

HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**Administration Manual; AFDC-Related Medicaid; Medically Needy Program;
Medicaid Only; New Jersey Care Special Medicaid Programs**

Designation of Authorized Representative Form

**Proposed Amendments: N.J.A.C. 10:49-10.3 and 10:49 Appendix, 10:69-2.4, 10:70-
2.1, 10:71-2.5, and 10:72-2.1**

Authorized By: Jennifer Velez, Commissioner, Department of Human Services.

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

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

Agency Control Number: 12-P-07.

Proposal Number: PRN 2013-058.

Submit comments by June 3, 2013 to:

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The agency proposal follows:

Summary

The Department of Human Services (Department) is proposing amendments to the Medicaid eligibility rules at N.J.A.C. 10:49-10.3, 10:49 Appendix, 10:69-2.4, 10:70-2.1, 10:71-2.5, and 10:72-2.1 to require that an authorization form be completed when Medicaid applicants or recipients have someone apply for benefits on their behalf. A Designation of Authorized Representative form is to be the only form used by such individuals in order to assist the Division of Medical Assistance and Health Services (Division) and any eligibility determination agency in verifying that the representative seeking to file the application is authorized to represent the applicant.

Specifically, the following amendments are proposed:

N.J.A.C. 10:49-10.3(b)1 requires that a request for hearing under that section that is made by someone other than the claimant must be made by someone authorized to act on behalf of claimants to the effect that they desire the opportunity to present their case. The proposed amendment would require the person acting on the claimant's behalf to be authorized pursuant to N.J.A.C. 10:69-2.4(e), 10:70-2.1(a)4, 10:71-2.5(d) or 10:72-2.1(a)4, as amended in this rulemaking.

Proposed new N.J.A.C. 10:49 Appendix Form #15, Designation of Authorized Representative, would add the New Jersey Medicaid Program Designation of Authorized Representative form to the chapter appendix forms.

Proposed new N.J.A.C. 10:69-2.4(e), 10:70-2.1(a)4, 10:71-2.5(d), and 10:72-2.1(a)4, add the requirement that any representative seeking to file a Medicaid application for the AFDC-related Medicaid program, the Medically Needy program, the Medicaid Only program, or the New Jersey Care Special Medicaid program must be authorized to represent the applicant and requires that the Division's Designation of Authorized Representative form found at new N.J.A.C. 10:49 Appendix Form # 15 must be completed. Proposed new N.J.A.C. 10:69-2.4(e)1, 10:70-2.1(a)4i, 10:71-2.5(d)1, and 10:72-2.1(a)4i provide that use of the Division's Designation of Authorized Representative Form is not required if the authorized representative is the beneficiary's legal guardian, a relative by blood or marriage, the attorney of the beneficiary hired by the beneficiary to represent the beneficiary, or a person with power of attorney for the beneficiary.

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

The proposed amendments are intended to protect New Jersey residents from unauthorized representation and expedite the Medicaid application process by requiring a uniform authorization of a designated representative. This form should also reduce any potential for fraud to occur during the application process, including protecting information gathered in the application process, which would have a positive social impact. The utilization of the proposed form will assure that authorizations are

complete, verified, and consistent throughout the State. This should have a positive social impact on the Medicaid beneficiaries by streamlining and ensuring accuracy in the Medicaid application process.

Economic Impact

Since the proposed amendments merely require Medicaid applicants and beneficiaries who wish to designate authorized representatives to use a uniform authorization form in order to apply for Medicaid benefits, these amendments should have no economic impact on eligible beneficiaries or actual authorized representatives. The State should realize some cost savings through avoidance of court actions necessitated by unauthorized persons claiming to represent Medicaid applicants and through having a standardized practice regarding authorized representatives.

Federal Standards Statement

The rules in these chapters are governed by Title XIX of the Social Security Act, which specifies eligibility criteria to be used by the State in the determination of eligibility for Medicaid. Sections 1902(a)(10) and 1905(a) of the Social Security Act, 42 U.S.C. §§ 1396a(a)(10) and 1396d(a), respectively, provide eligibility criteria for those who may receive assistance through a Title XIX program. Federal regulations at 42 CFR Part 435 similarly establish eligibility criteria for those who may receive assistance through a Title XIX program. Federal regulations at 42 CFR 435 Subparts D and E allow a state the option to cover certain medically needy groups and to determine eligibility standards for the selected groups. 42 CFR 435.907, 42 CFR 435.908, 42 CFR 400.203, and 42

CFR 431.201 all reference the use of authorized representatives by applicants to the Medicaid program, but contain no standards for verification that a person is actually representing the applicant.

