

Housing Affordability Impact Analysis

The proposed amendment will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendment would evoke a change in the average costs associated with housing because the proposed amendment governs residency tuition requirements for the State’s public colleges and universities.

Smart Growth Development Impact Analysis

It is extremely unlikely that the proposed 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, because the proposed amendment governs residency requirements for tuition purposes at public colleges and universities.

Full text of the proposal follows (additions indicated in boldface thus):

SUBCHAPTER 1. ELIGIBILITY FOR STATE RESIDENT TUITION

9A:5-1.1 State domicile required

(a)-(g) (No change.)

(h) United States military personnel and their dependents who are living in New Jersey and are attending public institutions of higher education in New Jersey shall be regarded as residents of the State for the purpose of determining tuition.

1. As used in this subsection, a dependent means an individual who is eligible for covered individual status under 38 U.S.C. § 3679(c).

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

AFDC-Related Medicaid

Proposed Readoption with Amendments: N.J.A.C. 10:69

Proposed Repeal: N.J.A.C. 10:69-5.5

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Authority: N.J.S.A. 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: 17-P-01.

Proposal Number: PRN 2017-095.

Submit comments by September 1, 2017, to:

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10:69, the AFDC-Related Medicaid chapter, was scheduled to expire on June 22, 2017. As the Department of Human Services (Department) filed this notice of proposed readoption with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to December 19, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). Aid to Families with Dependent

Children (AFDC)-related Medicaid is a State program with Federal participation designed to make payments to providers for medical care and services on behalf of certain individuals whose income is determined to be inadequate to enable them to secure quality medical care at their own expense. The Department proposes to readopt N.J.A.C. 10:69 with amendments. The chapter regulates the procedures and standards applied in the administration of the AFDC-related Medicaid program.

The Department has reviewed the chapter and finds that it should be readopted, with the amendments described below, because the rules are necessary, reasonable, adequate, efficient, understandable, and responsive to the purposes for which they were originally promulgated.

N.J.A.C. 10:69 is organized into the following 12 subchapters:

Subchapter 1, AFDC-Related Medicaid in New Jersey, contains the background, purpose and scope of the chapter, the administrative organization of the Division, the segments of the AFDC-related Medicaid program, and definitions of terms that are used throughout the chapter.

Subchapter 2, The Application Process, contains requirements related to the role of the client, the county welfare agency (CWA), and the Division in the submission and processing of applications, and general eligibility factors.

Subchapter 3, Establishing Program Eligibility in AFDC-related Medicaid, explains the procedures for establishing eligibility for AFDC-related Medicaid, including documentation and recording of program eligibility requirements. It also contains requirements concerning income, the components of an eligible unit, citizenship, identity, age, parental support, absent parents, residency and temporary absence from the State, family members in institutions, and legally responsible relatives. Requirements concerning the liquidation of all debts, claims, interests, settlements, and trust funds, and repayment are also included, as well as actions to be taken by the CWA regarding voluntary liquidation.

Subchapter 4, Medicaid Special, contains general provisions regarding the program, determination of eligibility, and eligibility of college students related to Medicaid Special.

Subchapter 5, Continuing Eligibility in AFDC-Related Medicaid, contains criteria to be met to continue eligibility in the program. This subchapter contains requirements regarding periodic redetermination, competency and institutional status, deprivation of parental support, marriage or remarriage, special conditions relating to parent(s), and a legally responsible relative’s capacity to support the applicant. Requirements for recording and recommendation for changes in AFDC-Related Medicaid eligibility are provided. Requirements regarding notice of agency decision, periodic notice to the beneficiary, extension of Medicaid benefits, and change in the eligible unit are also provided in Subchapter 5.

Subchapter 6, Complaints, Hearings, and Administrative Reviews, includes definitions, provisions regarding the right to a fair hearing and administrative review, and the responsibilities of the CWA and the Division of Medical Assistance and Health Services. The subchapter also addresses the responsibilities of the Office of Administrative Law upon transmittal of a contested case from the Division, administrative hearings and administrative reviews, complaint and adjustment procedures, time limitations on entitlement to fair hearings, eligibility for continued Medicaid coverage, and access to discovery of information in contested cases. Additional rules include representation at hearings, adjournments, hearings involving medical issues, and decisions by the Director of the Division of Medical Assistance and Health Services.

Subchapter 7, Case Records and Files, explains the purpose of case records, what documents belong in the case record, how documentation of verification of eligibility requirements must be recorded in the case record, and how the case records are to be maintained, moved, transferred, retained, and destroyed. Also included are the agency controls for other operational procedures, disclosure of records or information for formal proceedings, and the release of information for statistical purposes.

Subchapter 8, Other Governmental Programs, sets forth retirement, survivors, and disability insurance (RSDI). The subchapter explains the procedures for securing information from the Social Security

Administration (SSA) and the release of information from the CWA to the SSA. Also included is the entitlement of RSDI to a child born of unmarried parents. Finally, functions of the U.S. Department of Veteran Affairs, the New Jersey Division of Employment Services, and the Availability of Work First New Jersey benefits are included.

Subchapter 9, Other Agency Responsibilities, describes other responsibilities of the CWA. These responsibilities include adhering to all applicable laws and regulations, issuance and maintenance of the manual, reporting requirements, issuance of program identification cards, separation of income maintenance and social services, payment of funeral and burial expenses, reporting child abuse and neglect, confidentiality of information, release of records or information, distribution of material to applicants or clients, non-discrimination, extent of prohibited discriminatory practices, payments to vendors, policies concerning fraud and abuse, and reporting of criminal offenses to law enforcement authorities. The rights of individuals under investigation are included, as well as the basis for recovery of incorrectly paid benefits for purposes other than fraud or third-party liability.

Subchapter 10, Income, describes the financial eligibility standards, the standard of need (effective July 1, 1992), total gross income limits, and "eligible unit" for all AFDC-related Medicaid programs. The subchapter also discusses eligible person temporarily in an institution, eligible AFDC child or parent regularly attending school or in vocational training at a residential Job Corps center, school attendance, general provisions regarding income, and the definition of earned income. The subchapter explains earned income from self-employment including provision of personal care services, earned income disregards for AFDC-related Medicaid, disregard of certain allowances, and payments in the AFDC-related Medicaid program (all segments) for participation in Job Training Partnership Act (JTPA) programs and earned income disregards of a child who is a full or part-time student. Income from family day care is discussed, as well as the Division of Child Protection and Permanency payments for foster care, unearned income, income from roomer-boarders and table boarders, income from apartments, rooms or housekeeping units in the eligible unit's home, contributions of support, and exempt income. Also explained in this subchapter are nonrecurring earned or unearned lump sum income, child support received by the eligible unit, prospective budgeting, eligibility, income from eligible and non-eligible individuals in the household, penalty of ineligibility for Child Support and Paternity (CSP) program sanction, needs of certain children temporarily in the home, initial eligibility, and application of disregards and procedures for determining initial eligibility for AFDC-C-, AFDC-F-, and AFDC-N-related Medicaid. In addition, the AFDC-C procedures for stepparents and companion cases are described. The calculation of contract earning income is discussed, as well as calculation of earnings as a lump sum payment. Requirements for evaluating legally responsible relatives' (LRRs') capacity to support, acceptable forms of support from legally responsible relatives, and eligibility of sponsored aliens are provided, as are requirements for deeming a sponsor's income to a sponsored alien and deeming income of parents to adolescent parents.

Subchapter 11, Resources, explains the treatment of resources to determine AFDC-related Medicaid eligibility.

Subchapter 12, Presumptive Eligibility for AFDC-Related Medicaid Children, discusses the scope of the rules, the period of presumptive eligibility, the requirements for presumptive eligibility determination entities, the responsibility of the entity processing the application, the responsibility of the applicant, the rights of the applicant with regard to notification and fair hearings, the scope of services offered, and the limitations on the number of presumptive eligibility periods.

Summary of General Changes

Throughout the chapter 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.

Throughout the chapter all references to the "Division of Mental Health Services" and "DMHS" are replaced with references to the "Division of Mental Health and Addiction Services" and "DMAHS," as

appropriate, to reflect the current name of that Division within the Department of Human Services.

Throughout the chapter 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.

Throughout the chapter all 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 "Division of Child Protection and Permanency," "DCP&P," or the name of the State agency that currently fulfills the duty described in each specific instance.

Throughout the chapter 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.

Throughout the chapter all references to "county board of social services" or "CBOSS" are replaced with the preferred terminology for the agency, which is "county welfare agency" or "CWA."

Throughout the chapter all references to "Medicaid District Offices" or "MDO" are replaced with the preferred terminology for the agency which is "Medical Assistance Customer Center" or "MACC."

Throughout the chapter all references to "NJ KidCare" are replaced with references to "NJ FamilyCare-Children's Program" to reflect the current name of that program.

Throughout the chapter all references to "drug treatment centers" are changed to "substance use disorder treatment facilities" and the term "substance abuse" is changed to "substance use disorder."

Throughout the chapter all references to the U.S. Immigration and Naturalization Service (INS) are changed to reflect the current name of the agency, which is U.S. Citizenship and Immigration Services (USCIS).

Throughout the chapter the name of the program identification card issued to beneficiaries is changed from "Medicaid Eligibility Card" to "Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter" to indicate the current form of program identification issued by the DMAHS to all beneficiaries.

Throughout the chapter minor non-substantive revisions of grammar, style, spelling, and punctuation are proposed; unnecessary cross-references and any duplicative or otherwise unnecessary text are proposed for deletion; and names and/or contact information and addresses of agencies are updated when needed. Parentheses are eliminated and associated text is revised, as appropriate, to maintain grammatical correctness.

Summary of Specific Amendments

N.J.A.C. 10:69-1.4(c) is proposed for deletion because income maintenance programs are no longer administered by the Medicaid program; those programs are administered by the Division of Family Development.

At N.J.A.C. 10:69-1.5 the definitions of "CBOSS," "CBOSS Director," "county board of social services," "DYFS," "MDO," and "Relatives, legally responsible" are proposed for deletion because these terms are no longer used in this chapter, as amended.

At N.J.A.C. 10:69-1.5 the definitions of "county welfare agency (CWA)," "CWA Director," "Department of Children and Families (DCF)," "DCP&P," "Department of Human Services (DHS)," "Health Benefits Identification (HBID) Card," "Health Benefits Identification (HBID) Emergency Services Letter," "Legally responsible relative," "MACC," and "Secondary school" are proposed to be added to the list of definitions because these terms are used in the chapter, as amended.

At N.J.A.C. 10:69-1.5 the definition of "caretaker relative" is proposed for amendment to remove references to presumptive eligibility because this definition is used for all applications, not only presumptive eligibility applications.

At N.J.A.C. 10:69-1.5 the definition of "DDD" is proposed for amendment to indicate that the Division of Developmental Disabilities is a division in the Department of Human Services.

At N.J.A.C. 10:69-1.5 the definition of "DFD" is proposed for amendment to indicate that the Division of Family Development is a division in the Department of Human Services.

At N.J.A.C. 10:69-1.5 the definition of “disregards” is proposed for amendment to delete the reference to only “earned” income and provides a referral to N.J.A.C. 10:69-10 for more detailed information.

At N.J.A.C. 10:69-1.5 the definition of “DVRs” is proposed for amendment to indicate that the Division of Vocational and Rehabilitative Services is a division in the Department of Human Services.

At N.J.A.C. 10:69-1.5 the term “mandatory payroll deductions” is proposed for amendment to add Medicare to the list of deductions, as well as adding the phrase “including, but not limited to,” to indicate that the list provided may not be inclusive of all mandatory payroll deductions associated with an individual’s salary.

At N.J.A.C. 10:69-2.3(a)2, a proposed amendment expands the sources of income verification listed on the consent statement that the beneficiary signs when applying for benefits. This amendment memorializes compliance with provisions of the Patient Protection and Affordable Care Act of 2010, and the Health Care and Education Reconciliation Act of 2010, collectively referred to as the Affordable Care Act (ACA), which became effective on January 1, 2014.

At N.J.A.C. 10:69-2.8(c), a proposed amendment indicates that an applicant who is an adoptive parent has the option of applying for benefits for just the children in the house, just him or herself, or everyone in the household.

Proposed new N.J.A.C. 10:69-2.8(f) describes the procedure of assigning a number to an individual without a Social Security number available until proof of the Social Security number is secured.

At N.J.A.C. 10:69-2.9(d)1, a proposed amendment changes the name of the Division of Motor Vehicles to the current name of the agency which is Motor Vehicle Commission.

At N.J.A.C. 10:69-2.11, a proposed amendment makes a grammatical correction by adding the phrase “for benefits” and removes the phrase “even though temporary” because it is unnecessary; individuals should apply for benefits in the county in which they live, so it is sufficient to end the sentence without that phrase.

At N.J.A.C. 10:69-2.15(a), a proposed amendment allows for translations to languages other than English, in addition to Spanish, based on the population of the area served by a specific CWA.

N.J.A.C. 10:69-2.15(c)2 is proposed for deletion and replacement to remove the reference to a specific document and add generic language stating that information about the fair hearing process will be provided.

At N.J.A.C. 10:69-2.15(c)4, a proposed amendment removes the reference to the food stamp program and replaces it with the current name of the agency, which is the Supplemental Nutrition Assistance Program (SNAP).

At N.J.A.C. 10:69-2.15(f), a proposed amendment clarifies that when coverage is based on an earnings projection, eligibility will be terminated after the initial month of eligibility unless verification of earnings is provided.

Proposed new N.J.A.C. 10:69-2.18(g) states that, after the initial application, re-verification is required only for those factors that are subject to change or for those factors for which the original verification has become questionable.

At N.J.A.C. 10:69-2.19(a)2ii, a proposed amendment states that a newborn shall be added to the Medicaid case of the mother effective on the date of birth, once the CWA is notified of the birth. The requirement to use the PA-1C form is deleted because the CWA does not need to be notified in that manner of the birth of a child.

At N.J.A.C. 10:69-3.3(b)2, a proposed amendment adds tax records to the list of sources of collateral evidence to establish eligibility.

At N.J.A.C. 10:69-3.9(a)1, a proposed amendment clarifies the definition of a citizen of the United States to include children born to American citizens outside the U.S. and its outlying possessions, in accordance with Section 301 of the Immigration and Nationality Act.

There are two paragraphs of N.J.A.C. 10:69-3.9 that were both codified as (f).

In the first paragraph currently codified as N.J.A.C. 10:69-3.9(f), proposed amendments remove the signing of a declaration under penalty of perjury regarding United States citizenship as proof of United States citizenship and requires that satisfactory documentation be provided. Additionally, a reference to N.J.A.C. 10:69-2 for information on the

Systematic Alien Verification for Entitlements (SAVE) program is deleted because information about that Federal program is not codified in this chapter.

In the first paragraph currently codified as N.J.A.C. 10:69-3.9(f), proposed new subparagraph (f)1x allows for documentation of citizenship that is in compliance with 42 U.S.C. §§ 1396b(i)(22) and (x), and the regulations adopted thereunder, that is not included in the list provided at N.J.A.C. 10:69-3.9(f)1i through ix, to be accepted as proof of citizenship.

The second paragraph currently codified as N.J.A.C. 10:69-3.9(f) is proposed for deletion because the procedures regarding the approval of individuals who cannot immediately provide documentation of U.S. citizenship have changed and are codified at proposed new N.J.A.C. 10:69-3.9(g).

Proposed new N.J.A.C. 10:69-3.9(g) states that an applicant who asserts that he or she is a U.S. citizen, a U.S. national, or otherwise eligible non-citizen, shall be given reasonable opportunity to submit the documentation to prove their status, in compliance with Section 1903(x)(4) of the Social Security Act (42 U.S.C. § 1396b(x)(4)).

Proposed new N.J.A.C. 10:69-3.9(g)1 defines reasonable opportunity as being six months from the declaration of being a citizen or qualified non-citizen. Proposed new N.J.A.C. 10:69-3.9(g)1i, ii, and iii detail the documentation request process and the reminder notification process and the consequence of termination if the required documentation is not submitted. If all other eligibility requirements are met, the applicant will be immediately approved for benefits and those benefits shall continue until the end of the reasonable opportunity period.

At N.J.A.C. 10:69-3.16(e), a proposed amendment removes the reference to “Form PA-1J” since the application form is no longer numbered PA-1J.

At N.J.A.C. 10:69-3.20(b), the reference to issuing Medicaid cards is deleted.

The codification of N.J.A.C. “10:69-3.24(b)4iv1.” is corrected to read N.J.A.C. “10:69-3.24(b)4iv(1)”. The final clause referring to the issuance of the next month’s Medicaid card is proposed for deletion because monthly cards are no longer issued since the introduction of the permanent plastic identification cards.

At N.J.A.C. 10:69-3.27(b)1, proposed amendments change the terms “retarded” and “penal institution” to “intellectually disabled” and “correctional facility” to use the preferred terms. Also, the reference to the New Jersey Neuro-Psychiatric Institute is deleted because that facility no longer exists.

At N.J.A.C. 10:69-3.29(a)1, a proposed amendment removed the reference to N.J.A.C. 10:69-11.5 because this rule no longer exists.

At N.J.A.C. 10:69-4.1(d)2iii, a proposed amendment allows a child to remain eligible for Medicaid Special benefits for a period of one year, even if the child is not living with his or her mother.

At N.J.A.C. 10:69-5.2(d), proposed amendments require that the beneficiary’s redetermination date shall depend on the month in which the permanent Health Benefits Identification Card is issued, and delete the example.

N.J.A.C. 10:69-5.5 is proposed for repeal. There is no temporary payee for AFDC-Related Medicaid benefits because they are not cash benefits.

At N.J.A.C. 10:69-5.7, a proposed amendment deletes a reference to N.J.A.C. 10:69-10.34 because that rule no longer exists.

At N.J.A.C. 10:69-5.11(b), a proposed amendment adds a reference to N.J.A.C. 10:69-6.1, which contains the definition of timely notice. Additionally, N.J.A.C. 10:69-5.11(b)1 is proposed for deletion because the rules referenced in that paragraph no longer exist.

At N.J.A.C. 10:69-5.13(c), a proposed amendment replaces a reference to the Division of Medical Assistance and Health Services with a reference to the CWA to indicate the specific office within the Division that is responsible for the determination of eligibility.

At N.J.A.C. 10:69-5.13(e), a proposed amendment removes the requirement that a newborn must live with his or her mother in order to remain eligible for extended Medicaid benefits for a period of one year. The requirement that the mother remains eligible, or would be eligible if pregnant, is not changed.

At N.J.A.C. 10:69-6.3(e)1, a reference to Bureau of Legal and Regulatory Liaison (BLRL) is changed to the current name of the office, which is the Bureau of Administrative Review and Appeals (BARA). Corresponding changes to similar references at N.J.A.C. 10:69-6.3(e)2 and 6 are also proposed.

At N.J.A.C. 10:69-6.4(a), (b), and (c) and 6.7(d) and (e), the acronym BLRL is replaced with BARA as a result of the change described above.

Proposed new N.J.A.C. 10:69-7.4(c) requires that all records be maintained in accordance with the Division of Revenue and Enterprise Services' office of Records Management Services (RMS) policy found at N.J.A.C. 15:3.

At N.J.A.C. 10:69-7.7(c)4, a proposed amendment provides the correct office and address to which the completed Request and Authorization for Records Disposal shall be submitted for approval.

Proposed new N.J.A.C. 10:69-7.7(c)5 provides the RMS website.

At N.J.A.C. 10:69-8.3, a proposed amendment defines the acronym "SSA" in the heading as "Social Security Administration."

At N.J.A.C. 10:69-8.5, an amendment changes the name of the Division of Employment Services to the current name of the agency, which is the Department of Labor and Workforce Development. This change is proposed in the heading and throughout the section.

At N.J.A.C. 10:69-8.5(b), a proposed amendment provides the correct mailing address of the Department of Labor and Workforce Development.

At N.J.A.C. 10:69-8.5(d)1, a proposed amendment changes the name of the State Employment Centers with the current name of the agency responsible for processing unemployment claims, which is the Reemployment Call Center and provides a website for the agency as well.

At N.J.A.C. 10:69-8.5(d)3, a proposed amendment requires the CWA caseworker to use the Department of Labor and Workforce Development's Local Office Online Payment System (LOOPS) to confirm unemployment status in each case, not only when they suspect that they are getting incomplete information from the client.

At N.J.A.C. 10:69-8.5(e)3, a proposed amendment requires the CWA caseworker to confirm the status of a temporary disability claim via access to the Department of Labor and Workforce Development's Disability Automated Benefit System (DABS).

At N.J.A.C. 10:69-8.6(c)2, a proposed amendment provides updated contact information for the Department of Military and Veterans' Affairs.

At N.J.A.C. 10:69-9.2(b), a proposed amendment provides a website at which the most updated version of the chapter can be found; the mailing address to which a request for a copy of the chapter can be sent is updated; and states that all State policy and directives and other supplementary information shall be placed on the Division's website.

At N.J.A.C. 10:69-9.4, a proposed amendment changes the heading of the section to "identification cards," rather than "Medicaid cards."

N.J.A.C. 10:69-9.4(a) is proposed to be deleted and replaced, to describe the process of issuing permanent plastic Health Benefit Identification (HBID) cards and HBID emergency services letters, instead of monthly paper identification cards to beneficiaries. This proposed subsection is consistent with already adopted text at N.J.A.C. 10:49-2.15.

Proposed new N.J.A.C. 10:69-9.4(c) states that a beneficiary who resides in a State or county institution shall be identified by the FD-34 Form, "Validation of Eligibility" in accordance with N.J.A.C. 10:49-2.16.

