

10:44C-5.5 Food

- (a)-(b) (No change.)
- (c) Food shall be readily accessible to persons served unless limitations have been approved through a person-centered planning process documented in the person's record.
- (d)-(i) (No change.)
- (j) At a minimum, there shall be at least a three-day supply of food at all times.

10:44C-5.6 Clothing

- (a) Each person served shall have an adequate supply of clean and well-fitting clothing appropriate to age, gender identity, individual needs and preferences, community standards, and season and weather conditions.
- (b)-(d) (No change.)

10:44C-5.7 Vehicle safety

- (a)-(b) (No change.)
- (c) An agency vehicle shall be available at all times to provide transportation for persons served, as needed, and desired for community integration.
 - 1. Vehicles used to transport persons served in wheelchairs shall be fully accessible and include all required safety mechanisms, which shall be maintained in working order and utilized at all times.

SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT

10:44C-6.1 Fire safety

- (a) Each community residence operated by the licensee shall be registered with the Department of Community Affairs (DCA), Bureau of Fire Code Enforcement, Life Hazard Use Registration Unit, as a life hazard use and shall be subject to inspection, as required by the inspection schedule contained in the uniform fire safety code, consistent with N.J.S.A. 52:27D-192 et seq., and the rules promulgated thereunder.
 - 1. (No change.)
 - (b)-(c) (No change.)

10:44C-6.2 Emergency evacuation plans

- (a) The licensee shall design an emergency evacuation plan for each residence, in accordance with the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the individual characteristics of the home.
 - 1. The plan shall be further developed by evaluating each person's ability to evacuate the residence in three minutes or less, according to the following risk factors:
 - i. The person's ability to solve problems;
 - ii. The person's compliance, including any behavioral factors that adversely affect the person's ability to evacuate; and
 - iii. Medical factors, including physical disabilities, which adversely affect the person's ability to evacuate.
 - 2. The plan shall incorporate the following elements:
 - i. A general description of the building;
 - ii. Identification of all exits that lead directly to the outside;
 - iii. Identification of the point(s) of safety, a designated meeting spot at which the occupants assemble after evacuating the premises;
 - iv. Any special needs that the service recipients have and the assistance that will be necessary to help them evacuate within three minutes, based upon the individual emergency evacuation assessments; and
 - v. A single plan of prioritized and sequential actions required to promptly evacuate everyone from the building within three minutes.
 - (b) The emergency evacuation plan shall be reviewed at least annually and revised:
 - 1.-3. (No change.)
 - (c)-(e) (No change.)

10:44C-6.3 Fire drills

- (a) Fire drills, supervised by staff, shall be performed at a minimum of once per month.
 - 1. Each shift shall perform at least four fire drills a year, four of which shall be during normal sleeping hours for the residents of the home.
 - 2.-4. (No change.)
- (b) Written records shall be maintained, including the following information:

- 1. (No change.)
- 2. The location of the simulated fire;
- 3.-5. (No change.)
- (c)-(d) (No change.)

10:44C-6.5 Fire extinguishers

- (a) (No change.)
- (b) Fire extinguishers, battery-operated smoke detectors, and stand-alone carbon monoxide detectors shall be checked monthly by staff to ensure all extinguishers and smoke detectors are fully charged and operable, and documentation maintained.
 - 1. (No change.)
 - (c) (No change.)

10:44C-6.6 General home requirements

- (a) For residences housing persons served with physical disabilities, the licensee shall make accommodations to ensure maximum physical accessibility feasible for entrance to and movement within the residence based upon personal characteristics.
 - 1. Any necessary modifications shall conform to the requirements contained in the Barrier Free Subcode, N.J.A.C. 5:23-3.14(b)10, which includes the accessibility regulations (see N.J.A.C. 5:23-7.1 (Barrier Free Subcode)).
 - 2.-3. (No change.)
 - (b)-(k) (No change.)

10:44C-6.9 Heat sources

- (a) (No change.)
- (b) Every home shall have heating facilities that are properly installed, maintained in good and safe working condition, and capable of maintaining all habitable rooms at a temperature of 68 degrees Fahrenheit (20 degrees Celsius) when the outdoor temperature is zero degrees Fahrenheit (-18 degrees Celsius).
- (c) (No change.)

10:44C-6.13 Bedrooms

- (a)-(h) (No change.)
- (i) Every bedroom shall have an operable door for privacy, equipped with standard hardware that provides a privacy lock which can be readily opened from the outside in an emergency, and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bedroom doors.