The Department has reviewed the applicable Federal statutes and regulations and has determined that the proposed amendments do not exceed any Federal standards. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that the proposed amendments will result in the creation or loss of jobs in the State of New Jersey.

Agriculture Industry Impact

No impact on the agriculture industry in the State of New Jersey is expected to occur as a result of this rulemaking.

Regulatory Flexibility Analysis

The proposed amendments impose a new requirement on authorized representatives filing applications for Medicaid applicants and beneficiaries, some of which may be employed by small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The requirement is the use of a standardized form containing the information necessary to demonstrate that any such small businesses' employees attempting to act as representatives actually represent the applicant and that such representation has been acknowledged in writing. The Department believes that

by standardizing the form used and making the form easily available, the regulatory burden will be eased on such small businesses whose employees might have instead initially submitted inadequate information, which would lead to an extended rather than streamlined administrative process in proving actual representation. No professional services will be needed as a result of the standardized form and no initial capital costs or annual compliance costs should result from the amendments.

Housing Affordability Impact Analysis

Since the proposed amendments concern the authorization of a designated representative to apply for Medicaid benefits on behalf of an individual, the Department anticipates that the proposed rulemaking will have no impact on the development of affordable housing nor will it have an impact on average costs associated with housing.

Smart Growth Development Impact Analysis

Since the proposed amendments concern the authorization of a designated representative to apply for Medicaid benefits on behalf of an individual, the proposed amendments will have no impact on housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan and will have no impact on smart growth.

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

Chapter 49

ADMINISTRATION MANUAL

SUBCHAPTER 10. NOTICES, APPEALS, AND FAIR HEARINGS

10:49-10.3 Opportunity for fair hearing

(a) (No change.)

(b) An opportunity for a fair hearing shall be granted to all claimants requesting a hearing because their claims for medical assistance are denied or are not acted upon with reasonable promptness, or because they believe the Medicaid Agent or NJ FamilyCare-Plan A program has erroneously terminated, reduced, or suspended their assistance. The Medicaid Agent or NJ FamilyCare program need not grant a hearing if the sole issue is one of a Federal or State law requiring an automatic termination, reduction, or suspension of assistance affecting some or all claimants. Under this requirement:

1. A request for hearing shall be defined as any clear expression (submitted in writing) by claimants (or someone authorized to act on behalf of claimants **pursuant to N.J.A.C. 10:69-2.4(e), 10:70-2.1(a)4, 10:71-2.5(d), or 10:72-2.1(a)4**) to the effect that they desire the opportunity to present their case to higher authority;

2.-7. (No change.)

(c) (No change.)

(Agency Note: The text of proposed new N.J.A.C. 10:49 Appendix Form # 15 follows without boldface symbolizing proposed new text; those portions of the appendices appearing in boldface are proposed to be so permanently.)

APPENDIX

Form # 1 – 14 (No change.)

NEW JERSEY MEDICAID PROGRAM

DESIGNATION OF AUTHORIZED REPRESENTATIVE

_____ (Name of Applicant) hereby authorizes the following person or company to be my Authorized Representative in my application for Medicaid filed with the County Welfare Agency (CWA) or New Jersey Division of Medical Assistance and Health Services (DMAHS) Office of Institutional Services (ISS) and in all reviews of my eligibility. I authorize my representative to take any action which may be necessary to establish my eligibility for Medicaid.

Name of Representative:

Company:

Address:

City:

State:

Zip:

Phone Number:

_____ My decision to appoint an Authorized Representative is voluntary and made freely. I understand that signing this document does not relieve me of my responsibility to participate in the Medicaid eligibility process, including providing information and documents.

I understand that as a result of this authorization, the DMAHS and the applicable CWA may disclose and release information to the Authorized Representative including my Social Security number, financial statements, medical information and reasons for denial.

I have been fully informed in writing by the Authorized Representative of actual or potential conflicts of interests that may exist between the above named entity and me. I hereby waive any conflict of interest. If there is no conflict of interest, the Authorized Representative has also put that in writing.

I understand that the information shared with the Authorized Representative may affect my liability to a third party, including the Authorized Representative, and may be disclosed to others. I hereby hold DMAHS and the County Welfare Agency harmless for any claim or action resulting from the use or disclosure of information by my Authorized Representative.