At N.J.A.C. 10:69-9.12(a), proposed amendments update the references to the Federal regulations regarding discrimination and adds sex, religion, and age to the list of attributes that are addressed by the laws, adds a reference to Section 1557 of the Affordable Care Act, and changes the term "handicap" to the term "disability" to be consistent with the language of the law. Corresponding changes are also proposed at N.J.A.C. 10:69-9.12(a)1, 2, and 3 and the address of the New York City office of the U.S. Department of Health and Human Services is updated.

At N.J.A.C. 10:69-10.22(b)9, a proposed amendment defines the acronym "EEI" as meaning Early Employment Initiative.

At N.J.A.C. 10:69-10.24, a proposed amendment changes the heading of the section to "Treatment of Support Income and Payments" and codifies the existing text as paragraph (a), due to the addition of new subsection (b).

Proposed new N.J.A.C. 10:69-10.24(b) states that if child support and alimony is paid by any member of the eligible unit to an individual who does not live in the same household, that amount is deducted from the eligible unit's income determination. This change memorializes compliance with the ACA, which excludes alimony and child support payments when calculating an applicant's income amount.

At N.J.A.C. 10:69-10.25(b), a proposed amendment changes the reference from income "averaging" to "projections" to indicate which method the CWA shall use to estimate an applicant's income.

At N.J.A.C. 10:69-10.25(b)1, a proposed amendment requires that income projections be calculated based on the submission of documentation of a typical full pay period from each employer who provides wages to the applicant and/or members of the eligible unit.

At N.J.A.C. 10:69-10.25(b)2, a proposed amendment changes references from "averaged" to "reported" when converting reported income to a gross monthly amount.

At N.J.A.C. 10:69-10.25(c)2, a proposed amendment changes references from "calendar days" to "business days" for when families are required to report changes to CWA staff, so that days when the CWA staff are unavailable are not counted against the beneficiary's timeframe. The same change is proposed at N.J.A.C. 10:69-10.25(e)3.

N.J.A.C. 10:69-10.25(e)4 and 5 are proposed for deletion because the changes and examples given are already required to be reported to CWA staff, so this language is duplicative.

At N.J.A.C. 10:69-12.4(a) and (b), references to the "certificate of presumptive eligibility" have been changed to "one-page presumptive eligibility (PE) application" to reflect the correct form that is used by providers who process PE applications. Corresponding with this change, references to "certificate" have been changed to "application" at N.J.A.C. 10:69-12.4(b)2 and 4.

At N.J.A.C. 10:69-12.5(a) and 12.6(a), proposed amendments change the term "certificate" to "application" to reflect the correct form that is used by providers who process PE applications.

The Department has determined that the comment period for this notice of proposal will be at least 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

There were approximately 319,748 persons eligible for AFDC-related Medicaid in State Fiscal Year 2016. The rules proposed for re-adoption with amendments and a repeal will have a positive social impact on applicants for, and beneficiaries of, AFDC-related Medicaid, as well as the State because these rules allow the Division to continue this program in accordance with current Federal and State standards. The rules ensure continuation of health care benefits to beneficiaries and continued reimbursement to providers, which have a positive impact on the health of the citizens of New Jersey. These rules provide relief to healthcare providers who would otherwise have to provide services out of limited charity care funds for these beneficiaries who could not otherwise access affordable health care.

Economic Impact

There were approximately 319,748 persons eligible for AFDC-related Medicaid in State Fiscal Year 2016. The Division made total payments of approximately \$210,884,175 (Federal and State share combined) to provide coverage to individuals in the program. Neither the number of individuals enrolled in the program nor the total expenditures are expected to increase or decrease as a result of the rules proposed for re-adoption with amendments and a repeal. The rules proposed for re-adoption with amendments and a repeal will not create a change in the economic impact of the program, because the Division will continue to cover the same eligible population.

Federal Standards Statement

42 U.S.C. § 1396a(a)(8) mandates that a state must process applications promptly. 42 U.S.C. § 1396(a)(19) provides a safeguard for

simplicity of administration and the best interest of the client. 42 U.S.C. § 1396a(e) contains a provision regarding continued eligibility for families ineligible because of income, resources, or hours of work. 42 U.S.C. § 1396a(a)(10)(A) provides for making medical assistance available to all individuals who meet income and resource requirements. 42 U.S.C. § 1396b(x)(4) requires states to provide an individual who declares U.S. citizenship or nationality with reasonable opportunity to present evidence of his or her claim. 42 U.S.C. § 1396u-1 requires a state to use the AFDC eligibility standards in effect as of July 16, 1996, to determine Medicaid eligibility for low-income families, unless the state, at its option, implements less restrictive standards, which New Jersey has elected to do.

Federal regulations governing eligibility for AFDC-related Medicaid are codified at 42 CFR 435.2 through 435.139.

The Department has reviewed the Federal statutes and regulations cited above and has determined that the rules proposed for re-adoption, and the proposed amendments and repeal, comply with and do not exceed, Federal standards. Therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for re-adoption with amendments and a repeal will not cause the generation or loss of jobs in the State of New Jersey.

Agriculture Industry Impact

Since the rules proposed for re-adoption with amendments and a repeal concern the eligibility standards that are used to determine an individual's eligibility for benefits under the AFDC-related Medicaid program, the Department anticipates no impact on the agriculture industry in the State of New Jersey.

Regulatory Flexibility Statement

The rules proposed for re-adoption with amendments and a repeal have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for re-adoption with amendments and a repeal do not impose reporting, recordkeeping, or other compliance requirements on small businesses; therefore, a regulatory flexibility analysis is not required. The rules proposed for re-adoption with amendments and a repeal regulate the determination of Medicaid eligibility of individuals. Eligibility for Medicaid is determined by governmental agencies rather than private business entities.

Housing Affordability Impact Analysis

Since the rules proposed for re-adoption with amendments and a repeal concern the eligibility standards that are used to determine an individual's eligibility for benefits under the AFDC-related Medicaid program, the Department anticipates that the rules proposed for re-adoption with amendments and a repeal will have no impact on the average costs associated with housing nor on the affordability of housing.

Smart Growth Development Impact Analysis

Since the rules proposed for re-adoption with amendments and a repeal concern the eligibility standards that are used to determine an individual's eligibility for benefits under the AFDC-related Medicaid program, it will have no impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:69.

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

SUBCHAPTER 1. AFDC-RELATED MEDICAID IN NEW JERSEY

10:69-1.2 Purpose and scope

The purpose of this chapter is to set forth the policies and procedures necessary for the orderly and equitable provision of AFDC-related Medicaid on a Statewide basis. It is binding on the [county boards of social services (CBOSSs)] **county welfare agencies (CWAs)** and enforceable by the Division of Medical Assistance and Health Services

(DMAHS). Questions of interpretation shall be resolved by the Division of Medical Assistance and Health Services.

10:69-1.3 Administrative organization

(a) The Department of Human Services (**Department**) is the administrative unit of State government, which has the responsibility for the Medicaid program and is designated under Federal law as the "single State agency."

(b) The Division of Medical Assistance and Health Services (**DMAHS**) is the administrative unit of the Department responsible for the general policies governing the administration of medical assistance, and for effecting the issuance of rules and administrative bulletins to implement statutory provisions and to coordinate the administration of medical assistance with the Division of Family Development. [The Division of Medical Assistance and Health Services] **DMAHS** provides for the payment of claims, evaluates health services rendered under the program, maintains administrative liaison with the other Departmental divisions, and establishes incapacity under the AFDC-related Medicaid program.

(c) [The Division of Medical Assistance and Health Services] **DMAHS** has local [Medicaid District Offices (MDOs)] **Medical Assistance Customer Centers (MACCs)** throughout the State. The role of these offices is to act as a liaison with providers of health services; provide information about Medicaid to beneficiaries and members of the community; and provide information about Medicaid to, and cooperate with, appropriate agencies in order to ensure maximum utilization of the services available through the Medicaid program.

10:69-1.4 [AFDC-related] **Aid to Families with Dependent Children (AFDC)-related Medicaid**

(a) (No change.)

(b) The [Aid to Families with Dependent Children-related] **AFDC-related Medicaid** program is composed of two segments:

1.-2. (No change.)

[(c) Information, applications and staff agency personnel shall be available to assist non-English speaking applicants for AFDC-related Medicaid income maintenance programs listed in N.J.A.C. 10:69-1.8. Spanish language program material is routinely prepared by the Division and distributed to county agencies. Minority program materials in languages other than Spanish may be prepared based on knowledge of the population served by programs under the auspices of the Division.]

10:69-1.5 Definitions

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

"Adequate notice" means notice to a client of the county [board of social services (CBOSS)] **welfare agency (CWA)** decision or action, which must state the nature, effective date, factual and legal basis of the decision or action, and the right to a fair hearing.

...

"AFDC" means the former Aid to Families with Dependent Children **program**.

...

"Agency" means the [county board of social services] **CWA**.

"Applicant" means parent or parent-person who applies for AFDC-related Medicaid and whose application has not been officially acted upon by the [CBOSS] **CWA**.

...

"Caretaker relative" means the legally responsible adult or adults residing with the children for whom the application [for presumptive eligibility] is being made. [This definition is used for application of presumptive eligibility only (see N.J.A.C. 10:69-12).]

...

"Case record" means the official file of forms, chronological narrative, correspondence, and other documents pertinent to the application and eligibility of client case record. It constitutes a complete record which supports the decisions and actions of the [CBOSS] **CWA** on a case.

...

"[CBOSS]" means the county board of social services.

“CBOSS Director” means the county board of social services Director or staff member to whom he or she has delegated specified responsibility.]

... [“County board of social services” means the county agency designated to administer the AFDC-related Medicaid program.]

“County residence” relates only to identification of the [CBOSS] CWA charged by law with responsibility for the official receipt, registration, and processing of applications, and is not an eligibility requirement and does not limit the opportunity for any person residing in New Jersey to qualify for Medicaid.

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

... “CWA director” means the county welfare agency director or staff member to whom he or she has delegated a specified responsibility.

“DCP&P” means the Division of Child Protection and Permanency within DCF. This Division was formerly known as DYFS.

“DDD” means the Division of Developmental Disabilities in the Department of Human Services.

... “Department of Children and Families (DCF)” means the New Jersey Department of Children and Families.

“Department of Human Services (DHS)” means the New Jersey Department of Human Services.

... “DFD” means the Division of Family Development in the Department of Human Services.

... “Disregards” means the amount [of earned income] discounted from income in the AFDC programs according to Federal and/or State regulations. (see N.J.A.C. 10:69-10)

... “DVRS” means the Division of Vocational and Rehabilitation Services in the Department of Human Services.

[“DYFS” means the Division of Youth and Family Services in the Department of Human Services.]

... “Family size” means, in an LRR’s household, those persons identified in N.J.A.C. 10:69-[11.3]3.31 (members of the eligible unit are not included).

... “Health Benefits Identification (HBID) Card” means a permanent, plastic identification card issued to each Medicaid beneficiary. The card is for identification purposes only; providers must verify eligibility in accordance with N.J.A.C. 10:49-2 before they provide services. The front of the card includes the beneficiary’s name and a 16-digit card control number (CCN). The back of the card includes a magnetic strip that electronically stores the beneficiary’s name and CCN.

“Health Benefits Identification (HBID) Emergency Services Letter” means a letter that contains pertinent information the provider will need to confirm eligibility and submit claims for services rendered to an eligible Medicaid beneficiary prior to the receipt of his or her HBID Card. The letter will include an expiration date indicating when the letter will no longer be acceptable as a substitute for the HBID Card.

... “Legally responsible relative (LRR)” means a relative held to be legally responsible for the support and care of one or more relatives by the laws of this State, as identified in N.J.A.C. 10:69-3.31.

“MACC” means a Medical Assistance Customer Center in the Division of Medical Assistance and Health Services.

“Mandatory payroll deductions” means deductions including, but not limited to, Federal, State, and city withholding taxes; Social Security; Medicare; unemployment compensation taxes; and garnishments as verified by legal document in possession of the employer.

[“MDO” means Medicaid District Office in the Division of Medical Assistance and Health Services.]

... “Policy” means guidelines, limited by and consistent with law, which control [CBOSS] CWA and DMAHS staff in carrying out AFDC-related Medicaid programs.

... “Recovery” means the process whereby the [CBOSS] CWA seeks the repayment of AFDC-related Medicaid improperly or properly obtained.

... “Referral” means a request from an agency, institution, or individual on behalf of another individual who is interested in applying for AFDC-related Medicaid; or a request from the [CBOSS] CWA to another agency.

“Registration” means the action of the [CBOSS] CWA in creating an official record of and assigning a control number to an application.

... [“Relatives, legally-responsible” means relatives held to be legally responsible by the laws of this State, as identified in N.J.A.C. 10:69-3.]

... “Request for local administrative review” means any clear expression (oral or written, by letter or otherwise) by a client or his or her authorized representative that he or she wishes to present his or her case in a proceeding before the [CBOSS] CWA director or his or her delegated representative. This is not to be confused with a request for a fair hearing.

... “Secondary school” means a traditional academic high school or a vocational/technical school of corresponding grade level, up to 12th grade, ranking between a primary school and a college or university.

... “Withdrawn application” means an oral or written request by an applicant that the [CBOSS] CWA terminate its activity on his or her application.

SUBCHAPTER 2. THE APPLICATION PROCESS

10:69-2.1 General provisions

(a) Any person who believes he or she and his or her children are eligible for AFDC-related Medicaid shall be given the opportunity to apply without delay. Applicants shall be informed by the [county board of social services] CWA about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

(b) [County board of social services] CWA staff shall move with all reasonable speed in accepting, processing, and recommending action on applications for assistance. If an applicant is eligible, [an AFDC-related Medicaid Eligibility Card] a Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter shall be issued as eligibility is established. The agency’s standards of promptness for acting on applications or redetermining eligibility shall not be a basis for delay in granting AFDC-related Medicaid.

(c) (No change.)

10:69-2.2 Provisions governing the initial contact

(a) The application process begins with an individual’s initial contact with the agency and ends with a decision by the [county board of social services] CWA as to the eligibility for [Aid to Families with Dependent Children related Medicaid (AFDC-related Medicaid)]. Both the applicant and the eligibility worker have an affirmative responsibility in verifying and documenting eligibility.

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

10:69-2.3 Purpose and scope of first contact

(a) The responsibility of the agency during the initial contact shall include, but not be limited, to:

1. (No change.)

2. Advising individual of general requirements of the application process, for example, the necessity of contacting certain relatives and of certain other collateral contacts with an explanation of the right of the applicant to confidentiality and to be primary source of information. The application form includes a blanket consent statement. The client should be informed that he or she is consenting to have the [county board of social services (CBOSS)] CWA contact others by signing this form. [The applicant is also required to sign a waiver allowing the CBOSS to obtain State income tax information.] **The consent statement on the application form authorizes the CWA to contact such individuals and agencies to confirm the income of the applicant including, but not limited to, family members, the State Division of Taxation, landlords, employers, and banks, or other financial institutions.** The eligibility worker shall specifically advise each applicant that by signing the waiver he or she is granting such an authorization. In addition to such oral explanations, the individual shall be provided with the pamphlet, Medicaid Rights and Responsibilities;

3.-6. (No change.)

10:69-2.4 Completion of forms

(a) (No change.)

(b) The applicant's signature(s) and the date of application are required. The PA-1J requires three signatures of the applicant(s). In addition to the first page and the affidavit, the applicant(s), with the exception of non-needy parent-persons who do not request medical assistance for themselves, shall sign a release [which] **that** authorizes the [CBOSS] CWA to obtain State income tax information.

1.-2. (No change.)

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

10:69-2.5 Registration of applications

(a) (No change.)

(b) Registration shall be completed on the same day application is made, or, if application is made outside the [CBOSS] CWA office, registration shall be completed within three working days.

10:69-2.6 Eligibility for [Aid to Families with Dependent Children (AFDC)-related] **AFDC-related** Medicaid

(a)-(d) (No change.)

(e) Income standards for persons eligible under the AFDC-C-related [Medicaid,] and-F-related Medicaid appear [in Schedule II or III, as appropriate,] at N.J.A.C. 10:69-10.3.

10:69-2.8 Eligibility factors other than need

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

(c) The relationship between adoptive parent and child(ren) in AFDC-related Medicaid is as follows:

1. The eligibility worker shall explain to the applicant that in order to apply for AFDC-related Medicaid, he or she shall be either the natural or adoptive parent or eligible to serve as a parent-person of the eligible child(ren). An applicant who is a parent-person has the option of applying either for the child(ren), [or] him or herself as a needy parent-person, or for the [child(ren) only] **entire household**. The advantages and disadvantages of each option shall be thoroughly discussed.

2.-3. (No change.)

(d) Rules concerning Social Security numbers are as follows:

1. The AFDC-related Medicaid applicant shall supply the [CBOSS] CWA with the Social Security number of each member of the eligible unit or apply for a Social Security number for any such person who does not already have one (see (d)3 and 5 below).

2. (No change.)

3. The [CBOSS] CWA shall obtain a supply of Social Security Form SS-5, sufficient to accommodate all AFDC-related Medicaid applicants and eligible individuals that do not already have Social Security numbers. Upon application for AFDC-related Medicaid, the applicant shall be required to sign as many SS-5 forms as needed for the eligible

family. The eligibility worker shall complete Form SS-5 on the basis of information provided by the applicant. Completed forms shall be forwarded to the county's respective Social Security Administration District Office (SSA/DO). A copy of the SS-5 form shall be retained in the case record, and a copy given to the client if so requested.

i. (No change.)

ii. If any applicant refuses to provide or apply for the appropriate Social Security number(s), the [CBOSS] CWA shall declare such person ineligible for AFDC-related Medicaid benefits. The eligibility of that individual shall be terminated in accordance with N.J.A.C. 10:69-2.15.

(1)-(2) (No change.)

iii. AFDC-related Medicaid applicants who are legal residents of the United States in accordance with the provisions of the U.S. [Immigration and Naturalization Service (INS)] **Citizenship and Immigration Services (USCIS)**, but not United States citizens, shall have Form PA-55, County [Board of Social Services] **Welfare Agency** Alien Referral to Social Security (SSA) District Office for Social Security Number Application, processed at the SSA/DO in order to be enumerated.

(1) (No change.)

(2) Form PA-55 is to be used to refer legal residents of the United States as determined by the [Immigration and Naturalization Service] **U.S. Citizenship and Immigration Services**, who are not U.S. citizens, to the SSA/DO. Liaisons in the SSA/DO have been instructed to return the bottom portion of that form to the specified [CBOSS] CWA. For quality control purposes, the bottom portion of Form PA-55 is to be filed in the case record and shall serve as acceptable documentation that the individual has applied for a Social Security number.

(3) Each [CBOSS] CWA is to create a tickler file to monitor the flow of referral forms (PA-55s) and receipts of acknowledgment (bottom portions of Form PA-55). Immediately upon receipt of such acknowledgment, [CBOSSs] CWAs shall input the filing date of the SS-5 form on the 105 form, thereby providing tracking for the issuance of Social Security numbers, and file the acknowledgment in the case record.

4. Procedures for verifying Social Security numbers are as follows:

i. The [CBOSS] CWA shall verify the Social Security numbers (SSNs) provided by the eligible family with the Social Security Administration (SSA) by submitting them through FAMIS. Benefits shall not be denied, delayed, or terminated for an otherwise eligible family pending SSN verification. Once the SSNs have been verified, the [CBOSS] CWA shall make a permanent annotation to the case file to prevent unnecessary reverification of the SSN in the future.

5. (No change.)

6. Every applicant for and recipient of Medicaid benefits is required to furnish a valid Social Security number to the [CBOSS] CWA as a condition of eligibility for Medicaid. Any applicant or recipient who does not already have a Social Security number shall be required to apply for same. In addition, (d)2 through 5 above shall apply to Medicaid recipients.

(e) Rules concerning enumeration at birth are as follows:

1.-3. (No change.)

4. In instances of "enumeration at birth," the [CBOSS] CWA worker shall not need to complete Form SS-5, "Application for a Social Security Number Card," for the newborn. Block QM/92 on FAMIS Form 105B shall be completed by utilizing the "888" coding option for the infant in such situations.

5. Parents who elect to enumerate their newborn child(ren) through this process are required to furnish the assigned SSN to the [CBOSS] CWA when it is received. The [CBOSS] CWA shall, however, request proof of receipt of the SSN after six months from the child's birth have lapsed or at time of the beneficiary's next redetermination, whichever occurs first. If a SSN has not been assigned to the newborn at that time, then the [CBOSS] CWA shall complete the SS-5 form for such newborn.

6. If the family is unable to provide Form SSA-2853/0P4, then the child shall be enumerated by the [CBOSS] CWA through completion of an SS-5 following current application procedures.

7. [CBOSSs] CWAs shall not contact hospitals to verify that a child was enumerated through those facilities.

(f) Rules concerning enumeration of others without a Social Security Number (SSN) are as follows:

1. When an applicant does not have an SSN, the system shall generate a generic identification number beginning with "777."

2. If the applicant has an SSN but the number is not known or an application has been filed and is pending, the system shall generate a generic identification number beginning with "888."

3. The CWA shall update and/or correct the identification number when proof of receipt of the applicant's SSN is provided or at the time of the client's annual redetermination, whichever is earliest.

10:69-2.9 Deprivation of parental support in [AFDC-C related] AFDC-C-related Medicaid

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

(c) Physical or mental incapacity of a parent shall be deemed to exist when both parents are in the home and one has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a nature as to reduce substantially or eliminate the parent's ability to support or care for the eligible child and be expected to last for at least 30 days.