10:44C-6.14 Bathrooms

- (a)-(c) (No change.)
- (d) Bathroom doors shall be equipped with standard hardware which provides a privacy lock and which can be readily opened from the outside in an emergency and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

10:44C-6.15 Kitchens

- (a)-(c) (No change.)
- (d) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (four degrees Celsius). Freezer compartments shall operate at not more than zero degrees Fahrenheit (-18 degrees Celsius).
- (e) Kitchen appliances shall, at a minimum, include a refrigerator, freezer, (or refrigerator with a freezer compartment), an oven, and a cooktop maintained in good condition.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Notice of Readoption Administration

Readoption: N.J.A.C. 10:49

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

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

Agency Control Number: 22-A-02.

Effective Date: December 5, 2022.

New Expiration Date: December 5, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:49, the Administration chapter for the New Jersey Medicaid and NJ FamilyCare programs, was scheduled to expire on January 7, 2023. The chapter contains general and specific information about the regular Medicaid program, special Medicaid services, the NJ FamilyCare program, and other special State-funded programs administered in whole or in part by the Division of Medical Assistance and Health Services (Division). This includes, but is not limited to, information about beneficiary eligibility, provider participation requirements, covered services, claims processing, beneficiary and provider rights and responsibilities, appeals and fair hearing procedures, and various program controls.

The chapter contains 24 subchapters, described as follows:

Subchapter 1, General Provisions, includes the purpose and scope of the chapter, as well as the organizational structure, legal authority, and responsibility of the Division for administration and implementation of the NJ Medicaid and NJ FamilyCare programs. This subchapter also contains definitions, as well as the types and availability of provider manuals designed for use by providers in their provision of services as participants within the NJ Medicaid and NJ FamilyCare programs.

Subchapter 2, New Jersey Medicaid Beneficiaries, includes eligibility requirements for beneficiary participation in the Medicaid and NJ FamilyCare programs, including who is eligible pursuant to the various programs, the eligibility process, forms, and systems used to verify eligibility and provisions addressing eligibility for aliens.

Subchapter 3, Provider Participation, includes provisions regarding the types of providers eligible to participate in the Medicaid and NJ FamilyCare program, the enrollment process, requirements imposed on providers with multi-locations, the provider billing number, and one-time provider enrollment.

Subchapter 4, Provider's Role in a Shared Health Care Facility, includes provisions regarding providers located in a shared health care facility, including definitions, scope of the subchapter, registration of shared health care facilities, prohibited practices, administrative requirements, and quality of care requirements.

Subchapter 5, Services Covered by Medicaid and the NJ FamilyCare Programs, includes provisions regarding the types of services available to eligible beneficiaries as participants in the Medicaid and NJ FamilyCare programs, including requirements for provision of services, services available to beneficiaries eligible for, or children who are presumptively eligible for, the regular Medicaid and NJ FamilyCare Plan A programs, services available to beneficiaries eligible for the Medically Needy program, emergency medical services available to aliens, and prenatal care for specified pregnant alien women, services not covered pursuant to the Medicaid or NJ FamilyCare Plan A program, and services covered pursuant to NJ FamilyCare Plans B, C, D, G, H, and I.

Subchapter 6, Authorizations Required by Medicaid and the NJ FamilyCare Programs, includes authorization requirements for reimbursement for services rendered to eligible beneficiaries, including prior and retroactive authorization and authorizations for out-of-State medical care and services.

Subchapter 7, Submitting Claims for Payment (Policies and Regulations), includes provisions regarding the general processes and requirements for submitting claims for services, including general provisions, timeliness of claim submission, third-party liability benefits, prohibition of payment to benefactors, use of service bureau and/or management agency services, and timeliness of charity care claims submission.

Subchapter 8, Payment for Services Provided, includes requirements for payment for services provided, including those regarding the fiscal agent, claims payment and charity care claims pricing, adjustments following payments of claims, claims payment by direct deposit, and outstanding checks.

Subchapter 9, Provider and Beneficiary's Rights and Responsibilities; Administrative Process, contains provisions regarding provider and beneficiary rights and responsibilities as participants in the Medicaid and NJ FamilyCare programs, including personal contributions, premiums and co-payments, limitations on cost sharing, civil rights, observance of religious belief, free choice by the beneficiary and the provider, confidentiality of records, provider certification and recordkeeping, patient certification of receipt of service, withholding of provider payments, integrity of the programs, fraud and abuse, informing individuals of their rights, appeals, and advance directives.

Subchapter 10, Notices, Appeals, and Fair Hearings, includes requirements, time frames, and processes for filing of appeals, grievances and fair hearings, including definitions, notices, opportunity for a fair hearing, advance notice of termination of medical assistance to beneficiaries participating in Medicaid or Plan A, location of the hearing, impartiality of the hearing officer, the beneficiary's right to a different medical assessment, hearing procedures, requirements for prompt, definitive, and final action, notification to claimants, action upon a decision favorable to claimants, hearing decisions, and accessibility of hearing decisions to local agencies and the public.