I understand that I may revoke this authorization at any time by notifying the Authorized Representative and the County Welfare Agency in writing.

I understand that while this authorization is in effect, all notices/correspondence sent by DMAHS and the applicable County Welfare Agency will only be sent to the Authorized Representative.

I understand that neither the State of New Jersey nor the County Welfare Agency charge a fee to file a Medicaid application.

This form has no effect unless witnessed, and unless signed and dated by the person granting authority and by the Authorized Representative or an agent of the company appointed to be the Authorized Representative.

Signature of Medicaid Applicant or Person Granting Authority: _____ Date: _____

Relationship (Self, Guardian etc.) _____

Witness Signature _____ Date: _____

Print Name: _____

Witness Address:_____

Signature of Authorized Representative _____ Title (if employee of authorized company or agency) _____

Print Name _____

Date _____

Witness Signature _____ Date: _____

Print Name: _____

Witness Address:_____

CHAPTER 69

AFDC-RELATED MEDICAID

SUBCHAPTER 2. THE APPLICATION PROCESS

10:69-2.4 Completion of forms

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

(e) To ensure that any representative seeking to file the application is authorized to represent the applicant, the Division's Designation of Authorized Representative form at N.J.A.C. 10:49 Appendix Form # 15 shall be completed and submitted, except as provided in (e)1 below. No other form or document shall be used.

1. Use of the Division's Designation of Authorized Representative Form is not required if the authorized representative is the beneficiary's legal guardian, a relative by blood or marriage, the attorney of the beneficiary hired by the beneficiary to represent the beneficiary, or a person with power of attorney for the beneficiary.

CHAPTER 70

MEDICALLY NEEDY PROGRAM

SUBCHAPTER 2. CASE PROCESSING

10:70-2.1 Application

(a) Application for the Medically Needy Program shall be accomplished by the completion and signing of Form PA-1G for SSI-related cases and Form PA-1J for AFDC-related cases, as well as[,] any addenda to those forms as prescribed by the Division of Medical Assistance and Health Services.

1.-3. (No change.)

4. To ensure that any such representative seeking to file the application is authorized to represent the applicant, the Division's Designation of Authorized Representative form at N.J.A.C. 10:49 Appendix Form # 15 shall be completed and submitted, except as provided in (a)4i below. No other form or document shall be used.

i. Use of the Division's Designation of Authorized Representative Form is not required if the authorized representative is the beneficiary's legal guardian, a relative by blood or marriage, the attorney of the beneficiary hired by the beneficiary to represent the beneficiary, or a person with power of attorney for the beneficiary.

(b)-(f) (No change.)

CHAPTER 71

MEDICAID ONLY

SUBCHAPTER 2. THE APPLICATION PROCESS

10:71-2.5 Application policy and procedure

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

(d) To ensure that any such representative seeking to file the application is authorized to represent the applicant, the Division's Designation of Authorized Representative form at N.J.A.C. 10:49 Appendix Form # 15 shall be completed and submitted, except as provided in (d)1 below. No other form or document shall be used.

1. Use of the Division's Designation of Authorized Representative Form is not required if the authorized representative is the beneficiary's legal guardian, a relative by blood or marriage, the attorney of the beneficiary hired by the beneficiary to represent the beneficiary, or a person with power of attorney for the beneficiary.

CHAPTER 72

NEW JERSEY CARE ... SPECIAL MEDICAID PROGRAMS MANUAL

SUBCHAPTER 2. CASE PROCESSING

10:72-2.1 Application

(a) Application for Medicaid benefits for pregnant women and infants shall be accomplished by the completion and signing of Form FD-335 for pregnant women and infants, as well as any addenda to that form as prescribed by the Division of Medical Assistance and Health Services. Application for Medicaid benefits for aged, blind, or disabled individuals shall be accomplished by the completion and signing of Form PA-1G, as well as any addenda to that form as prescribed by the Division of Medical Assistance and Health Services.

1.-3. (No change.)

4. To ensure that any such representative seeking to file the application is authorized to represent the applicant, the Division's Designation of Authorized Representative form at N.J.A.C. 10:49 Appendix Form # 15 shall be completed and submitted, except as provided in (a)4i below. No other form or document shall be used.

i. Use of the Division's Designation of Authorized Representative

Form is not required if the authorized representative is the beneficiary's legal guardian, a relative by blood or marriage, the attorney of the beneficiary hired by the beneficiary to represent the beneficiary, or a person with power of attorney for the beneficiary.

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