1.-2. (No change.)

3. If the applicant [has been] receiving AFDC-related Medicaid under the AFDC-F segment is not found to be incapacitated, the [CBOSS] CWA will so notify the applicant promptly of the denial of the application as to incapacity. (See N.J.A.C. 10:69-[7.1(l)]2.15.) Although the notice will show no grant change as a result of the denial, the applicant nonetheless has a right to a fair hearing.

4.-5. (No change.)

(d) Continued absence of the parent from the home constitutes deprivation of parental support or care. Absence shall be considered continued when it interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child[;], and the known or indefinite duration of the absence precludes the parent's performance of his or her function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he or she may have left only recently or sometime previously.

1. When information is received that an AFDC-related Medicaid beneficiary and his or her children are "living with" or being "frequently visited" by the allegedly absent parent of one or more of the children, the [CBOSS] CWA shall immediately commence a comprehensive investigation of the family situation. Such investigation shall include:

i. Checking with appropriate authorities, for example, the [Division of] Motor Vehicle[s] Commission, the Postal Service, utility and telephone companies, employers, and landlords, to ascertain whether the allegedly absent parent's address is the same as the beneficiary's address;

ii.-v. (No change.)

2. When the investigation is completed, the [CBOSS] CWA shall determine whether the parent is continually absent. If it is determined that the parent is residing with the eligible unit, such parent is not to be considered continually absent. If it has been determined that the parent is not residing with the eligible unit, in order to establish that such parent is not to be considered continually absent, evidence must exist of the parent's provision of three parental functions: maintenance, physical care, and guidance to the child(ren). Unless all three parental functions are present, the "absent" parent shall be considered continually absent. Evidence supporting the determination of continued absence shall be fully documented in the case record.

3. If the [CBOSS] CWA is convinced that the parent is not absent and the family is no longer eligible for AFDC-C-related Medicaid based on deprivation of parental support or care, the [CBOSS] CWA shall terminate AFDC-related Medicaid. The family shall be evaluated for eligibility for any other Medicaid program before termination. If termination is necessary, the adverse action notice shall give as the reason for the action that the "absent" parent is either living in the home or that his or her presence in the home is such that he or she can no longer be considered to be continually absent therefrom, and cite the appropriate regulations.

(e) (No change.)

10:69-2.10 Ineligible family members

(a) In addition to those persons who are already not considered to be members of the eligible unit, the following persons shall also not be eligible for Medicaid and shall not be considered to be members of the eligible unit:

1.-2. (No change.)

3. Other aliens who are not eligible aliens as defined in N.J.A.C. 10:69-[3.10]3.9.

10:69-2.11 Residence requirement

An applicant for or beneficiary of AFDC-related Medicaid shall reside in New Jersey. Application for benefits should be made to [CBOSS] CWA in the county of residence [even though temporary].

10:69-2.12 Support from relatives

(a) The eligibility worker shall explain to applicant(s) that certain relatives must be contacted and evaluated to determine what capacity, if any, they have to contribute to the family's support. (See N.J.A.C. 10:69-[3.35]3.31 for enumeration of relatives responsible in each program[.]) Eligibility for AFDC-related Medicaid shall not be delayed pending evaluation of legally responsible relatives.

(b) (No change.)

10:69-2.13 Repayment (all segments)

The eligibility worker shall determine from the applicant whether there is a pending claim against any individual, group, or agency on behalf of any member of the eligible unit. If such a non-exempt claim does exist, the applicant shall be advised that the completion of the application form authorizes the [CBOSS] CWA or the [Division of Medical Assistance and Health Services] DMAHS to seek recovery of paid medical expenses from any recovery received for medical expenses for treatment of a medical condition.

10:69-2.15 Notice of approval, disapproval, and pending status and other information to client

(a) If immediate need is not apparent and a decision of approval or disapproval is not reached within 30 days of application, the [CBOSS] CWA shall notify the applicant in writing of this fact and the reason for the delay. If the lack of decision is due to circumstances within the control and knowledge of the applicant, the [county board of social services] CWA shall remind the applicant of the steps he or she must take to enable the [county board of social services] CWA to make a decision. This notice shall include a sentence in Spanish cautioning the client that it relates to his or her eligibility for AFDC-related Medicaid and if he or she does not understand the notice he or she should contact the [CBOSS] CWA. **Translations to languages other than Spanish may be prepared based on knowledge of the population served by the CWA.**

(b) (No change.)

(c) If the application is denied, the notice of disapproval shall meet the requirements in N.J.A.C. 10:69-6. In addition, for an applicant whose application has been denied for any reason other than death, the notification shall include:

1. (No change.)

2. [A copy of the document entitled "Fair Hearings in the Aid to Families with Dependent Children Program";] **Information about requesting a fair hearing to appeal the decision;**

3. (No change.)

4. Information about the [food stamp program] **Supplemental Nutrition Assistance Program (SNAP)** and other potentially available services.

(d) If the application is approved, the client shall be advised in writing:

1.-5. (No change.)

6. Of the use of the [Medicaid Eligibility Card] **Health Benefits Identification (HBID) Card and/or Health Benefits Emergency Services Letter (see N.J.A.C. 10:49-2.15);** and

7. (No change.)

(e) Notification to a beneficiary whose application has been approved following change of residence from another county shall include a statement that:

1. (No change.)

2. Future determination of eligibility will be made by this [county board of social services (CBOSS)] **CWA** rather than by the [CBOSS] **CWA** of the county of previous residence.

(f) When the coverage is based on an earnings projection (see N.J.A.C. 10:69-[11.14]**10.25**), a notice shall be sent advising the client that the coverage [for the next month] will be terminated **after the initial calendar month of eligibility** unless he or she provides wage verification as required. Such notice shall specify the date by which the verification must be received.

(g) Clients shall also be advised in writing that if he or she is dissatisfied with any action or inaction of the [county board of social services] **CWA**, he or she may request a hearing. He or she shall be informed of the steps that are to be followed in making such a request in accordance with the requirements in N.J.A.C. 10:69-6.

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

10:69-2.18 Verification

(a) Verification of facts essential to eligibility is required in all segments of the AFDC-related Medicaid program (see N.J.A.C. 10:69-3.2 through 3.7). The eligibility worker shall verify all income.

1. The [CBOSS] **CWA** shall try to verify all necessary information within the required time but shall not penalize the client if the [CBOSS] **CWA**, through no fault of the client, is unable to obtain documentation.

(b) The [CBOSS] **CWA** shall verify the age of all children for whom application is made and their relationship to the natural or adoptive parent(s) or parent-person(s) with whom they live[.] ([See] **see** N.J.A.C. 10:69-3.2 through 3.7[.]).

(c) The [CBOSS] **CWA** shall verify the deprivation factor in [AFDC-C related] **AFDC-C-related** Medicaid.

1.-3. (No change.)

(d) The [CBOSS] **CWA** shall verify school attendance in a school, college, training, or vocational program of dependent children ages 16 to 19 at the time of application as an eligibility criterion of AFDC-related Medicaid (see N.J.A.C. 10:69-10.5(a) and 10.9).

(e) The [CBOSS] **CWA** shall verify the client's county of residence, whether temporary or permanent[.] ([See] **see** N.J.A.C. 10:69-[3.29]**3.23**[.]).

(f) (No change.)

(g) Subsequent to the initial application, verification is required for only those factors of eligibility that are subject to change or for those factors for which the original verification has become questionable.

10:69-2.19 Use of PA-1C as an application request

(a) Individuals who were admitted to a hospital and were subsequently referred to the [CBOSS] **CWA** through the use of Form PA-1C, AFDC-related Medicaid Inquiry, may be eligible for AFDC-related Medicaid benefits from the date the PA-1C was completed, provided:

1. (No change.)

2. Except for good cause, including, but not limited to, hospitalizations lasting for three or more months, the homebound status of the applicant, the [CBOSS] **CWA** was unable to schedule a timely application appointment, or the hospital failed to inform the applicant to apply at the [CBOSS] **CWA**, the individual applies for AFDC-related Medicaid benefits within three months after the referral is made.

i. If the [CBOSS] **CWA** determines that the individual had good cause for not applying within three months, an extension may be granted for an additional three months.

ii. Newborns of eligible women are deemed to have applied and shall be added to the Medicaid case, effective the date of birth, upon [receipt of a valid Form PA-1C] **notifying the CWA of the birth**.

SUBCHAPTER 3. ESTABLISHING PROGRAM ELIGIBILITY IN AFDC-RELATED MEDICAID

10:69-3.3 Sources of evidence regarding eligibility

(a) (No change.)

(b) The client's statements regarding his or her eligibility are evidence. For purposes of AFDC-related Medicaid, the client's statements must be consistent and certain facts must be documented. The applicant shall be informed that the [CBOSS] **CWA** needs to document the facts regarding certain eligibility criteria and that this process shall include contacting collateral sources as necessary:

1. (No change.)

2. Sources of collateral evidence to establish eligibility include, but are not limited to, the following: birth, death and marriage certificates, church records, immigration and naturalization papers, census records, school records, military service records, court records, employment records, records of public or private welfare agencies, voting records, medical records, personal records, **tax records**, and affidavits from knowledgeable persons.

(c)-(e) (No change.)

10:69-3.6 Issuance of summons or subpoena

(a) When all other means of determining facts and circumstances concerning an application for assistance has been exhausted, the [county board of social services] **CWA** director may:

1.-2. (No change.)

(b) Action for contempt of court may be initiated when such person fails to obey a subpoena issued by the [county board of social services] **CWA** director or to testify to facts and circumstances pertinent to the application for assistance.

(c) (No change.)

10:69-3.8 Applicant and eligible unit AFDC-C and-F

(a) The term applicant in AFDC-C refers to the parent(s) or parent-person(s) who makes an affirmative decision to apply for Medicaid or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for him or her [(see N.J.A.C. 10:69-2.4(b)(1))] in order to maintain and provide for one or more dependent children of eligible age who are in his or her care or custody (**see N.J.A.C. 10:69-2.4(b)1**). It may also include the stepparent, at the applicant's option, if the marriage meets the qualifications of N.J.A.C. 10:69-10.33. If the [AFDC-C related] **AFDC-C-related** Medicaid beneficiary parent marries a non-needy individual on or after October 1, 1992, the AFDC-C beneficiary natural or adoptive parent, the stepparent and that stepparent's own natural or adoptive child(ren) as well as the natural or adoptive AFDC-C beneficiary parent shall be excluded from the eligible unit.

1.-3. (No change.)

4. When the AFDC-C child(ren) lives with a parent-person(s), the application shall be executed by the parent-person who shall be the designated payee.

i. (No change.)

ii. A pregnant women who does not qualify for Medicaid Special should be evaluated against the eligibility criteria in N.J.A.C. 10:72. If the applicant meets all the eligibility requirements for the New Jersey Care ... Special Medicaid Programs requirements except for income, the application shall be referred to [NJ KidCare] **NJ FamilyCare — Children's Program** (see N.J.A.C. 10:79) for possible eligibility.

iii. (No change.)

(b) The term applicant in AFDC-F refers to natural or adoptive parents, not incapacitated, both of whom shall be required to execute the formal written application unless one such parent is not available for reasons beyond the family's control. This parent shall be required to sign as promptly as he or she is available for such purpose[.] ([See] **see** N.J.A.C. 10:69-[2.13]**10.36** relevant to companion cases[.]).

(c) To be eligible for AFDC-C, an individual shall be either a citizen of the United States or an eligible alien. (See N.J.A.C. 10:69-3.9 for alien status that may qualify an individual for AFDC-related Medicaid.)

1. Income of those ineligible individuals who are parents of otherwise eligible children shall be considered available to the eligible family and

shall be calculated in accordance with the stepparent deeming formula at N.J.A.C. 10:69-[2.9]10.33.

2. Medicaid coverage through AFDC-related Medicaid shall not be granted to an ineligible alien or to aliens admitted as students or visitors. However, United States citizen/eligible alien children of illegal aliens may still be able to receive [AFDC-C or-F-related] **AFDC-C- or AFDC-F-related** Medicaid. The situations described in (c)2i through iii below serve as illustrations of how to determine AFDC-C or-F, status for U.S. citizen/eligible alien children of ineligible aliens.

i. In the case of one ineligible alien parent with U.S. citizen/eligible alien children, the children shall be eligible for Medicaid as AFDC-C due to parental deprivation (one parent is absent). The eligible unit shall consist of the U.S. citizen/eligible alien children. There is no Medicaid eligibility for the ineligible alien parent but his or her income shall be counted as available to the eligible unit in accordance with N.J.A.C. 10:69-[11.9(d)]10.

ii. If one parent is an eligible alien[,] or U.S. citizen, and qualifies the children for Medicaid as AFDC-F segment, the children and eligible alien/citizen parent shall be eligible for Medicaid under the -F segment. The other parent's income shall be counted as available to the eligible unit in accordance with N.J.A.C. 10:69-[11.9(d)]10 but he or she is ineligible for Medicaid.

iii. (No change.)

10:69-3.9 AFDC-related Medicaid citizenship/eligibility requirements

(a) In order to be eligible for the Medicaid program, an individual must be a citizen of the United States, or an alien lawfully admitted for permanent residence, or an alien approved for temporary residence who can be classified as an eligible alien in accordance with this chapter.

1. The term "citizen of the United States" includes persons born in Puerto Rico, Guam, the Virgin Islands, [Swain's] **Swains** Island, American Samoa, and the Northern Mariana Islands **and children born to American citizens outside the U.S. and its outlying possessions pursuant to Section 301 of the Immigration and Nationality Act (8 U.S.C. § 1401).**

(b) The following aliens if present in the United States prior to August 22, 1996, and if otherwise meeting the eligibility criteria, are entitled to full Medicaid benefits:

1.-3. (No change.)

4. An alien whose deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act;

5. An alien who has been granted parole for at least one year by the [Immigration and Naturalization Service] **U.S. Citizenship and Immigration Services (USCIS)** pursuant to section 212(d)(5) of the Immigration and Nationality Act;

6.-11. (No change.)

12. Certain legal aliens who are victims of domestic violence and when there is a substantial connection between the battery or cruelty suffered by an alien and his or her need for Medicaid benefits, subject to certain conditions described below:

i.-v. (No change.)

vi. The [county board of social services] **CWA** shall apply the definitions "battery" and "extreme cruelty" and the standards for determining whether a substantial connection exists between the battery or cruelty and the need for Medicaid as issued by the Attorney General of the United States under his or her sole and unreviewable discretion.

(c) The following aliens entering the United States on or after August 22, 1996, and if otherwise meeting the eligibility criteria, are entitled to Medicaid benefits:

1.-4. (No change.)

5. An alien who has been granted parole for at least one year by the [Immigration and Naturalization Service] **U.S. Citizenship and Immigration Services (USCIS)** pursuant to section 212(d)(5) of the Immigration and Nationality Act but only after the alien has been present in the United States for five years;

6.-12. (No change.)

(d) (No change.)

(e) Persons claiming to be citizens and eligible aliens shall provide the [county board of social services] **CWA** with documentation of citizenship or alien status.

(f) As a condition of eligibility, all applicants for AFDC-related Medicaid (except for those applying solely for services related to the treatment of an emergency medical condition) shall [sign a declaration under penalty of perjury that they are a citizen of the United States or an alien in a satisfactory immigration status. In the case of a child or incompetent applicant, another individual on the applicant's behalf shall complete the same written declaration under penalty of perjury.] **provide satisfactory documentation of United States citizenship.** When the applicant or other person for whom the application is being made is an alien, the applicant's alien status shall be verified through evidence provided by the applicant with the [United States Immigration and Naturalization Service] **U.S. Citizenship and Immigration Services (USCIS)**. [(Refer to N.J.A.C. 10:69-2 for alien verification procedures through the Systemic Alien Verification for Entitlements (SAVE) program.)]

1. The following are acceptable documentation of United States citizenship:

i.-iv. (No change.)

v. U.S. Citizen I.D. Card ([INS] **USCIS** Form-197[,] or Naturalization Certificate [INS] (**USCIS** Form N-550 or N-570);

vi. Certificate of Citizenship ([INS] **USCIS** Form N-560 or N-561);

vii. Northern Mariana Identification Card (issued by the [INS] **USCIS** to a collectively naturalized citizen of the United States who was born in the United States before November 3, 1986);

viii. American Indian Card with a classification code "KIC" (issued by the [INS] **USCIS** to identify U.S. citizen members of the Texas Band of Kickapoos); or

ix. A contemporaneous hospital record of birth in one of the 50 states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam (on or after April 10, 1899), the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, [Swain's] **Swains** Island, or the Northern Mariana Islands, [(unless the person was born to foreign diplomats residing in any of these jurisdictions)].

x. Other documentation allowed in regulation by the Secretary of the U.S. Department of Health and Human Services in compliance with 42 U.S.C. §§ 1396b(i)(22) and (x).

2. The following sets forth acceptable documentation for eligible aliens:

i. If an applicant presents an expired [INS] **USCIS** document or is unable to present any document demonstrating his or her [Immigration] **immigration** status, the [county board of social services] **CWA** shall refer the applicant to the local [INS] **USCIS** district office to obtain evidence of status. If, however, the applicant provides an alien registration number, but no documentation, the [county board of social services] **CWA** shall file [INS] **USCIS** Form G-845 along with the alien registration number with the local [INS] **USCIS** district office to verify status;

ii. Lawful Permanent [Resident-INS] **Resident-USCIS** Form I-551, or for recent arrivals, a temporary I-551 stamp in a foreign passport or on Form I-94;

iii. [Refugee-INS] **Refugee-USCIS** Form I-94 annotated with stamp showing entry as refugee under section 207 of the Immigration and Nationalization Act and date entry into the United States; [INS] **USCIS** Form I-688B annotated "274a. 12(a)(3)," I-766 annotated "A3," or I-571. Refugees usually adjust to Lawful Permanent Resident status after 12 months in the United States, but for purposes of determining Medicaid eligibility they are considered refugees. Refugees whose status has been adjusted will have [INS] **USCIS** Form I-551 annotated "RE-6," "RE-7," "RE-8" or "RE-9";

iv. [Asylees-INS] **Asylees-USCIS** Form I-94 annotated with a stamp showing grant of asylum under section 208 of the Immigration and Nationality Act, a grant letter from the Asylum Office of the [Immigration and Naturalization Service] **U.S. Citizenship and Immigration Services**, Forms-688B annotated "274a. 12(a)(5)" or I-766 annotated "A5";

v. Deportation Withheld-Order of an Immigration Judge showing deportation withheld under section 243(h) of the Immigration and Nationality Act and the date of the grant, or [INS] **USCIS** Form I-688B annotated "274a. 12(a)(10)" or I-766 annotated "A10";

vi. Parole for at Least a [Year–INS] **Year–USCIS** Form I-94 annotated with stamp showing grant of parole under section 212(d)(5) of the Immigration and Nationality Act and a date showing granting of parole for at least a year;

vii. Conditional Entry under Law in Effect before April 1, [1980–INS] **1980–USCIS** Form I-94 with stamp showing admission under section 203(a)(7) of the Immigration and Nationality Act, refugee-conditional entry, or [INS] **USCIS** Forms I-688B annotated “274a.12(a)(3)” or I-766 annotated “A3”;

viii. Cuban Haitian [Entrant–INS] **Entrant–USCIS** Form I-94 stamped “Cuban/Haitian Entrant under section 212(d)(5) of the INA”;

ix. An American Indian born in [Canada–INS] **Canada–USCIS** Form I-551 with code S13 or an unexpired temporary I-551 stamps (with code S13) in a Canadian passport or on Form I-94;

x. (No change.)

xi. Amerasian [Immigration–INS] **Immigration–USCIS** Form I-551 with the code AM1, AM2, or AM3 or passport stamped with an unexpired temporary I-551 showing a code AN6, AM7 or AM8;

3. For aliens subject to the five-year waiting period before eligibility for Medicaid can be established, the date of entry into the United States shall be determined as follows:

i. On [INS] **USCIS** Form I-94, the date of admission should be found on the refugee stamp. If missing, the [county board of social services] **CWA** should contact the [INS] **USCIS** local district office by filing Form G-845, attaching a copy of the document.

ii. If the alien presents [INS] **USCIS** Form I-688B (Employment Authorization Document), I-766, or I-571 (Refugee Travel Document), the [county board of social services] **CWA** shall ask the alien to present Form I-94. If that form is not available, the [county board of social services] **CWA** shall contact the [INS] **USCIS** via the submission of Form G-845, attaching a copy of the documentation presented.

iii. If the alien presents a grant letter or court order, the date of entry shall be derived from the date of the letter or court order. If missing, the [county board of social services] **CWA** shall contact the [INS] **USCIS** by submitting a Form G-845, attaching a copy of the document presented.

4. (No change.)

(f) A self-declaration under penalty of perjury may be accepted pending receipt of acceptable documentation.

1. A statement of citizenship/eligible alien status and signature attesting to citizenship/eligible alien status shall be provided before benefits can be issued to that individual. An adult eligible family member or applicant for the family in the absence of an adult family member shall sign for members under 18 years of age.

2. If a signature is not provided for all eligible family members by the end of the 30-day processing standard, then only those individuals for whom there is a signature shall be eligible for benefits provided they meet all other eligibility requirements.

3. The needs of ineligible members shall not be considered when determining eligibility and benefits for the remaining family members.]

(g) An applicant who declares that he or she is a United States citizen, a national, or an otherwise eligible non-citizen, and who meets all other eligibility requirements, will be approved immediately for benefits and will be given “reasonable opportunity” to submit required documentation of citizenship or qualified alien immigration status.