Subchapter 11, Exclusion from Participation in the New Jersey Medicaid and NJ FamilyCare Programs (Suspension, Debarment, and Disqualification), includes the basis for a beneficiary or provider's suspension, exclusion, disqualification, or debarment from participation in the Medicaid and NJ FamilyCare programs.

Subchapter 12, Provider Reinstatement, establishes the process to be used by providers in order to request, and petition for, reinstatement in the Medicaid or NJ FamilyCare program following suspension, exclusion, disqualification, or debarment. This subchapter explains the Division Director and Provider Reinstatement Committee powers, the criteria for reinstatement, and the procedures of the Provider Reinstatement Committee.

Subchapter 13, Program Controls, includes provisions regarding specific program controls and internal checks and balances implemented by the Division to ensure adequate evaluation and delivery of programs and services, including medical review and evaluation; audits; and applicability to Division programs of provisions regarding fraud and abuse investigations and administrative actions, third-party liability, and recoveries. Additionally, this subchapter provides for the payment of a monetary reward for information relating to fraud or abuse.

Subchapter 14, Recovery of Payments and Sanctions, includes provisions regarding the conditions and limitations on, as well as processes for, recovery of payments and sanctions that may be imposed on beneficiaries for fraudulent use or over-utilization of benefits. This subchapter also addresses the Division's and the Department of Human Services' (Department) authority to compromise, adjust, waive, and settle claims, recoveries involving the county boards of social services, administrative charges and service fees, and contracts with county boards of social services.

Subchapter 15, Availability and Maintenance of Program Policy Issuances, includes provisions regarding maintenance of public policy issuances, availability of policy materials, and reproduction of those materials.

Subchapter 16, Demonstration Projects, includes provisions regarding the purpose of the subchapter, definitions, implementation of demonstration projects and criteria, and sanctions related to demonstration projects.

Subchapter 17 is reserved.

Subchapter 18, Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), includes requirements and conditions for the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.

Subchapter 19, Healthstart, provides notice to the public, providers, and beneficiaries regarding the HealthStart program and refers the reader to other Medicaid and/or NJ FamilyCare chapters that address this program.

Subchapter 20 is reserved.

Subchapter 21, the Medicaid/NJ FamilyCare Managed Care Program, includes provisions regarding the Medicaid/NJ FamilyCare Managed Care Program, including purpose and scope, capitation payment systems,

Medicaid/NJ FamilyCare beneficiaries, and specific delineation of services in that program.

Subchapter 22, Home and Community-Based Services Waiver Programs, includes provisions regarding the types of home and community-based waiver programs available, including an introduction, approved waivers, administration of waived programs, and contact information for the divisions responsible for the administration of the Waiver Programs.

Subchapter 23, Lifeline Programs, includes provisions regarding the Lifeline Projects eligibility and application process.

Subchapter 24, Work First New Jersey/General Assistance Claims Processing, contains provisions regarding Work First New Jersey/General Assistance (WFNJ/GA) claims processing, including an introduction, administrative provisions, services that are processed by the fiscal agent, and those which are not processed by the fiscal agent, as well as the basis for reimbursement.

An appendix is included at N.J.A.C. 10:49, which includes numerous forms and lists mentioned throughout the chapter that are used by the Division, providers, and beneficiaries in the Medicaid/NJ FamilyCare programs.

The Department has identified areas of the chapter that need to be amended and during 2023 intends to publish one or more proposed rulemakings with amendments at N.J.A.C. 10:49 that will update existing rules, delete obsolete rules, and/or propose new rules to introduce new policy and/or memorialize compliance with Federal requirements.

The Department has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 30:4D-1 et seq., and 30:4J-8 et seq., and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS STATE BOARD OF MEDICAL EXAMINERS Radiologist Assistant Performing Procedures Adopted New Rule: N.J.A.C. 13:35-6.20A

Proposed: December 6, 2021, at 53 N.J.R. 1982(a).

Adopted: June 8, 2022, by the State Board of Medical Examiners,
Otto F. Sabando, D.O.

Filed: November 28, 2022, as R.2023 d.001, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) **and with N.J.A.C. 13:35-6.20A(c)2xii, (c)2xiii, (c)6viii, (c)6x, (d), and (e) not adopted.**

Authority: N.J.S.A. 45:9-2.

Effective Date: January 3, 2023.

Expiration Date: April 3, 2025.

