension, or revocation of**