1. Reasonable opportunity is defined as six months from the time that the applicant declares citizenship or qualified alien status and is informed of the need to provide documentation as long as the applicant is making a good faith effort to submit the documentation. Applicants will be properly noticed during this six-month period in accordance with the following schedule:

i. If, after approximately three months, the applicant has not submitted the required documentation, the eligibility agency shall provide written notice to the client setting forth the specific documentation that is still needed for this applicant to comply with the requirement and advising of the date of the upcoming date of the six-month deadline.

ii. If the applicant(s) have not submitted the required documentation towards the end of the fifth month of the reasonable

opportunity period then a timely termination notice shall be sent to the applicant informing them of their termination date, to be effective at the end of the six-month period.

iii. The notices must clearly identify which household members have not complied and for which the adverse action is applicable. The termination notice shall inform the applicant that he or she may re-apply when he or she has secured the required documentation.

10:69-3.10 Parent in AFDC-C and-F Medicaid segments

(a) In AFDC-C, the term “parent” shall refer to the natural and/or adoptive parent(s) or parent-person(s).

1. By law, in AFDC-C certain relatives shall be recognized as taking the place of a parent. The term “parent-person” is used to designate one or more such relatives who include those of half-blood, those persons of preceding generations denoted by prefixes “grand” and “great,” brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece. Such relative must be one with whom the dependent child is living, in a place of residence in New Jersey maintained by one or more such relatives as his or her or their own home.

i. (No change.)

ii. [AFDC-related Medicaid eligibility cards] **Health Benefit Identification (HBID) Cards and/or HBID Emergency Services Letters** can be issued on behalf of child(ren) to persons authorized to act for specified relatives in emergency situations that deprive the child of the care of the relative through whom he or she has been receiving care, for a temporary period necessary to make and carry out plans for the child’s continuing care and support.

2.-3. (No change.)

(b) (No change.)

10:69-3.12 Circumstances requiring special handling

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

(c) If, after considering the client’s response according to the criteria in (b) above, the [CBOSS] **CWA** has reasonable doubt of his or her mental competency (alleged incompetence), the eligibility worker shall accept an application from him or her and immediately refer the [care] **case** to the social service unit to locate a protective payee.

(d) If any of the following conditions appear to exist in the relationship between parent and child, the case shall immediately be referred to the social service unit [which] **that** shall contact the Division of [Youth and Family Services (DYFS)] **Child Protection and Permanency (DCP&P) of the Department of Children and Families** for appropriate action. The [CBOSS] **CWA** shall provide [DYFS] **DCP&P** with pertinent information as appropriate and shall cooperate in planning and implementing action in the best interest of the child[.] (See also N.J.A.C. 10:69-[7.40(c)2]9.7[.].)

1.-3. (No change.)

(e) (No change.)

(f) In the event of any indication that the death of a child resulted from abuse or neglect, such matter shall be reported immediately to [DYFS] **DCP&P**.

10:69-3.13 Age requirements

(a) To be considered of eligible age, a child in AFDC-related Medicaid must be under age 18, or under age 19 and a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and is reasonably expected to complete the program before reaching age 19. Program completion is defined as the day of ceremonial graduation. See N.J.A.C. 10:69-[1.3]10.9 for definitions regarding school attendance.

1. (No change.)

(b) A child between 18 and 21 years of age residing with an AFDC-related Medicaid beneficiary family who, except for age, would be eligible for inclusion in the grant, may be eligible for Medicaid Special (see N.J.A.C. 10:69-[8.22 through 8.25]4).

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

(e) The [county board of social services] **CWA** shall establish and maintain appropriate administrative controls in all AFDC-related Medicaid cases, identifying those members of the eligible unit who may be rendered ineligible because of age. Specifically in this regard, agency

controls shall provide advance identification of children attaining age 18 and/or 19, as appropriate for possible referral for general assistance. Parents approaching age 65 should be alerted to the Supplemental Security Income Program.

10:69-3.14 Noneligible persons in the household

When a noneligible individual is living in the household of an eligible unit, a monthly amount shall be recognized as the cost standard for that individual's share of household expenses (see N.J.A.C. 10:69-[2.3]10.27).

10:69-3.15 Deprivation of parental support or care (AFDC-C)

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

(d) The determination of incapacity for persons other than those delineated in N.J.A.C. 10:69-[2.7]2.9 is made by the Disability Review Section, Division of Medical Assistance and Health Services, on the basis of medical evidence provided by the eligibility worker. This is done in the following way:

1. (No change.)

(e) (No change.)

(f) The following concern a parent incapacitated by mental defect, illness, or impairment:

1. (No change.)

2. It is not necessary for purposes of eligibility of the spouse and child to establish whether the incapacitated parent is competent to manage his or her own affairs since the spouse can be payee for the [Medicaid card] **Health Benefits Identification (HBID) Card**. It is probable that in an instance where the mental condition is of such degree as to raise these questions, the parent should apply for disability assistance under [the] SSI [program].

3. (No change.)

(g) The following concern "incapacity" and its relation to employment:

1. (No change.)

2. Thus, if because of his or her defect, illness, or impairment, he or she can engage only in part-time employment (that is, less than 30 hours per week), or his or her wages (or rate of pay) are less than those of other workers in the same type of work, he or she and any otherwise eligible dependents may be eligible for AFDC-related Medicaid. However, a parent who is found able to engage in [full time] **full-time** employment at normal rate of pay, but whose earnings are insufficient to adequately support his or her dependents, cannot be considered "incapacitated." In this situation, the [CBOSS] CWA shall explore eligibility for AFDC-F.

3. When a parent has been determined "incapacitated" by reason of a temporary defect, illness, or impairment and no residual effects are anticipated upon recovery, such a parent shall be considered no longer "incapacitated" upon statement by the treating physician that he or she is able to resume [full time] **full-time** gainful employment in his or her previous or a similar occupation.

(h) The following concern refusal to undergo diagnostic evaluation, treatment, or related services:

1. (No change.)

2. The [CBOSS] CWA shall make every effort to establish the facts of eligibility on the basis of available evidence in spite of the refusal to undergo diagnostic evaluation.

3.-4. (No change.)

(i) (No change.)

(j) Payment for medical expenses incurred on behalf of an AFDC-C-related Medicaid (incapacitated) applicant in the determination of initial eligibility shall be the responsibility of the [CBOSS] CWA and made from the administration account. The [CBOSS] CWA shall advise the physician that payment of the fee will be at the applicable rate contained in the schedule of fees for professional and diagnostic services set forth at N.J.A.C. [10:71-3.13(l)] **10:54-9**. Transportation for diagnostic evaluations shall be made available.

10:69-3.16 Continued absence of parent from the home

(a) The [county board of social services] CWA shall make every reasonable effort to locate an absent parent in order to obtain support payments. An absent parent shall be given the opportunity to voluntarily

support his or her child, but it shall be explained to both parents that the extent of support shall be established by the court.

(b) Each applicant and beneficiary is required to cooperate in obtaining support and establishing paternity whenever necessary as a condition of eligibility for AFDC-related Medicaid [in accordance with the procedures set forth in N.J.A.C. 10:69-11].

(c) "Continued absence from the home" (see N.J.A.C. 10:69-[2.8(d)]**2.9(d)**) may be for any reason. The following are some of the ways to establish absence:

1. (No change.)

2. A parent shall be considered absent from the home during a period of incarceration. There is a possible situation that a parent whose imprisonment is expected to be of short duration may also be "incapacitated." Where this appears to be so, consideration shall be given to possible eligibility under the "incapacity" factor rather than the "absence" factor.

i. Evidence to substantiate "absence" when a parent is incarcerated in the State penal or correctional institution shall be secured by use of Forms PA-17B and PA-17C. When the "tear sheet" has been returned and the date of release determined, the [CBOSS] CWA shall immediately redetermine the basis of continued eligibility and note it in file.

ii. With regard to the absent parent's incarceration in a county or municipal jail, the [CBOSS] CWA shall need to develop a procedure in cooperation with each jail within its jurisdiction regarding exchange of information both at time of initial AFDC-C application and at time of release of incarcerated parents. PA-17B and PA-17C are not appropriate and shall not be used for local jails. Procedures established by the [CBOSS] CWA with regard to county and municipal jails may vary from a formal procedure to personal telephone contacts or visits, provided the information required is obtained and acceptable to the [CBOSS] CWA. In situations where the absent parent is incarcerated in another county, it is recommended that the [CBOSS] CWA of such county be consulted regarding its method for contacting county and municipal jails and a mutually agreeable decision made as to which county will contact the jail.

3. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home. The [CBOSS] CWA shall verify such court-imposed sentence and document its findings in the case record prior to case validation.

i. (No change.)

ii. Income, if any, of such a parent shall be treated in accordance with N.J.A.C. 10:69-[11.3(b)]**10**.

iii. (No change.)

4.-7. (No change.)

(d) The following concern the eligibility of a child born of unmarried parents:

1. (No change.)

2. Parents of a child born of unmarried parents are equally responsible for his or her support.

i. A father may voluntarily establish the fact of his paternity and establish with the [CBOSS] CWA the extent of his ability to support his child. Voluntary support payments do not legally establish paternity and cannot be enforced in the absence of legally established paternity. A mother may initiate proceedings to establish paternity and/or gain support from the reputed father. She shall be informed of the advantages to the child of having paternity established legally such as certain inheritance rights and social security benefits[.] ([See] **see** N.J.A.C. 10:69-[8.5(c)]**8.4**).

3. Court action may be necessary to establish paternity or to obtain support; in the absence of the mother's willingness to initiate such proceedings, the [county board of social services] CWA cannot refuse to establish Medicaid eligibility but may initiate proceedings [(see N.J.A.C. 10:69-11.9(d))]. This provision shall be fully explained to each applicant mother of a child born of unmarried parents.

4. By law, the [CBOSS] CWA are authorized to initiate proceedings to establish paternity and responsibility for support of a child born of unmarried parents who is a beneficiary of AFDC-related Medicaid [(see

N.J.A.C. 10:69-11.9)]. This authority should be used only when neither parent is willing to initiate proceedings. Filiation proceedings should be initiated in the Family Division of Superior Court.

(e) A parent may be considered continuously absent from the home when a condition of desertion is established. A desertion may already be a matter of public record, or may be alleged or presumed.

1. (No change.)

2. Where desertion has not been established but the applicant alleges that the child for whom he or she is applying has been deserted, the factor of continuing absence by reason of "desertion" shall be considered. The [CBOSS] CWA shall request of the applicant/beneficiary, during the completion of the application [(Form PA-1J)], information relating to the deserting parent's whereabouts and ask applicant/beneficiary to acknowledge such desertion. By signing the application, the client attests to the accuracy and verity of his or her statements.

i. The continuing effort to locate absent parents is a responsibility of the [CBOSS] CWA. Since the law permits use of Social Security numbers to aid in location of deserting parents, the [CBOSS] CWA shall make every effort to obtain such information.

(f) A parent shall be considered "continuously absent from the home" when by mutual agreement, not legal action, the parents have informally separated, for example, one parent is out of the home and such absent parent is not exercising responsibility as a member of the household consistent with the definition of "continued absence" although he or she may be making or demonstrating to the [CBOSS] CWA his or her "intent" to make some financial contribution to the family.

(g) The [CBOSS] CWA is charged with the general responsibility of reducing the extent of the beneficiary family's reliance on AFDC-related Medicaid. In striving for this objective, the [CBOSS] CWA shall attempt to effect a resumption of medical support provided to the AFDC-related Medicaid family by the absent parent within the ability of such parent. In cases of absent parent(s) whose whereabouts are unknown, the [CBOSS] CWA will [forward Form PA-450 to] **contact** the State Parent Locator Service (see N.J.A.C. 10:69-11.9).

1. (No change.)

10:69-3.17 Work criteria; determination of principal earner

(a) In order to determine qualification for AFDC-F eligibility, a determination shall first be made as to which parent is the principal earner in that family.

1.-2. (No change.)

3. If both parents earned an identical amount of income in such six-month period, the [CBOSS] CWA shall designate which parent shall be the principal earner.

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

10:69-3.19 Temporary absence from State

(a) A beneficiary family may leave the State for up to a one-month period with no resultant effect upon Medicaid eligibility. If absence from the State shall exceed or is anticipated to exceed the [one month] **one-month** period, the family shall immediately notify the [county board of social services] CWA in order to request continuation of Medicaid for a three-month period following the month of departure, or any portion thereof. Such notice of intent to temporarily leave the State and request to continue Medicaid should be given to the [CBOSS] CWA as far in advance of a planned absence as possible. Approval of such Medicaid continuation may be granted by the [CBOSS] CWA quarterly for a period not to exceed one year. Authorization for extension of assistance beyond one year requires approval of the [Division of Medical Assistance and Health Services] **DMAHS**.

(b) (No change.)

(c) Medicaid coverage shall not be automatically continued without inquiry with respect to a beneficiary family that leaves New Jersey when there has been no information provided to the agency establishing that the absence is purely temporary. All beneficiary families shall be advised that it is their responsibility to notify the [CBOSS] CWA personally or in writing and arrange in advance, so far as possible, for any plan to leave New Jersey for any period in excess of one month if they wish Medicaid coverage to be continued during absence from the State. The decision whether or not to leave New Jersey, whether it is for

permanent removal or temporary absence, shall rest with the beneficiary family and does not require official approval or disapproval by the agency.

(d) (No change.)

(e) If a beneficiary family has left the State without notifying the agency of the nature, purpose, and expected duration of such absence, the [CBOSS] CWA will make every effort to inform the family in writing of the information required to termination of their Medicaid coverage. This notice shall include a sentence in Spanish cautioning the client that inaction may jeopardize continued AFDC-related Medicaid and that if they do not understand it they should get help. Upon receipt of such information from the beneficiary family or a collateral source, Medicaid may be continued if deemed necessary by the [CBOSS] CWA. Medicaid eligibility shall continue issued until the [CBOSS] CWA has determined whether the beneficiary has or has not abandoned State residency, in accordance with N.J.A.C. 10:69-3.23.

10:69-3.20 Management of out-of-State case records

(a) The [CBOSS] CWA shall maintain an up-to-date record of all cases of beneficiaries approved to receive Medicaid while out of the State.

(b) There shall be monthly supervisory review of the status of these cases to assure that [no Medicaid card is issued] **the Health Benefits Identification (HBID) Card does not indicate active eligibility** beyond the period for which approval has been given, unless and until extension of continued Medicaid coverage is approved[, and that no Medicaid card is issued when and if eligibility ceases].

10:69-3.23 County residence for identification

(a) Residence in a county is not an eligibility requirement. A county of residence is necessary to identify which [CBOSS] CWA is legally responsible for receipt, registration, and processing an application and for issuance of a [Medicaid card] **Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter**, but shall not preclude or limit the opportunity for any person residing in New Jersey to apply for and receive Medicaid coverage without delay.

(b) Wherever a family is living shall be considered that family's county residence. When a beneficiary family, or any member thereof, goes to another county or state for the purpose of a temporary visit, that county or state shall not become [their] **the family's** residence unless N.J.A.C. 10:69-[3.26]**3.24** applies.

(c) (No change.)

10:69-3.24 Change of county residence

(a) (No change.)

(b) A temporary visit by either the beneficiary family or any member thereof shall not be considered to be a change of county residence until that visit has continued for more than a three-month period (see N.J.A.C. 10:69-3.28 and 3.30).

1. Whenever it is determined that a beneficiary family whose application has not been validated has changed or is planning to change its residence from one county to another, the [CBOSS] CWA of origin shall continue assistance while completing the validation, subject to the time limits set forth in N.J.A.C. 10:69-2.15, then transfer the case without delay to the receiving county.

2. Whenever it is determined that a beneficiary family whose application has been validated is planning to change its residence from one county to another, it shall be the responsibility of the [CBOSS] CWA directors of the two counties concerned to effect the transfer without interruption of Medicaid coverage.

3. The county of origin shall initiate and the receiving county shall, on request, immediately cooperate in accomplishing a full investigation of the circumstances surrounding the move. If the move is permanent, each county shall execute its respective responsibilities in accordance with this paragraph.

i.-iii. (No change.)

iv. When a change in residence results in loss of Medicaid coverage, the receiving county shall send timely notice of such change to the client and a copy to the county of origin consistent with the requirements of N.J.A.C. 10:69-6. It is the receiving county's responsibility to send adverse notice, when necessary, after determining the client's

circumstances following the change in county residence. In the event of a request for a fair hearing within 15 days of the mailing of such notice, the county of origin shall be notified and shall be responsible for Medicaid coverage pending the fair hearing.

[1.] (1) Whenever the beneficiary is entitled to receive Medicaid until the final hearing decision, the county of origin shall issue the [Medicaid card] **Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter** until the decision is rendered. The receiving county shall then immediately accept case responsibility [and issue the Medicaid card the next month, unless already issued by the county of origin].

(c) Those cases that are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC-related Medicaid cases. The procedures established at N.J.A.C. 10:69-3.26(b) are to be followed when transferring a case in Medicaid extension (see also N.J.A.C. 10:69-[8.22.]5.13).

10:69-3.25 Verification of residence

(a) Verification of residence is necessary to ensure eligibility. Under some circumstances, documentary evidence of residence may not be available.

1. The following are examples of sources of evidence of residence:
 - i.-xii. (No change.)

xiii. Affidavits of knowledgeable persons [which] **that** support other recorded evidence or knowledge of [CBOSS] CWA.

10:69-3.26 Procedures governing release from State institutions

The procedures provided in this subchapter have been established specifically to govern relationships between the [CBOSS] CWA and the several State institutions. These procedures do not necessarily apply to relationships with local mental hospitals and other institutions. When a [CBOSS] CWA develops other procedures to expedite release of persons from local institutions, it shall submit complete plan material to the Division of Medical Assistance and Health Services for approval prior to granting Medicaid coverage to such persons.

10:69-3.27 Release from a State institution

(a) (No change.)

(b) When eligibility has been established, benefits can begin upon release from the institution, providing the parent and child will be living together within 30 days of the date of issuance except in circumstances identified in (b)1 below. This application may be registered and processed up to two months before anticipated date of release.

1. When an applicant parent is being released from an institution for the mentally ill or [retarded] **intellectually disabled, or** a [penal institution] **correctional facility, [or the New Jersey Neuro-Psychiatric Institute,] no [Medicaid card] Health Benefits Identification (HBID) Card or HBID Emergency Services Letter** shall be issued until the actual release, discharge, or parole is a matter of record and verified by the [CBOSS] CWA, and the applicant is not adjudged or alleged to be mentally incompetent.

(c) A parent or parent-person separated from a dependent child for a period no more than 30 days prior to application, who wishes to maintain an already established home for that child with whom such parent or parent-person customarily resides, may apply for and receive a [Medicaid card] **Health Benefits Identification (HBID) Card or HBID Emergency Services Letter** for the child(ren) temporarily absent from the home. In this case, such parent or parent-person must indicate plans to return to the home within two months from the month in which the [Medicaid card] **HBID Card or HBID Emergency Services Letter** is initially issued (see N.J.A.C. 10:69-[3.30]3.28 through [3.32.]3.30).

(d) In the case of the return to the home of a beneficiary family by a parent, parent-person, or spouse in AFDC-C or child of eligible age in any segment, no application for Medicaid is involved.

1. If the individual will return to a home or plans to establish a home with a dependent child in the county receiving the inquiry and appears eligible for Medicaid, the [CBOSS] CWA of that county shall register the application, assist in completion of the plan as necessary, complete the determination of eligibility and be responsible for issuance of the

[Medicaid card] **Health Benefits Identification (HBID) Card or HBID Emergency Services Letter** (see N.J.A.C. 10:69-[3.25(a)]3.24).

2. If the individual is to return to a home or desires to establish a home with a dependent child in another county, the [CBOSS] CWA receiving the inquiry shall complete an application interview and assist the individual to complete an application form. All information that the applicant can supply shall be obtained and recorded on appropriate case record forms, which shall be forwarded to the county where the family currently resides or is planning to establish a home. The county receiving the application shall process and register the application without delay.

(e) Responsibility for initial planning for the return of a patient to the community rests with the institutional authorities. When AFDC-related Medicaid is necessary and the person appears eligible, the Division of Mental Health **and Addiction** Services shall coordinate the application with the appropriate [CBOSS] CWA. The Division of Mental Health **and Addiction** Services shall be responsible for reviewing such referrals to assure that all essential information is assembled, and for expediting the processing of an application by the appropriate [county board of social services] CWA for final determination of eligibility.

1. The institution shall routinely complete the following forms without change, [(a stock supply of which shall be provided to them by the [Division of Medical Assistance and Health Services]) **DMAHS**, and shall forward copies to the [CBOSS] CWA along with copies of staff notes pertinent to each case:

i.-ii. (No change.)

2. Persons under the jurisdiction of Division of Developmental Disabilities, Bureau of Field Services, shall be referred directly to the appropriate [CBOSS] CWA.

(f) When a parent is about to be released from a veteran's hospital, the hospital shall make referral in writing, with the knowledge and consent of the veteran, to include the following minimum information: identifying data[;], the anticipated date of discharge[;], and a description of any known or tentative living arrangement following discharge[;].

1. (No change.)

2. Thereafter, the [county board of social services] CWA shall arrange for an application interview and shall process the application as any other.

(g) The social service staff of the institution shall assist in completing the application in accordance with N.J.A.C. 10:69-2.

1. The social service worker is responsible for prompt investigation to determine initial eligibility, including inquiry regarding any funds held by the institution or other party in a personal account for the applicant. The social service worker shall discuss available services including assistance in locating a suitable living arrangement with the applicant. The social service worker shall not send the completed referral forms to the designated [CBOSS] CWA.

(h) The [CBOSS] CWA shall register cases transferred from Division of Mental Health **and Addiction** Services within one working day. The [CBOSS] CWA shall determine initial eligibility within 30 days and so inform in writing the social service worker that will coordinate discharge of the client.

(i) (No change.)

10:69-3.28 Temporary absence of a family member

(a) Eligibility for AFDC-related Medicaid may exist during the absence of a child, parent, or parent-person from the home under the circumstances described in N.J.A.C. 10:69-[3.31 and 3.32]3.29 **and 3.30**. When the absence is foreseeable, the [CBOSS] CWA should make appropriate plans.

1. A parent or caretaker relative who fails to notify the [county board of social services] CWA of the absence of the minor child from the home by the end of the [five day] **five-day** period that begins with the date that it becomes clear to the parent or relative that the minor child shall be absent for more than 180 consecutive days shall be ineligible for benefits for a period of three months from the date the [CBOSS] CWA becomes aware of the beneficiary's failure to notify the agency of the absence, which shall begin with the month following the month in which the absence becomes known.

10:69-3.30 Absence for reasons other than institutional

(a) Temporary absence of a child [which] **that** has not lasted more than 30 consecutive days does not affect eligibility. When the absence of a child lasts longer than 30 days or it appears that an absence will last longer than 30 days, the [CBOSS] CWA shall review the situation.

1.-3. (No change.)

4. In unusual situations involving particular hardship, the [CBOSS] CWA may consult with the Division of Medical Assistance and Health Services.

(b) Regarding parent or parent-person, temporary absence of not more than 30 days for whatever reason shall not affect eligibility provided that adequate care and supervision of the child(ren) has been arranged in advance. When necessary, arrangements shall be made by the [county board of social services] CWA regarding changing the receiver of the [Medicaid card] **Health Benefits Identification (HBID) Card or HBID Emergency Services Letter**.

1. The [county board of social services] CWA shall obtain approval from the [Division of Medical Assistance and Health Services] **DMAHS** for continuing eligibility in unusual situations of temporary absence lasting more than 30 days.

(c) When the entire family unit leaves the State for a temporary visit, the provisions of N.J.A.C. 10:69-[3.21 through 3.22]**3.19 and 3.20** shall apply.

10:69-3.31 Legally responsible relatives (LRRs)

(a) Certain relatives are legally considered responsible to provide support if financially able and may be a source of income for an AFDC-related Medicaid applicant or beneficiary. The [CBOSS] CWA shall determine the capacity of LRRs to contribute to the support of AFDC-related Medicaid applicants and beneficiaries.

(b) The [county board of social services] CWA director is authorized under specified circumstances to apply to the appropriate court for a support order. In cases where a court order appears to be the only means of insuring consistent and actual support, the applicant/beneficiary may elect to receive from the [CBOSS] CWA the grant for which he or she is eligible and request the [CBOSS] CWA to collect the support payments[.] ([See] **see** N.J.A.C. 10:69-3.36[.]). The applicant shall be fully informed of these provisions and their impact:

1. (No change.)

(c)-(e) (No change.)

(f) The eligible unit shall not be eligible for AFDC-related Medicaid when the amount of the legally responsible relative's evaluated capacity to support equals or exceeds [their] **his or her** adjusted allowance and this support is actually provided to the eligible unit.

1.-3. (No change.)

4. For a LRR in the home of the eligible unit, see N.J.A.C. 10:69-3.10[(b)5].

(g) (No change.)

(h) When an individual (under the age of 19) who is himself or herself a parent lives in the same home as his or her own parent(s) or legal guardian(s), and the adolescent parent applies for AFDC-C or -F, the income of such parent(s) or legal guardian(s) shall be considered available to the eligible unit in accordance with the deeming provisions of N.J.A.C. 10:69-[10.45 and 10.46]**10.44**.

10:69-3.32 Support orders for legally responsible relatives

(a) The [county board of social services] CWA director has authority, after due investigation, to direct a legally responsible relative to pay toward the support of an applicant for or beneficiary of AFDC-related Medicaid.

(b) Upon failure of such relative to comply, the director shall so certify in writing to the county court or to the court of juvenile and domestic relations of the county, whereupon such court may, after hearing, "order and adjudge the able relative or other persons responsible for the support of such applicant to pay such sum or to deliver to the court or to the [County Board of Social Services] CWA director such other pledge or guaranty as the circumstances may require in the discretion of the court for each such applicant."

(c) The [county board of social services] CWA may also bring appropriate action in a court of competent jurisdiction to recover any sum of money due for Medicaid coverage given any person under this

chapter against any person chargeable by law for the support of such persons.

(d) Where the relative from whom support is sought is a resident of another state and the [county board of social services] CWA is unsuccessful in securing information and/or voluntary contributions commensurate with the evaluated capacity to support, either by direct correspondence or through an appropriate AFDC-related Medicaid agency, the procedures provided in the Uniform [Reciprocal Enforcement of] **Interstate Family Support Act**, N.J.S.A. 2A:4-[30.24]**30.124** et seq., shall apply.

(e) When there is evidence that a relative is failing to comply with the order of the [county board of social services] CWA director, the director shall follow the legal procedure as provided in (b) above. Where there is failure to comply with the order of a court, the [county board of social services] CWA shall consult with the probation department or with the court that placed the order.

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

(h) The following concern the inability of a legally responsible relative to comply with an order:

1. (No change.)

2. Where such situation is found to exist in respect to a relative under court order to support, the terms of the order cannot be changed except by amendment by the court itself after review. The [county board of social services] CWA will assist in initiating amendment proceedings in such cases.

(i) Where the amount of support actually received, under court order and otherwise, exceeds the per capita share of the income standard for the family size for the individual for whose benefit it is paid, the client shall be informed of the right to choose whether to leave the eligible unit and have the benefit of all the income or to remain in the eligible unit. All consequences including those with regard to Medicaid shall be clearly and explicitly explained. This provision also applies to other legally designated income[.] ([See] **see** N.J.A.C. 10:69-[11.17.]**10**).

10:69-3.34 Liquidation of all debts, claims, interests, settlements, and trust funds

(a) Members of the eligible family shall take all necessary and reasonable action to avail themselves of funds for support from others who owe or may owe money to them or who are holding funds for them. Any funds made available by such action shall be considered as income to the eligible family, except as provided in N.J.A.C. 10:69-3.36(b).

1. When a trust fund exists for a member of the eligible family, the [CBOSS] CWA shall determine whether or not the funds are currently accessible. If accessible, the funds represent a source of funds for support and shall be considered in determining eligibility.

i. (No change.)

10:69-3.35 Repayment

(a) The [CBOSS] CWA shall, in all circumstances, take appropriate action to recover all AFDC-related Medicaid improperly granted. The action taken shall be in accordance with the appropriate sections of this chapter, N.J.A.C. 10:49, and any other applicable authority.

1. Recoveries of funds applicable to more than one [CBOSS] CWA shall be divided according to the mutual agreement of the directors of the [CBOSSs] CWAs involved.

(b) Properly granted AFDC-related Medicaid coverage rules are as follows:

1. Repayment of Medicaid coverage in the AFDC-related Medicaid program (all segments) is required in certain cases in which Medicaid coverage is provided for treatment where another third party is responsible for payment of the medical services. Medicaid coverage is granted while the beneficiary([s] ies) awaits receipt of funds from some other source (**see** N.J.A.C. 10:69-3.36). [See N.J.A.C. 10:69-3.40 for rules on liquidation of non-exempt real property. See N.J.A.C. 10:69-3.39 regarding repayment following liquidation of other pending claims.]

(c) Rules when agreement to repay is not required are as follows:

1. (No change.)

2. Upon signing an application for AFDC-related Medicaid (PA-1J), the applicant or beneficiary automatically assigns all support rights (whether for past due or future support) to the [CBOSS] CWA. The

signing of an Agreement to Repay is therefore not required when the pending payment arises from potential entitlement to payment of support from a relative.

10:69-3.36 Action by [CBOSS] CWA upon voluntary liquidation

(a) Upon voluntary liquidation of a claim or interest, and the family is currently receiving AFDC-related Medicaid, the [CBOSS] CWA shall evaluate the situation to determine the family's continued eligibility for Medicaid coverage.

(b) Rules on continued eligibility arising from sale of exempt resources (see N.J.A.C. 10:69-[12.2]11.1 for exempt resources) are as follows:

1. The [CBOSS] CWA shall not terminate eligibility when the proceeds from the sale of an exempt resource are promptly reinvested in another exempt resource of the same type. Funds designated by the client as being reserved for such reinvestment, including any interest accrued during the period, may be held for up to three months, provided the funds are held in escrow or are otherwise unavailable for daily living expenses. The three-month period may be extended upon written approval of the Division of Medical Assistance and Health Services.

SUBCHAPTER 4. MEDICAID SPECIAL

10:69-4.1 General provisions

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

(d) Rules concerning pregnant women under age 21 are as follows:

1. (No change.)

2. Eligibility is determined for an eligible family of two, or more if a multiple pregnancy (woman and unborn children), based on her income only, or, if she is married and living with her spouse, on an eligible family of three or more (woman, spouse and unborn children) including income of both spouses. Medicaid coverage does not include the spouse even though his income is included in the eligibility determination.

i. (No change.)

ii. A pregnant woman with other dependent children should be assisted in making immediate application for AFDC-related Medicaid based on AFDC rules in effect as of July 16, 1996, and for TANF cash assistance. If she is found ineligible under AFDC-related Medicaid rules, the [CBOSS] CWA shall determine potential eligibility for New Jersey Care...Special Medicaid Programs coverage for pregnant women (see N.J.A.C. 10:72).

iii. After the birth of the child, so long as the mother was eligible for and receiving Medicaid Special benefits at the time of the birth of the child(ren), [and the child(ren) resides with her,] the child(ren) remain(s) eligible for Medicaid for period of one year, whether or not application has been made.

10:69-4.2 Determination of eligibility; Medicaid Special

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

(d) Medicaid Special is available only for U.S. citizens or eligible aliens[.] ([See]see N.J.A.C. 10:69-3.9 requirements related to alien status[.]).

(e) (No change.)

10:69-4.3 College students and Medicaid Special

(a) A student's permanent residence is considered to be with his or her parents even though he or she is temporarily absent to attend college. A student shall be determined "not living with parents" only when the [CBOSS] CWA has verified that all of the following conditions exist:

1.-3. (No change.)

(b)-(d) (No change.)

SUBCHAPTER 5. CONTINUING ELIGIBILITY IN AFDC-RELATED MEDICAID

10:69-5.2 Requirements for periodic redetermination

(a) Redetermination is a review of factors affecting AFDC-related Medicaid eligibility, including, but not limited to, continued parental deprivation, or changes in income. At the redetermination, the parent(s) shall complete an application for continuation for Medicaid. If a redetermination is not conducted and the [CBOSS] CWA is responsible, the right of the client to continued Medicaid shall not be jeopardized.

(b) For beneficiaries of AFDC-related Medicaid, all factors of eligibility shall be redetermined at least every 12 months. No case shall be terminated before evaluating eligibility, using data available from other sources, such as the [Food Stamp] **Supplemental Nutrition Assistance Program (SNAP)** or Work First programs. All cases determined ineligible for AFDC-Medicaid shall be screened for eligibility under all other program options. Referrals shall be coordinated to ensure that continuous coverage of benefits is available to the beneficiary, as applicable.

(c) Redeterminations shall be conducted in each case at least once every 12 months, but, at the beneficiary's option, the beneficiary may mail in the redetermination form to the [CBOSS] CWA.

(d) It is the responsibility of the [CBOSS] CWA to maintain a control file to assure that redeterminations are undertaken and acted upon at intervals as prescribed by this section. The redetermination time interval shall be contingent upon the month in which [an initial Medicaid card] **the beneficiary's permanent Health Benefits Identification (HBID) Card** is issued, rather than on such factors as the date of application or final validation of eligibility. [For example, an AFDC-related Medicaid case receiving an initial Medicaid card in July shall have a redetermination completed prior to the July card issuance so that the effective date of the redetermination shall be July 1.]

10:69-5.4 Competency status in AFDC-related Medicaid

(a) (No change.)

(b) If it is the finding of the [CBOSS] CWA that the parent or parent-person has demonstrated such inability to manage the medical care of the child, the [Medicaid card] **child's Health Benefits Identification (HBID) Card or HBID Emergency Services Letter** can be issued to a third party. In such cases, the client shall be fully advised of his or her rights.

10:69-5.5 [Institutional status in AFDC-related Medicaid] (Reserved)

[Upon the parent's(s') or parent-person's(s') admission to an institution, the eligibility worker should be alert to the initiation of "temporary payee" as provided in N.J.A.C. 10:69-4.7.]

10:69-5.6 Requirements with respect to deprivation of parental support or care in AFDC-C

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

(c) The following concern incapacity status for a natural or adoptive parent:

1. (No change.)

2. The Disability Review Section, Division of Medical Assistance and Health Services shall designate the review date for the [CBOSS] CWA. "Incapacity" shall be considered as continuing until the Disability Review Section officially determines that such incapacity no longer exists. The eligibility worker shall prepare Form DRS-2A, Interim Medical-Social Report, for the redetermination review. The [CBOSS] CWA shall maintain controls on review dates so that any specific medical information or reports requested by the Disability Review Section may be obtained. In addition, the Disability Review Section shall maintain a control file in order to ensure appropriate and timely reevaluation by that Section. The Disability Review Section will notify [county board of social services] CWAs one month in advance of cases scheduled for such review by means of Form DRS-5.

3. In any case in which, subsequent to a finding of "approved," the incapacitated parent becomes a beneficiary of Federal disability benefits or SSI benefits for reasons other than age, this of itself shall be considered conclusive proof of continuing incapacity, and the [CBOSS] CWA shall disregard the "review date" for submittal to the Disability Review Section.

4. (No change.)

(d) When, subsequent to a finding of "approved" on the "incapacity" factor, the [CBOSS] CWA learns that the parent has obtained full-time employment at normal rate of pay for a job appropriate to his or her capacity, then incapacity no longer exists.

(e) The following concern when an "incapacitated" natural or adoptive parent is in institution:

1. (No change.)

2. As soon as the date of discharge is known, or if the [CBOSS] CWA learns that the parent has already been discharged to his or her home, the [CBOSS] CWA shall submit the required record material to the Disability Review Section as appropriate to the situation; that is, if official determination of incapacity had already been made, the previous record shall be submitted for review with a completed Form DRS-2A; if the case had not been previously submitted, then a DRS-2 giving current situation and Form DRS-1 (Examining Physician's Report) shall be submitted. Whenever practical, the DRS-1 form should be prepared by a staff physician of the institution.

3. (No change.)

10:69-5.7 Marriage or remarriage

In AFDC-C, when eligibility is based on the absence of one parent and the remaining parent marries or remarries, such marriage or remarriage does not in and of itself terminate eligibility but does require prompt redetermination of financial need and eligible unit composition in accordance with N.J.A.C. 10:69-10.33 [or 10.34, as applicable].

10:69-5.8 Special conditions relating to parent(s) in AFDC-F

(a) (No change.)

(b) When a parent becomes hospitalized, incapacitated, committed to a mental institution, or incarcerated in a [penal institution] **correctional facility** and the [CBOSS] CWA has evidence that this condition will continue beyond 30 days, the case shall be transferred to the AFDC-C segment. No interruption of Medicaid shall result if AFDC-related Medicaid eligibility begins with such aforementioned situation.

10:69-5.9 Legally responsible relatives capacity to support

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

(d) The [CBOSS] CWA shall avoid making routine requests of other [county board of social services] CWAs or of out-of-State agencies to contact relatives for reevaluation of capacity to support. When, after careful evaluation of the need for such service, it is considered essential to request an interview, the letter of request shall clearly identify both the nature and the purpose of the desired service.

10:69-5.11 Notice of agency decision

(a) (No change.)

(b) If the notice of intention to terminate Medicaid eligibility is related to identification of possible fraud, beneficiaries are entitled to:] **timely notice as defined at N.J.A.C. 10:69-6.1.**

[1. Timely notice in certain cases of probable fraud (see N.J.A.C. 10:69-3.39 through 3.44); and]

[2.] **1.** Seven days notice shall be considered timely when, in the judgment of [CBOSS] **the CWA** director, there is substantiated evidence that **the** client is receiving Medicaid coverage through willful fraud (see N.J.A.C. 10:69-9.15 through 9.18).

10:69-5.12 Periodic notice to client

(a) The client shall be informed periodically (at least once every 12 months) of his or her continuing obligation to furnish accurate and timely information to the [CBOSS] CWA concerning changes in income or other circumstances [which] **that** may affect the receipt of benefits. The applicant shall receive, and have explained if necessary, a copy of the pamphlet Medicaid Rights and Responsibilities. This pamphlet shall be given to the applicant at the time of application and at each redetermination if the beneficiary has not retained the copy previously provided. The client shall inform the [CBOSS] CWA of any change as soon as possible but in no event later than two weeks after the change takes place. Failure of the client to so inform the [CBOSS] CWA shall constitute willful withholding of information.

(b) (No change.)

10:69-5.13 Extension of Medicaid benefits

(a) (No change.)

(b) Those cases [which] **that** are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC-related Medicaid cases. The procedures established at N.J.A.C. 10:69-[3.27(b)]**3.24** are to be followed when transferring a case in Medicaid extension.

(c) AFDC applicants may be eligible for retroactive Medicaid benefits; such determinations are made by [DMAHS] **the CWA**. The eligibility worker shall ask if the family has unpaid medical bills from the previous three months and shall provide the applicant with appropriate forms. The [Division of Medical Assistance and Health Services] CWA shall make a determination of eligibility for each of the three previous months, based on the eligibility rules in this chapter.

(d) (No change.)

(e) For newborns of eligible women who have applied, [(before or on the date of the birth)], and are eligible for Medicaid on the date of birth, [(except for a presumptively eligible pregnant woman, as defined at N.J.A.C. 10:72-6.1, who is subsequently found ineligible for the month the child was born)], eligibility continues for both mother and child through the last day of the month in which the 60-day post-partum period ends, without regard to other program requirements. So long as the mother remains eligible, or would remain eligible if pregnant, [and the child resides with her,] the child remains eligible for Medicaid for a period of one year, whether or not application has been made for the child.

(f) Individuals who were admitted to a hospital and were subsequently referred to the [CBOSS] CWA through the use of Form PA-1C, Public Assistance Inquiry, may be eligible for Medicaid benefits from the date the PA-1C was completed, provided:

1. (No change.)

2. Except for good cause, including, but not limited to, hospitalizations lasting for three or more months, the homebound status of the applicant, the [CBOSS] CWA was unable to schedule a timely application appointment, or the hospital failed to inform the applicant to apply at the [CBOSS] CWA, the individual applies for AFDC-related Medicaid benefits within three months after the referral is made.

i. If the [CBOSS] CWA determines that the individual had good cause for not applying within three months, an extension may be granted for an additional three months.

ii. Newborns of eligible women are deemed to have applied and shall be added to the Medicaid case, effective the date of birth, upon receipt of a valid Form PA-1C (see N.J.A.C. 10:69-[8.10(e)]**2.19** for coverage limits).

(g) Those cases [which] **that** are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC-related Medicaid cases. The procedures established at N.J.A.C. 10:69-[3.27(b)]**3.24** are to be followed when transferring a case in Medicaid extension.

10:69-5.14 Change in eligible unit

(a) A newborn child shall be added to the AFDC-related Medicaid case effective with the date of birth, provided that the [CBOSS] CWA is notified within one year of that date.

(b) The date of change for adding other members added to an eligible unit shall be the first day of the month the eligible unit reports to the [CBOSS] CWA the addition of the member.

SUBCHAPTER 6. COMPLAINTS, HEARINGS, AND ADMINISTRATIVE REVIEWS

10:69-6.1 Definitions

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

“Adequate notice” means a written notice that meets the requirements of N.J.A.C. 10:69-[6.3]**6.2(d)**.

...

“Administrative review” means a review of a disputed matter [which] **that** has been determined by the Director of the Division of Medical Assistance and Health Services not to constitute a contested case and therefore remains in the Division for review. At the discretion of the Director, an administrative review may be conducted as a procedure at which parties appear and are heard or it may be a paper review[.] ([See] see N.J.A.C. 10:69-[1.2.]**6.6**).

...

“Adverse action” means any action by a [CBOSS] CWA resulting in denial of application for AFDC-related Medicaid. An adverse action is an action to deny an application for Medicaid, or to terminate Medicaid (including service, vendor payments, or Medicaid entitlement) or to deny payment to a vendor for medical services required to be reimbursed by the [county board of social services] CWA.

“Fair hearing” means a formal or informal procedure through which [a] an AFDC-related Medicaid client may protest an adverse action or decision of the [county board of social services (CBOSS)] CWA regarding eligibility or manner of granting AFDC-related Medicaid. Fair hearing is a general term [which] **that** includes administrative hearing and administrative review.

10:69-6.2 Right to fair hearing and administrative review

(a) It is the right of every applicant or beneficiary adversely affected by an action by a [county boards of social services (CBOSS)] CWA to be afforded a fair hearing in a manner established by the rules in this subchapter and by the Uniform Administrative Procedure Rules, [(N.J.A.C. 1:1)]. These rules have been established pursuant to Federal regulations, [(45 CFR 205.10)], and the New Jersey Administrative Procedure Act, [(N.J.S.A. 52:14B-1 et seq.).]

(b) The [county board of social services] CWA shall promptly notify the beneficiary in writing of any agency decision affecting that client. The term “agency decision” refers to a decision made by the [county board of social services] CWA and includes any decision made by the [county board of social services] CWA. In the case of a client who cannot be located, notice shall be sent to his or her last known address.

(c) (No change.)

(d) The written notice of adverse action shall, at a minimum, include the following:

1.-9. (No change.)

10. A sentence in Spanish cautioning the client that the notice relates to a change in Medicaid coverage and if he or she does not understand the notice, he or she should contact the [CBOSS] CWA; and

11. (No change.)

(e) (No change.)

(f) Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of action when:

1.-4. (No change.)

5. The claimant’s whereabouts are unknown and agency mail has been returned by the post office indicating no known forwarding address. The [Medicaid Card] **Health Benefits Identification (HBID) Card or HBID Emergency Services Letter** must, however, be made available to the beneficiary if his or her whereabouts become known during the medical coverage period, unless (f)5i below applies.

i. (No change.)

6. A beneficiary has been accepted for medical assistance in another state and that fact has been established by the [CBOSS] CWA previously providing Medicaid coverage;

7.-8. (No change.)

10:69-6.3 Responsibilities of the [CBOSS] CWA in processing hearing requests

(a)-(d) (No change.)

(e) To assure orderly and expeditious processing of complaints and hearing requests, each [CBOSS] CWA shall designate a liaison between the county and State Division whose duties shall include, but not be limited to:

1. Informing the Bureau of [Legal and Regulatory Liaison (BLRL)] **Administrative Review and Appeals (BARA)** by telephone on the same day an oral or written request for a hearing is received, providing the following information:

i.-v. (No change.)

2. Establishing a system to assure that every written request for a hearing received in the [CBOSS] CWA office is stamped with the date of receipt and forwarded to [BLRL] BARA within one work day of the date;

3.-5. (No change.)

6. Submitting special reports on hearing requests prior to the hearing date, when requested by [OEP or BLRL] BARA;

7. (No change.)

8. Serving as the single individual in the [CBOSS] CWA to be contacted regarding matters relating to hearings and the monitoring system.

(f) The [CBOSS] CWA is responsible to inform the applicant/beneficiary who is requesting a hearing and elects to receive continued Medicaid that the ALJ may find him or her not entitled to all or a portion of the Medicaid coverage received during the pendency of the hearing and that, in such event, repayment may be required of the amount of benefits received from the effective date of the proposed adverse action to the date of the scheduled hearing.

1. (No change.)

10:69-6.4 Responsibilities of the Division of Medical Assistance and Health Services

(a) Each request for a fair hearing shall be registered by [BLRL] **the Bureau of Administrative Review and Appeals (BARA)** on the date the request is received.

(b) Requests initially received in [BLRL] BARA shall be transmitted by telephone to the [CBOSS] CWA on the date received.

(c) [BLRL] BARA shall transmit each contested case to OAL within five work days of the receipt of the request.

(d) Written determination on entitlement to receive continuing Medicaid coverage shall be included in the OAL transmittal and sent to the applicant/beneficiary and the [CBOSS] CWA.

10:69-6.7 Complaints and adjustment procedures

(a) Prompt and courteous attention shall be given to all complaints, whether or not such complaints constitute requests for fair hearing and whether or not they are directed to the [CBOSS] CWA or the Division of Medical Assistance and Health Services. All complaints received shall be acknowledged promptly and, if it is not apparent from the complaint that a fair hearing request has been made, the acknowledgment shall inform the beneficiary of his or her right to a fair hearing.

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

(d) A request for a fair hearing may be either oral or in writing and addressed to the [CBOSS] CWA or to [the State Division] DMAHS. Oral requests for fair hearing shall be immediately reduced to a written record by the staff person to whom the request is made. No special form of statement or manner of expression is required so long as the request identifies the nature of the complaint and the relief sought. Requests made to the [CBOSS] CWA shall be immediately transmitted to the [BLRL] BARA, and in no event later than one work day after receipt of the request.

(e) Upon receipt of any request for a fair hearing, a determination shall be made by [the Division] DMAHS on the appropriateness of an administrative hearing or administrative review (N.J.A.C. [10:6-1.2] **10:69-6.6**). If the matter is deemed contested, [BLRL] BARA will send an acknowledgment of the request to the client. All contested cases shall be promptly forwarded to the OAL for a hearing before an ALJ.

10:69-6.9 Eligibility for continued Medicaid coverage

(a) (No change.)

(b) An adjournment of a hearing at the request of [an] a beneficiary shall not prolong continuation of Medicaid coverage, unless the adjournment is due to delay caused by [the State Division] DMAHS, OAL, or the [CBOSS] CWA; unavoidable causes, such as an illness on the part of the applicant/beneficiary; or the failure of the [CBOSS] CWA to provide assistance for transportation when such assistance is required by regulations. Adjournment at the request of the [CBOSS] CWA or by the ALJ shall not affect continued benefits.

(c) The [CBOSS] CWA shall promptly inform the beneficiary in writing whether or not Medicaid coverage shall be continued unreduced pending a final decision.

10:69-6.10 Access to discovery of information in contested cases

The [CBOSS] CWA shall provide the applicant/beneficiary and/or his or her authorized representative opportunity to review the entire case file or documents and records to be used in the administrative hearing.

Such materials shall be made available at a reasonable time before the scheduled hearing date as well as during the hearing[.] (see 45 CFR 205.10(a)(13)).

10:69-6.11 Representation at hearings

(a) (No change.)

(b) The [CBOSS] CWA representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action. If the [CBOSS] CWA representative feels that he or she must be an advocate of the client and is unable to represent the agency, then another [CBOSS] CWA staff person shall appear at the hearing to fulfill the above identified role.

(c) (No change.)

10:69-6.12 Disposition of hearing request through withdrawal, abandonment, or settlement

(a) Prior to transmittal to OAL, if a party desires that a hearing request be withdrawn, that party shall notify the [CBOSS] CWA or DMAHS in writing of the withdrawal request. DMAHS shall in turn acknowledge, in writing, receipt of the withdrawal request. No [CBOSS] CWA shall deny or dismiss a request for a fair hearing. The determinations on the validity of each hearing request shall be made by the [Division of Medical Assistance and Health Services] DMAHS including any determination on the appropriateness of processing hearing requests pursuant to this subchapter.

(b) (No change.)

10:69-6.14 Hearings involving medical issues

(a) (No change.)

(b) The [CBOSS] CWA shall pay for this medical assessment which shall be obtained at reasonable expense.

10:69-6.15 Decision by Director, Division of Medical Assistance and Health Services

(a) A final administrative hearing decision shall be rendered by the Director of the DMAHS. The applicant/beneficiary, his or her representative, and the [CBOSS] CWA shall be notified by mail of any decision or order.

1. (No change.)

(b) An official and complete record of each administrative hearing shall be maintained in the files of DMAHS and the [CBOSS] CWA for at least one year after the date the final decision is rendered. During this one year period, the applicant/beneficiary or his or her legal representative may review, upon appointment, all or any part of the official and complete record of his or her administrative hearing.

(c) A decision requiring action by the [CBOSS] CWA may apply either prospectively with regard to future action by the [CBOSS] CWA or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties.

1. (No change.)

(d) The DMAHS shall take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by the hearing decision, unless otherwise directed in the decision, will be implemented by the [CBOSS] CWA immediately upon receipt of the decision.

(e) Final administrative action on administrative hearing decisions, including any corrective action required by the decision, shall be implemented by the [CBOSS] CWA within 90 days of the date of the request for a fair hearing.

SUBCHAPTER 7. CASE RECORDS AND FILES

10:69-7.1 Purpose of case records

(a) The case record is the official file of forms, chronological narrative, correspondence, and other documents pertinent to the application and eligibility of the client. It constitutes a complete record of the [county board of social services] CWA's decisions and actions about eligibility for each case. Since it is the record of information on which decisions to grant, deny, or continue Medicaid coverage in

accordance with law and regulations are made, it is mandatory that a case record be established for every individual who applies for and/or receives Medicaid.

(b) (No change.)

(c) The case record also serves:

1. To provide the information necessary for action in conformity with all relevant legal requirements in the [county board of social services] CWA's relationship with the client;

2. To provide an adequate and accurate source of information for the [Division of Medical Assistance and Health Services] DMAHS and Federal staff for statistical studies or other research purposes [which] that will be statistical in nature and include no beneficiary's names; and

3. (No change.)

10:69-7.3 Documentation of verification of factors of eligibility

(a) It is essential that the [CBOSS] CWA carefully document its verification of all eligibility requirements. It is extremely important that when reference is made to a document or source of verification, sufficient information be provided so that the document or source can be readily identified.

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

10:69-7.4 Maintenance and custody of case records

(a) (No change.)

(b) All records shall be filed in a secure and fire-resistant room. A separate file shall be maintained for each program. The [CBOSS] CWA director may further subclassify the case records in whatever manner is best suited to local administrative use and control, provided that all such classifications are cross-indexed so that it shall be possible to locate immediately the whole of any case record either by name or registration number.

(c) All records shall be maintained in accordance with the New Jersey Division of Revenue and Enterprise Services (DORES) Records Management Services (RMS) policy (see N.J.A.C. 15:3). The RMS website is: <http://www.nj.gov/treasury/revenue/rms/index.shtml>.

10:69-7.5 Movement of case records

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

(c) No case record or official part shall be removed from the offices of the [county board of social services] CWA except at the specific authorization of the director, deputy director, or other person specifically designated by the agency director to authorize such removal.

10:69-7.6 Transfer of case records

No case record or official part of such record shall be permanently removed from its designated filing cabinet unless and until it is transferred in its entirety to the custody of some other [county board of social services] CWA or it comes under the provisions of N.J.A.C. 10:69-7.7.

10:69-7.7 Retention and destruction of case records

(a) Each [county board of social services] CWA shall retain all material normally kept in the "case folder" for the time periods indicated in (b) below. At the expiration of such time period the [CBOSS] CWA may, at its option, destroy records in accordance with (c) and (d) below, continuing to retain those portions indicated. In permanent available archives, the [CBOSS] CWA shall retain information showing the date and manner of destruction of each "case folder" destroyed.

1. (No change.)

(b) Retention periods are as follows:

1. (No change.)

2. The following concern records of cases in which reimbursement is owing:

i.-ii. (No change.)

iii. Records in cases in which reimbursement is owing shall be retained as follows:

Case Folders	Retention Period
AFDC-related Medicaid, New Jersey Care ... Special Medicaid Programs, Medically Needy, NJ [KidCare]	
FamilyCare — Children's Program,	

Case Folders	Retention Period
MAA, and Medicaid Only	
a.-b. (No change.)	
iv. (No change.)	
(c) Requests for destruction of case records shall be submitted on State Form ED-6, Request and Authorization for Records Disposal, which may be obtained from the Office of Eligibility Policy, Division of Medical Assistance and Health Services. Form ED-6 will be completed as follows:	
1. Request Number and Date: Each [county board of social services] CWA shall assign its own number to each request and the date upon which it was submitted;	
2. (No change.)	
3. From: Provide complete address of [county board of social services] CWA;	
i.-iv. (No change.)	
v. Retention Period: Complete in accordance with [subsection] (b) [of this section] above ;	
vi. Requested By: Signature of [CBOSS] CWA director or authorized agent; and	
vii. (No change.)	
4. All copies of the completed Form ED-6 shall be forwarded to [the Office of Eligibility Policy] Disposal Requests, Department of the Treasury, Division of Revenue and Enterprise Services, PO Box 661, Trenton, NJ 08625-0661 , for approval. The [county board of social services] CWA shall not destroy any records until such approval has been received by the [CBOSS] CWA in writing.	
5. Additional information regarding records management and disposal can be found on the RMS website: http://www.nj.gov/treasury/revenue/rms/index.shtml.	
(d) (No change.)	

10:69-7.8 Agency controls for other operational procedures

(a) Each [CBOSS] CWA director shall establish operational procedures and appropriate controls for the staff that will expedite the processing of applications and ensure maximum compliance with policy and regulations.

(b) (No change.)

SUBCHAPTER 8. OTHER GOVERNMENTAL PROGRAMS

10:69-8.2 Procedures for securing information from the Social Security Administration

(a) [County board of social services] CWAs are required to use the Automated Benefit Information Exchange (ABIE)/Beneficiary Earnings and Data Exchange (BENDEX) and the State Data Exchange (SDX) as the primary source of verification of Social Security (RSDI) and Supplemental Security Income (SSI) benefit information.

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

10:69-8.3 Release of information by [county board of social services] CWA to Social Security Administration (SSA)

(a) When the [Social Security Administration] SSA requests information to assist in determining an applicant's eligibility for any benefits, the [county board of social services] CWA is authorized to release such information from its records.

(b) (No change.)

10:69-8.5 [Division of Employment Services] **Department of Labor and Workforce Development**

(a) The [Division of Employment Services within the State] Department of Labor and Workforce Development is responsible for the administration of [the] Unemployment Insurance and Temporary Disability Benefits.

(b) The [Division of Employment Services] **Department of Labor and Workforce Development** maintains local offices and provides itinerant services at necessary points, which vary from time to time with economic conditions, on specified days or during specified seasons of the year. The [county board of social services] CWA may obtain copies of a published list of the local and itinerant offices from the [Division of Employment Services, John Fitch Plaza] **Department of Labor and**

Workforce Development, PO Box 110, Trenton, New Jersey 08625-0110.

(c) It is essential that the [county board of social services] CWA staffs familiarize themselves with the general rules of eligibility for receipt of unemployment insurance and temporary disability benefits, payment provisions, and duration of weekly payments for persons who have been engaged in "covered" employment.

(d) The following concern the verification of the status of a claim for unemployment insurance:

1. Claims for unemployment insurance benefits are filed at the appropriate local [office of the State Employment Service] **Reemployment Call Center or online at www.njuifile.net.**

2. (No change.)

3. [When a client cannot provide the information and fails in his or her efforts to secure it himself or herself, or there is reason to believe that the client is furnishing inaccurate or incomplete information, the agency] **The CWA shall obtain [information on-line] unemployment status verifications** via access to the [New Jersey Treasury computer system] **Department of Labor and Workforce Development's Local Office Online Payment System (LOOPS).**

(e) The following concern the verification of the status of a claim for temporary disability benefits:

1.-2. (No change.)

3. If the client still has not received payment, or notice of ineligibility for benefits for a claim made under the private plan, a direct inquiry in writing shall be sent to the employer. If filed under the State plan, [inquiry shall be made through the New Jersey Treasury computer system] **the CWA shall confirm the status of the claim via access to the Department of Labor and Workforce Development's Disability Automated Benefit System (DABS).** In such instances, Medicaid coverage shall be continued until receipt of a payment or indefinitely if payment does not cause ineligibility for AFDC-related Medicaid.

10:69-8.6 Functions of the Department of Veterans Affairs

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

(c) Information concerning eligibility for benefits and services may be obtained from the following sources:

1. (No change.)

2. The New Jersey Bureau of Veterans Services, Department of Military and [Veterans] **Veterans' Affairs**, maintains service offices to which persons seeking information or wishing to file for veterans benefits or services may be referred. The Department of Military and [Veterans] **Veterans' Affairs** can be reached by calling 1-800-624-0508, **at <http://www.state.nj.us/military/veterans/programs.html>, or in writing to New Jersey Department of Military and Veterans' Affairs, PO Box 340, Trenton, NJ 08625-0340.** That agency can provide the addresses of the local Veterans Service Office.

SUBCHAPTER 9. OTHER AGENCY RESPONSIBILITIES

10:69-9.2 Issuance of manual

(a) Rules concerning assignment and responsibility are as follows:

1. The director of the [county board of social services] CWA shall assign copies of this chapter as an eligibility manual to administrative staff and all other income maintenance staff members working with applicants and beneficiaries and to social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its contents and applies the required policy and procedures consistently.

2. The Division of Medical Assistance and Health Services (DMAHS) shall issue updates to this chapter with revisions duly promulgated in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as well as informational materials, as necessary. It is the responsibility of each holder of the manual to maintain its accuracy by [inserting new material and removing obsolete pages promptly] **accessing updated copies of the manual in accordance with (b) below.**

3. One administrative copy of obsolete material related to this manual shall be kept by the [county board of social services] CWA.

(b) This eligibility manual is a public document. It is extremely important that all copies in use be absolutely accurate and up-to-date. A

copy of this manual is maintained on the LexisNexis website, <http://www.lexisnexis.com/njoal>, and can be accessed free of charge. It is available as follows for agencies/individuals without access to the internet:

1. Copies are available in the State office of the Division of Medical Assistance and Health Services and in each [county board of social services] CWA office for examination or review during regular office hours on regular work days.

2. (No change.)

3. Welfare, social service, and other nonprofit organizations shall be furnished with a copy of this manual at no cost by **submitting** an official written request to:

Division of Medical Assistance and Health Services
[Bureau of Policy and Intergovernmental Relations]
Office of Legal and Regulatory Affairs
[Division of Medical Assistance and Health Services]
Mail Code #26
PO Box 712
Trenton, NJ 08625-0712
Fax: 1-609-588-[7672]7343

4. A current up-to-date copy of the manual or any part of it is available from the Division of Medical Assistance and Health Services at the cost of printing and mailing to anyone who requests it in writing at the [above-mentioned] address in (b)3 above.

5. All State policy directives and supplementary information shall [routinely] be **posted on the DMAHS website and be** sent to those who have been supplied with the eligibility manual and have requested to be added to the [mail] **mailing list**. The mailing list shall be maintained by [the Division] **DMAHS**.

10:69-9.3 [CBOSS] CWA reporting requirements

The [CBOSS] CWA shall provide all reports as requested by the Division of Medical Assistance and Health Services (DMAHS).

10:69-9.4 Issuance of [Medicaid] **identification** cards (validation of eligibility)

[(a) Each month, the county board of social services shall issue to each person or family currently eligible for AFDC-related Medicaid a validation of such eligibility. The validation shall be in a form approved by the Division of Medical Assistance and Health Services. The validation shall, at a minimum, contain the agency's name and address, the indication that this is a Medicaid validation card, and the name and Medicaid number of each eligible family member.]

(a) Each individual eligible for AFDC-related Medicaid will be issued a permanent, plastic identification card, the Health Benefits Identification (HBID) Card. The card is for identification purposes only; providers must verify eligibility before they provide services. In instances in which the individual requires emergency medical services prior to receiving his or her permanent HBID Card, the eligibility office will issue an HBID Emergency Services Letter containing the pertinent information that the provider will need to confirm eligibility and submit claims for services rendered to that client (see N.J.A.C. 10:49-2.15).

(b) Upon notification from a client that his or her [Medicaid card] **HBID Card** has been lost or stolen, the [CBOSS] CWA shall immediately issue a replacement card.

(c) A client who resides in a State or county institution shall be identified by the FD-34 Form, "Validation of Eligibility" (see N.J.A.C. 10:49-2.16).

10:69-9.7 Reporting of child abuse and neglect

[County board of social services] CWAs are required to report known or suspected instances of child abuse and neglect of a child receiving AFDC-related Medicaid to the Division of [Youth and Family Services] **Child Protection and Permanency**. Instances of abuse and neglect involve situations where a child experiences physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment under circumstances that indicate that the child's health or welfare is threatened.

10:69-9.8 Confidentiality of information

(a) No member, officer, or employee of the [county board of social services] CWA shall produce or disclose any confidential information to any person except as authorized below.

1. (No change.)

2. The [county board of social services] CWA may disclose information concerning an applicant or eligible person to persons and agencies directly related to the administration of the AFDC-related Medicaid program. Persons and agencies directly related to program administration are those who are properly authorized to be involved in the following:

i.-iv. (No change.)

3. The [county board of social services] CWA may release information whenever the applicant or eligible person waives confidentiality, but only to the extent authorized by the waiver.

4. If a court issues a subpoena for a case record or any other confidential information or for any agency representative to testify concerning an applicant or eligible person, the [county board of social services] CWA shall make a statement substantially as follows:

i. (No change.)

5. In no instance is it intended that any officer or employee of the [county board of social services] CWA place him or herself in contempt of court through the refusal to follow orders of the court. In any instance of a subpoena for case record information or for agency testimony, a complete report of the disposition of the court's request shall be entered into the case record.

6. Pertinent information and records may be released in conjunction with any administrative hearing conducted by the Office of Administrative Law regarding action or inaction of the [county board of social services] CWA affecting an applicant's or eligible person's eligibility or entitlement under the Medicaid program.

i. The [CBOSS] CWA may release information whenever the applicant or eligible person waives confidentiality, but only to the extent authorized by the waiver.

ii. If a court issues a subpoena for a case record or any other confidential information or for any agency representative to testify concerning an applicant or eligible person, the [CBOSS] CWA shall make a statement substantially as follows:

(1) (No change.)

iii. In no instance is it intended that any officer or employee of the [CBOSS] CWA place himself or herself in contempt of court through the refusal to follow orders of the court. In any instance of a subpoena for case record information or for agency testimony, a complete report of the disposition of the court's request shall be entered into the case record.

iv. Pertinent information and records may be released in conjunction with any administrative hearing conducted by the Office of Administrative Law regarding action or inaction of the [CBOSS] CWA affecting an applicant's or eligible person's eligibility or entitlement under the NJ [KidCare program] **FamilyCare — Children's Program**.

10:69-9.11 Material sent to applicants or beneficiaries of AFDC-related Medicaid program

(a) All materials distributed to program applicants or eligible persons shall:

1.-3. (No change.)

4. Identify those individuals only in their capacity with the State or the [CBOSS] CWA.

(b) The [CBOSS] CWA shall not distribute materials such as "holiday" greetings, general public announcements, partisan voting information, or alien registration notices.

(c) The [CBOSS] CWA may distribute materials directly related to the health and welfare of program applicants and eligible persons, such as announcements of free medical examinations, availability of surplus food, and consumer protection information.

10:69-9.12 Nondiscrimination

(a) Title VI of the Federal Civil Rights Act of 1964 [(P.L. 88-352)] **(42 U.S.C. §§ 2000d et seq.)**, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. [§70b] **§ 70b**), **the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 et seq.)**, and the Americans with Disabilities Act of

1990, [P.L. 101-336, codified as] (42 U.S.C. [§§12101] **§§ 12101** et seq.), **Section 1557 of the Affordable Care Act of 2010 (ACA), and the regulations issued thereunder by the Department of Health and Human Services (45 CFR Parts 80, 84, and 90)**, prohibit discrimination on the [ground] **basis** of race, color, **sex, religion, age**, national origin, or [handicap] **disability** in the administration of any program for which Federal funds are received. Strict compliance with the provisions of these acts and any regulations based thereon is required as a condition to receive Federal funds for the assistance programs administered by the [county boards of social services] **CWA**.

1. The [CBOSS] **CWA** shall inform all staff members of their obligations in regard to the Civil Rights Act of 1964, [and section] **Section 504** of the Rehabilitation Act of 1973, [and] **Section 1557 of the ACA of 2010, and the Americans with Disabilities Act**.

2. All persons seeking medical assistance shall be informed of Title VI of the Civil Rights Act of 1964, [and section] **Section 504** of the Rehabilitation Act of 1973, **Section 1557 of the ACA, and the Americans with Disabilities Act**.

3. All persons seeking or receiving medical assistance shall be afforded an opportunity to file a complaint alleging discrimination on the [ground] **basis** of race, color, **sex, religion, age**, national origin, or [handicap] **disability**. Such complaints may be filed directly with the Regional Manager, U.S. Department of Health and Human Services, Office of Civil Rights, **Jacob Javitz Federal Building, 26 Federal Plaza, Suite 3312**, New York, New York [10007] **10278**, or with the Director, Division of Medical Assistance and Health Services, PO Box 712, Trenton, New Jersey 08625-0712.

4. (No change.)

5. The [CBOSS] **CWA** shall afford full cooperation in the investigation of complaints of discrimination as may be requested by the Federal Department of Health and Human Services, the State Division of Medical Assistance and Health Services, or the State Division of Civil Rights.

10:69-9.13 Extent of prohibited discriminatory practices

(a) The discriminatory practices prohibited under N.J.A.C. 10:69-9.12 extend to all [county board of social services] **CWA** offices.

(b) Prohibited discriminatory practices extend to services purchased or otherwise obtained by the [county board of social services] **CWA** from other agencies, organizations, and institutions for beneficiaries of the program, and to the treatment of clients in facilities in which such services are provided.

1. In case of medical emergencies, the [county board of social services] **CWA** is authorized to utilize the services of any medical institution for the duration of the emergency, even though such institution refuses or fails to comply with the requirements prohibiting discriminatory actions. Both the following conditions must exist:

i.ii. (No change.)

10:69-9.14 Procedures regarding payments to vendor

(a) The [county board of social services] **CWA** shall establish procedures to ensure that all vendors to whom payment is being made, other than medical services, including, but not limited to, transportation, will receive on an annual basis a copy of Form WD-1A, A Statement Concerning Obligations of Vendors.

1. The [county board of social services] **CWA** shall maintain a record of those vendors who have received this form, with the date of mailing.

(b) Rules concerning the assurance of compliance by vendors are:

1. All official invoice forms of the [county board of social services] **CWA** shall contain the following statement directly above the vendor's signature:

i. (No change.)

2. The [county board of social services] **CWA**, in the course of regular work activities, shall seek information concerning compliance and shall instruct staff to be alert to discover instances of discrimination on the part of physicians, dentists, optometrists, pharmacists, opticians, podiatrists, and other individual vendors in New Jersey, who receive payment for services directly from the [county board of social services] **CWA** on behalf of AFDC-related Medicaid applicants or beneficiaries.

3. Any evidence of discrimination by the vendors described in (b)2 above that comes to the attention of the [county board of social services]

CWA shall be reported immediately to the Director, Division of Medical Assistance and Health Services.

10:69-9.15 Eligibility fraud by applicants and beneficiaries

(a) To protect the [county board of social services] **CWA** and the public, it is essential to exercise appropriate controls against the commission of fraud relating to program eligibility.

(b)-(d) (No change.)

10:69-9.16 Criteria for identifying cases of possible fraud

(a) Fraud is defined as obtaining or attempting to obtain Medicaid coverage to which an individual is not entitled by means of willful misrepresentation or by intentional concealment of a relevant fact. There are three basic elements that must be established:

1.-2. (No change.)

3. If the [county board of social services] **CWA** had known the misrepresentation or concealment, or attempt to misrepresent or conceal a relevant fact, Medicaid coverage would not have been granted.

(b) (No change.)

10:69-9.17 County [board of social services] **welfare agency** responsibility; administrative plan

(a) The role of the [county board of social service] **CWA** is limited to responsibility for determining whether there is a basis in fact for believing that fraud may have been committed so that referral to the county prosecutor, other proper law enforcement official, or Division of Medical Assistance and Health Services for legal action is justified. The action taken by the law enforcement official following referral determines what further legal action shall be pursued. Whether fraud has actually occurred is a question for the courts.

1. The [CBOSS] **CWA** director may utilize the power of subpoena given him or her by N.J.S.A. 44:7-20 to secure testimony and records pertinent to the investigation and needed to determine true facts.

(b) Each [CBOSS] **CWA** shall develop an operational method to carry out its responsibility that is best suited to its administrative structure and to local conditions and resources. There must be clear allocation of duties and functions in the total process of including investigation, reporting, evaluation, and the decision to refer. In respect to the function of investigation, the [county board of social services] **CWA** may select one or a combination of the following plans:

1. Cooperative arrangements with other county agencies:

i. The [county board of social services] **CWA** may arrange for special investigation of cases of suspected fraud by another appropriate agency or official such as office of the county adjuster, the probation department, or the office of the county prosecutor, without cost to the [CBOSS] **CWA**.

2. The [county board of social services] **CWA** may appoint a "special investigator(s)" whose duty shall be to give special attention to case situations involving suspicion of fraud (and other related situations requiring special investigating skills), to prepare the necessary reports, and to function in a liaison capacity for the director and [county board of social services] **CWA** to the law enforcement authorities. Such special investigator(s) shall have no law enforcement authority, and shall not engage in activity which is properly the responsibility of the eligibility worker.

3. The [CBOSS] **CWA** may elect to have staff carry the responsibility for the necessary special investigation in instances of suspected fraud, relying upon consultation with [CBOSS] **CWA** counsel for the technical aspects of establishing adequate evidence on which to base a decision.

4. Whatever administrative plan is adopted, there will be instances where discussion should be arranged with [county board of social services] **CWA** counsel and/or the county prosecutor's office as to the nature and conduct of the investigation.

(c) The [CBOSS] **CWA** shall file with the Division of Medical Assistance and Health Services a detailed description of the administrative plan, and shall advise the division of any subsequent proposed change in the plan before it becomes effective.

10:69-9.18 Referral by the [CBOSS] **CWA** in cases of suspected fraud

When the investigation of any case of suspected fraud is completed, the director of the [CBOSS] **CWA**, in consultation with counsel, shall be responsible for determining whether the matter should be referred to the

county prosecutor, other proper law enforcement official, and/or the Division of [Mental Health] **Medical Assistance** and Health Services (DMAHS).

10:69-9.19 Reports on cases involving fraudulent receipt of Medicaid coverage

(a) In cases where the [CBOSS] CWA has completed an investigation based upon a belief that fraud has been committed, a report shall be routed through the [CBOSS] CWA director to the Division of Medical Assistance and Health Services. The report shall be completed when the [CBOSS] CWA determines that no fraud exists, when the case is disposed of through administrative action, or when the case is forwarded to the county prosecutor.

(b) Upon disposition of the case by law enforcement officials (county prosecutor or municipal court), a subsequent report shall be completed and routed through the [CBOSS] CWA director to the Division of Medical Assistance and Health [Assistance] **Services**.

10:69-9.20 Recovery of incorrectly paid Medicaid benefits

(a) In every fraud case, in addition to any criminal prosecution, recovery of the amount of assistance provided for medical care or supplies shall be sought. If the beneficiary is involved in a Medicaid managed care plan, the higher of the payments made by the managed care plan, or the amount expended by the Medicaid program for capitation costs shall be recovered. Recoveries of incorrect assistance by the [CBOSSs] CWAs shall be governed by N.J.A.C. 10:49-14.4(b). Recovery of civil penalties shall be pursued by DMAHS in accordance with N.J.S.A. 30:4D-17(c). The threat of prosecution should not be used as a means of effecting recovery; nor should the fact of a recovery affect the [CBOSS] CWA decision concerning proper referral to the prosecutor. However, any recovery, or plan for recovery, should be reported to the prosecutor whenever such a referral has been made.

(b) The provision of (a) above is not intended to limit the responsibility and obligation of the [CBOSS] CWA to seek recovery, through voluntary agreement or civil action, of funds improperly received by a client under circumstances other than fraud.

10:69-9.21 Reporting criminal offenses to law enforcement authorities

(a) Investigation of new applications or investigations for redetermination of eligibility may indicate to the [CBOSS] CWA that a crime may have been committed. Allegations of the suspected commission of a crime may also be made known to the [CBOSS] CWA through various other sources, including, but not limited to, phone calls, written communications, or verbal communications from individuals. In matters of reporting of criminal offenses, the [CBOSS] CWA shall, at all times, maintain full compliance with the provisions of N.J.A.C. 10:69-[7.31]7, dealing with basic principles for safeguarding of information.

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

(d) When the [CBOSS] CWA becomes aware of facts that would indicate that one of the crimes in (b) or (c) above has been or may have been committed or receives a direct allegation in any form, written, verbal, or anonymous, that such a crime has been committed, it shall proceed as follows:

1. The [CBOSS] CWA director shall personally, and in collaboration with counsel, review whatever facts and circumstances are immediately available in order to determine whether there is suspicion that a crime was committed.

2. If the [CBOSS] CWA director is satisfied that there is evidence to support an investigation as to whether a crime has been committed, he or she shall, after consultation with counsel, report the matter to the county prosecutor, or to a local police department or to the State Police if so directed by the office of the prosecutor. If such matter involves suspected child abuse or neglect, it shall also be reported to the social service unit which shall contact the Division of [Youth and Family Services.] **Child Protection and Permanency** ([See] see N.J.A.C. 10:69-[3.11]3.12).

3. (No change.)

4. The [CBOSS] CWA shall cooperate fully with any subsequent investigation initiated by the law enforcement agency within the limits of this chapter. A [CBOSS] CWA staff member may sign a written

complaint only upon a written request from the law enforcement agency, provided his or her information of the facts to be stated in such complaint is based upon his or her own personal knowledge and belief.

10:69-9.22 Rights of individual under investigation

(a) The [CBOSS] CWA shall insure that an individual under investigation shall have the following rights:

1.-3. (No change.)

10:69-9.23 Basis for recovery of incorrectly paid benefits for purposes other than for fraud, or [third party] **third-party** liability

(a) (No change.)

(b) Incorrectly paid benefits may occur through administrative error; failure of a client to inform the [county board of social services] CWA or designee pursuant to Federal regulation of a change in income or circumstances; or when the client has received continued Medicaid coverage but has been found ineligible to receive such Medicaid coverage or part of such coverage by the fair hearing decision.

(c) The [CBOSS] CWA or designee pursuant to Federal regulation shall seek recovery of all overpayments regardless of fault including AFDC-related Medicaid payments caused by administrative action or inaction. The [CBOSS] CWA or designee pursuant to Federal regulation shall recover such incorrectly paid benefits in accordance with procedures set forth in this chapter.

(d) Medicaid incorrectly paid benefits to an eligible unit, all members of which are no longer receiving AFDC-related Medicaid program, shall be recovered by the [CBOSS] CWA through a court of appropriate jurisdiction if the family does not voluntarily repay the overpayment.

(e) In locating former beneficiaries who have outstanding incorrectly paid benefits, the [CBOSS] CWA shall use appropriate data sources such as unemployment insurance files, the Division of Taxation, the [Department of] **New Jersey Motor Vehicle[s] Commission**, Bendex, and other data sources relating to current or former beneficiaries.

(f) For incorrectly paid benefits occurring prior to October 1, 1981, the [CBOSS] CWA shall recover only if the overpayment resulted from willful withholding of information by the beneficiary.

(g) The [CBOSS] CWA may waive recovery of AFDC-related Medicaid incorrectly paid benefits if the eligible unit is no longer receiving AFDC-related Medicaid and the amount overpaid is less than \$35.00. When the amount of the incorrectly paid benefit to an eligible unit no longer receiving AFDC-related Medicaid is \$35.00 or more, the [CBOSS] CWA may waive the recovery of the incorrectly paid benefit, if after a reasonable effort to recover the incorrectly paid benefits, the [CBOSS] CWA determines it is no longer cost effective to continue recovery efforts. Recovery of overpayments due to fraud may not be waived regardless of the amount of incorrectly paid benefit.

1.-2. (No change.)

(h) The [CBOSS] CWA shall not initiate or continue recovery of any outstanding incorrectly paid benefits of Medicaid coverage that occurred in another state.

SUBCHAPTER 10. INCOME

10:69-10.4 Eligible unit; all related Medicaid programs

(a) The eligible unit shall be comprised of those family members who apply for and are eligible to receive AFDC-related Medicaid program. It shall include one or more eligible children unless such child is a related Medicaid program beneficiary of SSI benefits.

1. (No change.)

2. A stepparent of the children for whom AFDC-related Medicaid program is sought may be included in the eligible unit if the provisions of N.J.A.C. 10:69-10.33 apply. If the non-needy stepparent marries the AFDC-C related Medicaid program beneficiary parent on or after October 1, 1992, and the provisions of N.J.A.C. 10:69-[3.4]3.7 apply, the stepparent and his or her natural or adoptive children, as well as the natural or adoptive AFDC-C related Medicaid program beneficiary parent, shall be excluded from the eligible unit.

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

10:69-10.5 Eligible unit; [AFDC-C] **AFDC-C**- and -F related Medicaid program

(a) The AFDC-C related Medicaid program shall include:

1. The natural or adoptive parent(s) of one or more of the eligible child(ren) unless the [AFDC-C related] **AFDC-C-related** Medicaid program beneficiary parent marries on or after October 1, 1992, and is excluded from AFDC-related Medicaid program eligibility in accordance with the provisions of N.J.A.C. 10:69-[10.34]**10.33**;

- 2.-4. (No change.)
(b)-(d) (No change.)

10:69-10.12 Earned income from self-employment including provisions of personal care services

- (a) (No change.)

(b) In the case of an individual who is self-employed, it may be clearly evident that the expense of producing the income exceeds the income produced. AFDC-related Medicaid program shall not be continued if such person persists in operating the business.

1. A period of up to 24 months from the start of a new business shall be considered adequate to demonstrate a new business's potential for self-support. In situations where, in the judgment of the [county board of social services] **CWA**, additional time would enable the business to show a profit, the period may be extended up to 12 months.

2. (No change.)
(c) (No change.)

10:69-10.13 Earned income disregards for AFDC-related Medicaid

(a) The [CBOSS] **CWA** shall disregard from the earned income of each employed individual in the eligible family, the first \$90.00 of such earnings to cover work-related expenses including, but not limited to, transportation and mandatory payroll deductions.

(b) The [CBOSS] **CWA** shall disregard from the total earned income not already disregarded, an amount equal to the difference between 133 percent of the Federal poverty level (see 42 [C.F.R.] **CFR** 9902(2)) and the Income Standard established for the size of the family unit, in accordance with the chart at N.J.A.C. 10:69-10.3(b) as follows:

- 1.-2. (No change.)

(c) For applications received on and after June 15, 2002, the [CBOSS] **CWA** shall disregard from the total earned income not already disregarded, the first \$30.00 and one-third of the remainder for each employed individual.

- 1.-5. (No change.)

(d) The [CBOSS] **CWA** shall disregard from the remaining earned income, the actual costs paid for child care or for care of an incapacitated individual in the same home as the AFDC-C or-F eligible family when the circumstances described at (d)1 through 4 below exist. The amount of the disregard shall not exceed the limits as follows.

- 1.-4. (No change.)
(e)-(g) (No change.)

10:69-10.17 Division of [Youth and Family Services] **Child Protection and Permanency** payments for foster care

(a) Division of [Youth and Family Services'] **Child Protection and Permanency's** basic monthly payments for the placement of children in foster care and the clothing allowance shall be considered as equal to the cost of providing such care and maintenance. However, when extra payment is received for special services, such additional amount shall be considered as earned income from self-employment (see N.J.A.C. 10:69-10.13).

- (b) (No change.)

10:69-10.21 Contributions of support

- (a) (No change.)

(b) When shelter is being provided by a legally responsible relative (LRR) who has been determined by the [CBOSS] **CWA** IV-A unit to have a capacity to provide support, the actual cash value shall, whenever possible, be determined and recognized as unearned income to the eligible unit. Where the actual value cannot be established, and is not stipulated by a court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI in N.J.A.C. 10:69-10.42(c) and shall not exceed the LRR's evaluated capacity.

(c) Non-obligatory contributions, other than occasional gifts identified in N.J.A.C. 10:69-[3.2]**10.22**, shall be recognized as unearned income only when made in cash to one or more members of the eligible

unit [(see also N.J.A.C. 10:69-2.2)]. This does not apply to LRRs who have an evaluated capacity to support.

10:69-10.22 Exempt income

- (a) (No change.)
(b) Income shall be exempted as follows:

1. (No change.)
2. Earned income credit (EIC) payments shall be excluded[.];
3. Payments for child care (see N.J.A.C. 10:69-[5]**10.13**)[.];
4. Child care payments for "special circumstance" children and transportation or the cost of transportation, which is not available from any other source, to transport the "special circumstance" child to and from the child care site when it is essential for the child's physical health and safety[.];

5. Supplemental aid by other agencies or organizations, whether public or private, provided that:

- i.-ii. (No change.)

iii. Such aid is to any undergraduate student for educational purposes[.];

6. Any income received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, [c.81] **c. 81**)[.];

7. Funds received by applicants and beneficiaries through certain Federal programs shall be regarded as exempt income.

- i.-vi. (No change.)

vii. Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35[.];

8. The value farm and garden products raised by the eligible unit for its own use is not considered income[.];

9. Activity support payments and one time lump sum payments associated with participation in the **Early Employment Initiative** (EEI) program, as set forth in N.J.A.C. 10:90-17.3[.]; **and**

10. (No change.)

- (c) (No change.)

10:69-10.23 Nonrecurring earned or unearned lump sum income

(a) When a beneficiary receives nonrecurring earned or unearned lump sum income, including retroactive RSDI payments and other monthly benefits, and payments in the nature of a windfall, such as inheritances and lottery winnings[,] or personal injury and worker compensation awards, to the extent it is not earmarked and used for the purpose for which it was paid, [(for example, moneys for back medical bills resulting from accidents or injury, funeral and burial costs, or replacement or repair of resources)], that income will be added together with all other income received that month by the eligible family after application of the disregards in this subchapter and the exemption of income in N.J.A.C. 10:69-10.22. The TANF grant shall not be considered income. No portion of lump sum or other income may be applied toward the resource limit in the month of its receipt. When this total exceeds the standard of need for the eligible family size as set forth at N.J.A.C. 10:69-10.2, the family shall be ineligible for AFDC-related Medicaid program for the number of full months derived by dividing this total income by the standard of need applicable to the eligible family. Any remaining income from this calculation is treated as if it is unearned income received in the first month following the period of ineligibility and is considered available for use at that time. SSI payments and one-time lump sum payments associated with participation in the EEI program shall not be subject to lump sum treatment.

- 1.-2. (No change.)

3. In the event the nonrecurring income is not reported timely, the period of ineligibility shall begin at the point the ineligibility would have occurred had the [CBOSS] **CWA** had knowledge of its receipt. The amount of Medicaid overpayment for the period of ineligibility must be established and recovery made.

4. (No change.)

5. Once established, the period of ineligibility may be reduced only in the circumstances below. It is the responsibility of the former eligible family to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis

for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record.

i. (No change.)

ii. The period of ineligibility may be recalculated if the income used to determine such period becomes unavailable to the eligible family for reasons beyond the control of the family members. Acceptable reasons are limited to those below:

(1) The former eligible family shall thoroughly substantiate an allegation of loss or theft of part or all of the lump sum income and shall provide the [CBOSS] CWA with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income, the [CBOSS] CWA shall reduce the amount of the original lump sum by the amount of the loss or theft. Loss of the income, for the purposes of this section, shall include circumstances where a member of the former eligible family has absconded with the funds.

(2) (No change.)

iii. (No change.)

6. (No change.)

(b) For the AFDC-related program, lump sum income and the resulting period of ineligibility shall be treated in accordance with the following provisions:

1. Only those individuals actually receiving AFDC-related Medicaid or Medicaid Special are considered to be AFDC-related Medicaid program beneficiaries. Any individual receiving Medicaid Only, New Jersey Care ... Special Medicaid programs, Medicaid Special, NJ [KidCare] **FamilyCare — Children's Program**, or any other medical coverage is not considered an AFDC-related Medicaid program beneficiary. Therefore, a period of ineligibility imposed on a beneficiary of Medicaid Only or Medicaid Special benefits due to the receipt of lump sum income cannot be carried over into the AFDC-related Medicaid program, and cannot cause ineligibility for AFDC-related Medicaid program benefits.

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

10:69-10.24 [Child support received by the eligible unit] **Treatment of support income and payments**

(a) The first \$50.00 of any child support payments received on behalf of a dependent child or children by any family applying for or eligible for AFDC-related Medicaid program shall be disregarded. Such child support payments shall include disregarded child support (DCS) payments paid the family through the child support and paternity process and direct support payments received by the eligible unit [which] **that** represent a current monthly support obligation. These moneys are disregarded in determination of initial eligibility, maximum income eligibility, and the prospective needs test. The total amount of child support disregarded shall not exceed \$50.00 per month per eligible unit.

(b) **Child support and alimony paid by any member of the eligible unit to individuals not living in the same household shall be deducted from the eligible unit's income in the determination of eligibility for AFDC-related Medicaid program benefits.**

10:69-10.25 Prospective budgeting

(a) (No change.)

(b) AFDC-related Medicaid program eligibility shall be based on a best estimate of the family's income and other circumstances that will exist until the next reported significant change in circumstance or redetermination, whichever is first. The best estimate of income is based on the family's and the agency's reasonable expectations and knowledge of current, past, and future circumstances. In determining the best estimate of income, the [CBOSS] CWA shall use income [averaging] **projections** and the concept of "significant and non-significant" income and circumstance changes. Verification of the income used shall be clearly documented in the case record.

1. For purposes of determining the family's eligibility, the [CBOSS] CWA shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application, redetermination, or change in circumstance **based on the submission of documentation of income from the employer that is representative of a typical full pay period from each employer who provides wages to the applicant and/or the members of the eligible**

unit as defined at N.J.A.C. 10:69-3.7 and 3.8. Likewise, all unearned income received within this four-week period is also determined. All earned and unearned income received within this four week period shall be verified and documented in the case record, even if all four weeks of income are not ultimately used to calculate the best estimate.

2. The receipt of income generally occurs weekly, biweekly, or on a semi-monthly basis. The [CBOSS] CWA shall convert the [averaged] **reported** income amount to a gross monthly amount by multiplying the [averaged] **reported** income amount by the appropriate conversion factor as follows: weekly amounts by 4.333; biweekly amounts by 2.167; and semi-monthly amounts by two.

(c) Significant income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible unit size [which] **that** are expected to continue into the future. Examples of significant changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a job or a source of unearned income; permanent or long term changes in hours worked and/or rate of pay; permanent or long term changes in unearned income; changing from part-time to full-time employment (or vice versa); promotion or demotion; beginning to work piece work or regular overtime (or vice versa); changing employers; short term plant closings (such as one or more weeks); [or] periods of sick leave without compensation (more than one day); or addition of or loss of an eligible family member.

1. The [CBOSS] CWA shall use information about past significant changes of a continuous nature in estimating future income. The date of an anticipated significant income/circumstance change may be used to schedule a desk review to coincide with the expected date of the change, in order to recalculate the best estimate of income.

2. Families shall be required to report all significant changes in income and circumstances that could affect eligibility as soon as possible, but in no event later than 10 [calendar] **business** days of the date the change happened. The [CBOSS] CWA shall initiate appropriate action on the reported change within 10 [calendar] **business** days of receiving the report of the change, subject to timely and/or adequate notice requirements.

(d) (No change.)

(e) The following procedures are to be followed in determining the best estimate of income:

1.-2. (No change.)

3. Determination of any significant changes that are expected in the future. If a significant change is expected and the exact nature of the change is known, the [CBOSS] CWA shall use the information in determining the best estimate of income and shall require that the family provide the required verification subsequent to the change to determine if the best estimate was correct or needs to be recalculated. If the exact nature of the anticipated change is not known, then a desk review can be scheduled to coincide with the expected date of change and/or the client advised to report the change within 10 **business** days of the date of change.

[4. Determination, through review of the documentation, of the case record and discussion with the client, if any of the income received is not expected to be representative of the future. For instance, the first pay check of new employment may not represent a full-pay period; a missing week's income may represent a summer plant closing; or a larger check may represent nonrecurring overtime, all of which may not be anticipated to occur in the future. Non-representative income (or lack of income) shall not be used in calculating the best estimate. The case record shall be clearly documented to explain why any income was not used, and to show how the best estimate was calculated. For example, the family receives regular weekly income but is missing one week's pay due to a plant closing for that week only. The three available amounts would be averaged to determine average weekly income and that average converted to monthly gross income as described in (b)2 above.

5. If income fluctuates (that is, is not exactly the same each time received and/or is not received on a regular schedule) to the extent that a four-week period is not expected to provide the best estimate of income until the next redetermination, the CBOSS shall require the family to submit verified wage information for those months subsequent to the

month of review, in order that the CBOSS may recalculate the best estimate. When income fluctuates dramatically, CBOSSs shall recalculate eligibility as often as deemed necessary to ensure the most accurate best for determination of continued AFDC-related Medicaid eligibility.

i. When four consecutive weeks of income fluctuate but are representative of the family's anticipated fluctuation in income for future months, the CBOSS shall average the income from the four-week period and project that gross income estimate for future months, taking into account any anticipated significant changes.]

[6.] 4. (No change in text.)

(f) If there are no significant changes in circumstances, a new best estimate of income shall, at a minimum, be completed at the time of the next redetermination of eligibility.

1. (No change.)

2. A significant change in circumstances of the eligible family may result in loss of eligibility. The termination of eligibility shall be effective no later than the first day of the month following the month in which the significant change in circumstance occurred, or 10 business days after the change is reported to the [CBOSS] CWA, whichever is later. Termination of eligibility shall be subject to timely and adequate notice and meet the requirements of N.J.A.C. 10:69-6.

10:69-10.27 Income from eligible and noneligible individuals in the household

(a) (No change.)

(b) A noneligible individual is neither sanctioned nor required by law or regulation to be included in the eligible unit. When a noneligible individual is living in the household of an eligible unit, the income from that living arrangement to the eligible unit shall be treated in accordance with N.J.A.C. 10:69-10.3, if extensive personal services are provided, or N.J.A.C. 10:69-10.20. If the [non-eligible] **noneligible** individual is a non-qualified alien parent (see N.J.A.C. 10:69-3.9), his or her income shall be considered available to the eligible unit and shall be calculated in accordance with the step-parent deeming formula in N.J.A.C. 10:69-10.33 [and 10.34].

10:69-10.29 Needs of certain children temporarily in the home

When an institutionalized child is on temporary visit home (and an AFDC-related Medicaid program eligible case is not in existence), he or she may be eligible for General Assistance if the visit does not exceed 21 consecutive days. If the length of such child's visit is expected to exceed 21 days, the [CBOSS] CWA shall process an AFDC-related Medicaid program application and evaluate the family's eligibility for AFDC-related Medicaid program for the duration of the visit.

10:69-10.30 Initial eligibility and application of disregards

(a) On all new applications, reapplications, or reopened applications, initial financial eligibility must be established before an [AFDC-related Medicaid card] **HBID Card** can be issued.

1. For AFDC-C- and F-related Medicaid cases, when the eligible family received AFDC-related Medicaid program assistance in one of the four months prior to the month of application, all earned income disregards at N.J.A.C. 10:69-10.13 shall apply to the determination of initial eligibility. For [AFDC-C and-F-related] **AFDC-C- and AFDC-F-related** Medicaid cases [which] **that** have not received AFDC-related Medicaid benefits in one of the four months prior to the month of application, the earned income disregards apply, except that the disregard of the first \$30.00 of the remaining income plus one-third of the remainder does not apply. If total income equals or exceeds the income standard in this subchapter for the eligible family size, the family is ineligible for Medicaid. In the computation of initial Medicaid eligibility, application of the \$30.00 and one-third earned income disregards is subject to the limitations at N.J.A.C. 10:69-[10.16]**10.13**.

2. (No change.)

10:69-10.39 Calculation of contributions of legally responsible relatives

(a) The [CBOSS] CWA shall determine what contribution, whether in cash or kind, the relative is currently contributing or is willing to contribute toward the support of the eligibility unit.

1. (No change.)

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

(f) The [CBOSS] CWA IV-D unit shall determine the capacity of an absent parent to support his or her dependent children.

10:69-10.42 Acceptable forms of LRR support

(a) The LRR may fulfill his or her obligation to support the person or persons for whom he or she is responsible by contributing one or more of the following:

1.-2. (No change.)

3. Any other item determined to be mutually satisfactory to the client and [county board of social services] CWA for which equitable monetary value can be clearly established.

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

10:69-10.43 Eligibility of sponsored aliens and deeming of sponsor's income to a sponsored alien

(a) (No change.)

(b) The amount of income of a sponsor [which] **that** shall be deemed to be the unearned income of an alien shall be determined as follows:

1.-2. (No change.)

3. The amount determined in (b)2 above shall be reduced by the following:

i. The appropriate amount from the standard of need (N.J.A.C. 10:69-[1.2]**10.2**) for the sponsor, spouse, and other persons residing in his or her household who are or could be claimed by the sponsor as dependents for determination of Federal personal income tax liability and who are not beneficiaries of AFDC-related Medicaid;

ii.-iii. (No change.)

4. (No change.)

(c) (No change.)

(d) For the period of alien sponsor deeming, the sponsored alien who is not exempt from deeming under (a)1 above shall provide the [CBOSS] CWA with any information and documentation necessary to determine the income of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

1. If the alien's circumstances change during the deeming period such that the alien is no longer exempt from or subject to deeming in accordance with (a)1i through vi above, the [CBOSS] CWA shall reflect the resulting change in unearned income in the eligibility determination.

2.-3. (No change.)

(e) (No change.)

(f) Any individual sponsor of an alien, and the alien, shall be jointly and severally liable for any incorrectly paid AFDC-Medicaid benefits made to the alien during the alien sponsored deeming period that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (f)1 below.

1. When a sponsor is found to have good cause or to be without fault for not providing information to the [CBOSS] CWA, the sponsor shall not be held liable for a recovery of incorrectly paid benefits.

i. (No change.)

2. (No change.)

SUBCHAPTER 12. PRESUMPTIVE ELIGIBILITY FOR AFDC-RELATED MEDICAID CHILDREN

10:69-12.1 Scope

This subchapter describes presumptive eligibility for children up to the age of 19 who otherwise meet the eligibility requirements for AFDC-related Medicaid or Medicaid Special. The presumptive eligibility determination makes it possible for a child or the children to be covered by AFDC-related Medicaid or Medicaid Special services from a Medicaid provider for a temporary period prior to application for AFDC-related Medicaid or Medicaid Special benefits and while an application for these benefits is being processed by the [county board of social services] CWA.

10:69-12.2 Period of presumptive eligibility

(a) (No change.)

(b) The period of presumptive eligibility shall terminate:

1. (No change.)

2. If the child, [(if appropriate)], the child's parent, guardian, caretaker relative, or sponsoring adult fails to file an application with the [county board of social services] **CWA**, on the last day of the month subsequent to the month in which the child(ren) was determined presumptively eligible.

10:69-12.4 Presumptive eligibility processing performed by the presumptive eligibility determination entity

(a) From preliminary information provided by the child, [(if appropriate)], a parent, guardian, caretaker relative, or sponsoring adult, the qualified presumptive eligibility entity shall determine if the child meets the eligibility criteria of this subchapter. The qualified presumptive eligibility entity shall obtain sufficient information from the child, [(if appropriate)], parent, guardian, caretaker relative, or sponsoring adult by having the child, [(if appropriate)], parent, guardian, caretaker relative, or sponsoring adult to complete the [certificate of presumptive eligibility] **one-page presumptive eligibility (PE) application**. For purposes of the presumptive eligibility determination, the approved presumptive eligibility entity shall request from the child, [(if appropriate)], parent, guardian, caretaker relative, or sponsoring adult only that information necessary to determine the child's presumptive eligibility or ineligibility. The approved presumptive eligibility determination entity shall make the determination of eligibility based solely on information obtained in the interview and shall not require any verification or documentation of the presumptive eligibility applicant's statements.

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

1. Complete and sign the [certificate of presumptive eligibility] **one-page presumptive eligibility (PE) application** and forward the original of the [certificate] **application** to the Division of Medical Assistance and Health Services within two working days of the date the presumptive eligibility determination was made;

2. Forward a copy of the completed [certificate] **application** and a referral, if appropriate, to the [county board of social services] **CWA** of the child's county of residence;

3. Inform the child, [(if appropriate)], parent, guardian, caretaker relative, or sponsoring adult that they must contact the [county board of social services] **CWA** in order to set up an appointment to complete the application process for AFDC-related Medicaid or Medicaid Special benefits;

4. Give the child, [(if the child has completed the application for presumptive eligibility)], parent, guardian, caretaker relative, or sponsoring adult of the presumptively eligible child a copy of both the [certificate] **application** and any referral; and

5. Advise the child, [(if the child has completed the application for presumptive eligibility)], parent, guardian, caretaker relative, or sponsoring adult of the presumptively eligible child, in writing, of the address and telephone number of the appropriate [county board of social services] **CWA**.

(c) For any child for whom the approved presumptive eligibility determination entity is unable to determine presumptive eligibility, or who is ineligible under the criteria and standards of this subchapter or any other Division rules [which] **that** apply to children, the approved presumptive eligibility determination entity shall refer the child to the appropriate eligibility determination agency for evaluation of potential eligibility for any other Medicaid or NJ [KidCare] **FamilyCare — Children's Program** entitlement. The address and telephone number of the appropriate eligibility determination agency shall be provided, in writing, to the child, [(if appropriate)], parent, guardian, caretaker relative, or sponsoring adult of the child.

10:69-12.5 Presumptive eligibility processing performed by the Division of Medical Assistance and Health Services

(a) Upon receipt of a properly completed [certificate] **application** from the approved presumptive eligibility determination entity, Division staff shall:

1.-2. (No change.)

3. Issue a [Medicaid Eligibility] **Health Benefits Identification (HBID) Card**; and

4. Notify the approved presumptive eligibility determination agency and the appropriate [county board of social services] **CWA** of the presumptive eligibility identification number assigned to the beneficiary.

10:69-12.6 Presumptive eligibility processing performed by the county [board of social services] **welfare agency (CWA)**

(a) Upon receipt of the [certificate of] presumptive eligibility **application** from the qualified presumptive eligibility determination entity, the [county board of social services] **CWA** shall check the Medicaid, Medically Needy, and NJ [KidCare] **FamilyCare — Children's Program** Eligibility database for existing eligibility. If the child is receiving Medicaid or NJ [KidCare] **FamilyCare — Children's Program** benefits, no further action shall be required by the [county board of social services] **CWA**.

(b) If the child is not currently receiving Medicaid or NJ [KidCare] **FamilyCare — Children's Program** benefits, the [county board of social services] **CWA** shall, notwithstanding the application disposition standards in N.J.A.C. 10:69-2.1, arrive at a case disposition within the presumptive eligibility period.

1. If the time specified in N.J.A.C. 10:69-12.2(b)2 has elapsed without a determination being made by the [county board of social services] **CWA**, the [CBOSS] **CWA** shall notify the Division of Medical Assistance and Health Services of any such delay. The Division shall continue the child's presumptive eligibility until a final determination is made by the [CBOSS] **CWA**.

i. The [county board of social services] **CWA** shall also provide the individual applying on the child's behalf with written notification of the delay prior to the expiration of the presumptive eligibility period, of the specific reasons for the delay. See N.J.A.C. 10:69-12.8(b) for the requirements related to the applicant's rights to a fair hearing due to the delay.

(c) In the case of a presumptively eligible child who is determined ineligible for AFDC-related Medicaid or Medicaid Special within the presumptive eligibility period, the child's eligibility shall terminate on the date of the eligibility determination. If the child is ineligible for AFDC-related Medicaid, Medicaid Special, or any other Medicaid program, the [county board of social services] **CWA** shall provide the applicant with a written notice of such denial and the reasons why, as set forth in N.J.A.C. 10:69-12.8. If appropriate, the [county board of social services] **CWA** shall also refer the child to NJ [KidCare] **FamilyCare — Children's Program** for an application for benefits.

10:69-12.7 Responsibility of the applicant

The child, [(if appropriate)], parent, guardian, or caretaker of a presumptively eligible child shall contact the [county board of social services] **CWA** during the presumptive eligibility period so that a face-to-face interview can be scheduled. As part of the eligibility determination process for AFDC-related Medicaid or Medicaid Special, the parent, guardian, or caretaker of a presumptively eligible child shall be interviewed by the [county board of social services] **CWA** staff, complete any forms required as a part of the application process, and assist the [county board of social services] **CWA** in securing evidence that verifies eligibility.

10:69-12.8 Notification and fair hearing rights

(a) For a presumptively eligible child who is subsequently determined ineligible for AFDC-related Medicaid benefits, Medicaid Special benefits, or any other Medicaid or NJ [KidCare] **FamilyCare — Children's Program** benefits program, the [county board of social services] **CWA**:

1.-2. (No change.)

(b) For a presumptively eligible child whose eligibility for AFDC-related Medicaid or Medicaid Special has not yet been determined within the presumptive eligibility period, in accordance with N.J.A.C. 10:69-2.15, the [county board of social services] **CWA** shall provide the child, [(if appropriate)], parent, guardian, or caretaker relative of the presumptively eligible child with written notification prior to the expiration of the presumptive eligibility period, setting forth the specific reasons for the delay in the AFDC-related Medicaid or Medicaid Special application processing. The presumptively eligible beneficiary shall be entitled to a fair hearing based on the [county board of social services]

CWA's failure to determine the child's AFDC-related Medicaid or Medicaid Special eligibility or ineligibility within the application processing period.

(c) (No change.)

10:69-12.10 Limitation on number of presumptive eligibility periods

All beneficiaries of presumptive eligibility for children who make an application for presumptive eligibility benefits for any Medicaid or NJ [KidCare] **FamilyCare-Children's** [program] **Program** shall be limited to one continuous presumptive eligibility period during the year, which shall be counted from the first day the applicant initially received presumptive eligibility.

CORRECTIONS

(a)

THE COMMISSIONER

Tenure; Teachers and Other Certified Professional Educators

Proposed Readoption with Amendments: N.J.A.C. 10A:15

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

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

Proposal Number: PRN 2017-121.

Submit written comments by September 1, 2017, to:

Kathleen Cullen
Administrative Rules Unit
Office of the Commissioner
New Jersey Department of Corrections
PO Box 863
Trenton, NJ 08625-0863
or via e-mail: ARU@doc.nj.gov

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:15 was scheduled to expire on January 10, 2018. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration date was extended 180 days to July 9, 2018. The Department has reviewed these rules and, with the exception of the amendments proposed herein, has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules are, therefore, proposed for readoption at this time.

The Department proposes to readopt the rules at N.J.A.C. 10A:15 with amendments intended to update the rules to reflect changes in day-to-day application of the rules and changes to eligibility to earn tenure.

Subchapter 1, General Provisions, sets forth the applicability of tenure on teachers and other certified professional educators of the Department of Corrections in accord with N.J.S.A. 18A:60-1 et seq. The Department proposes to update the definition of "Director, Office of Educational Services" in N.J.A.C. 10A:15-1.3 in order to delete the words "and recreational services" to reflect current functions and practice.

Subchapter 2, Tenure, sets forth rules for practical application of tenure on Department of Corrections employees. The Department proposes to readopt the rules in this subchapter with amendments to eligibility to earn tenure in accordance with N.J.S.A. 18A:6-117 and 118 and 18A:28-5. In order to reflect the tenure eligibility changes, the Department proposes to change the words "three consecutive years" to "four consecutive years and one day" at N.J.A.C. 10A:15-2.2(a) and to add new N.J.A.C. 10A:15-2.2(a)1, which sets forth the rules from

N.J.S.A. 18A:6-117 and 118 and 18A:28-5 on eligibility to earn tenure before and after August 6, 2012, when the tenure rule was changed. At N.J.A.C. 10A:15-2.3(c)1, the Department proposes to modify the number of observations conducted for evaluation purposes from one to two to reflect current practice.

The Department of Corrections has determined that the comment period for this notice of proposal shall 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 rules proposed for readoption with amendments benefit all employees of the Department of Corrections who are certified by the New Jersey Department of Education as teachers or other professional educators. The rules proposed for readoption with amendments continue to provide employees and supervisory personnel with guidelines to follow regarding implementation of tenure rights granted by the Legislature through N.J.S.A. 18A:60-1 et seq. These employees are granted the right to continuation of employment, subject to dismissal for cause. Further, the rules proposed for readoption with amendments establish procedures regarding tenure rights of educational staff employed by the Department as teachers and other certified professional educators, and enable the Department of Corrections to provide consistent professional educational services to the adult offenders within its facilities, by attracting and maintaining a high quality professional staff.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State.

Federal Standards Statement

The rules proposed for readoption with amendments are promulgated under the authority of the rulemaking requirements of the Department of Corrections as established at N.J.S.A. 30:1B-6 and 30:1B-10. The rules proposed for readoption with amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Jobs Impact

The Department of Corrections does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption with amendments.

Agriculture Industry Impact

The rules proposed for readoption with amendments shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments will impose no reporting, recordkeeping, or other compliance requirements upon small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments affect teachers and other certified professional educators who are employed by the Department of Corrections and certified by the Department of Education. Therefore, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing affordability. The rules proposed for readoption with amendments establish provisions for the tenure of teachers and other certified professional educators. As such, this rulemaking affects the New Jersey Department of Corrections and governmental entities responsible for the enforcement of the rules and would not invoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth development and would not evoke a change in housing production in Planning Areas 1 or 2, or within designated