Summary of Public Comments and Agency Responses:

The official comment period ended February 4, 2022. The State Board of Medical Examiners (Board) received comments from the following individuals:

1. John Gravelli, ASRT, RT/RRA
2. Stacey Gravelli, BSN, RN, CRN, Department of Nursing, Clinical Nurse III, Radiology MSK Monmouth
3. Robert W. Evers, RTR, MR, CV, CT, Board Eligible Radiologist Assistant
4. Taylor Merriman, B.S. R.T. (R)(CT)(AART), Interventional Radiologic Technologist, Radiologist Assistant Student—Rutgers University
5. Vicki Dillard, MSRS, RRA, RT(R)(CV)(CT), Associate Professor, RA Program Clinical Coordinator, Shimadzu School of Radiologic Sciences
6. Rajiv Biswal, MD, University Radiology

7. Murina Sahadeo, RRA RT(R) (CT), Department of Interventional Radiology, New York Presbyterian

8. Chirag Patel, BSRS, RT(R)(MR)(CT)

9. Raquel Perez, M.S., R.R.A., (M)(RT)(ARRT)

10. Gladys Montane, Ed.D., R.T., (R)(M), Dept. of Clinical Laboratory and Medical Imaging Sciences, Director of the B.S. in Radiologic Imaging Modalities Radiologic Imaging Modalities Certificate & M.S Radiologist Assistant Program, Rutgers University-School of Health Professions

11. David Hardwick, MSRS, RRA, RPA, RT, R, President, Society of Radiology Physician Extenders

12. Jerry B. Reid, Ph.D., Executive Director, American Registry of Radiologic Technologists

13. John D. Fanburg, Brach, Eichler, LLC

1. COMMENT: Several commenters support the adopted new rule. Two of the commenters contend that the adopted new rule will assist the radiology community by permitting radiologists to focus on areas needing more expertise while allowing qualified individuals to perform routine tasks. Another commenter supports provisions in the new rule that create three levels of supervision for radiologist assistants. This commenter also supports the requirement that a licensed radiologist assess a radiologist assistant's competency prior to directing the radiologist assistant to perform a procedure and the provision requiring radiologist assistants to be certified in Advanced Cardiovascular Life Support.

RESPONSE: The Board thanks the commenters for their support.

2. COMMENT: A commenter notes that the Board's summary of the notice of proposal indicated that the proposed rule would prohibit licensed radiologist assistants from performing some procedures that carry risks of bleeding and infection. According to the commenter, the majority of procedures that radiologist assistants are trained to perform carry the risk of bleeding and infection. Thus, the commenter believes that forbidding radiologist assistants from performing certain procedures due to the risk of bleeding and infection is inappropriate. The commenter asks the Board to investigate the prevalence of bleeding and infection for the prohibited procedures and compare that risk to other procedures that radiologist assistants are permitted to perform. The commenter contends that radiologist assistants should not be prohibited from performing procedures for which they have the requisite training without scientific backing.

RESPONSE: The commenter is correct that the summary of the notice of proposal indicated that two prohibited procedures, hysterosalpingogram procedures and imaging and antegrade pyelogram, carry the risk of infection. In addition, the Summary of the notice of proposal indicated that antegrade pyelogram carries a risk of bleeding. While the commenter may be correct that the majority of procedures that a radiologist assistant is trained to perform may carry the risk of bleeding and infection, the risks associated with hysterosalpingogram procedures and imaging and antegrade pyelograms are elevated and, as the Board discussed in the Summary of the notice of proposal, such procedures should only be performed by a physician.

3. COMMENT: Several commenters contend that radiologist assistants are trained to perform procedures using computerized tomography (CT) and ultrasound guidance. The commenters recognize that radiologist assistants do not receive training in interpreting imaging, but they maintain that radiologist assistants receive training on anatomy and pathology seen in different imaging modalities.

RESPONSE: P.L. 2017, c. 281, sets forth the procedures that a radiologist assistant may perform under the supervision of a licensed radiologist. The law allows radiologist assistants to perform "delegated fluoroscopic procedures." Performing procedures with CT or ultrasound guidance is not included in the statutory definition of "delegated fluoroscopic procedures." As the commenters recognize, radiologist assistants do not receive training in interpreting imaging and the rule does not permit radiologist assistants to perform procedures which require the reading of a CT scan or ultrasound image.

4. COMMENT: The Summary of the notice of proposal stated that radiologist assistants are not permitted to perform hysterosalpingogram procedures and imaging; antegrade pyelogram; lumbar puncture with contrast; myelogram; and tunneled and non-tunneled chest and abdominal drainage catheters. A commenter supports this position and recommends that these prohibitions be incorporated as a new provision at N.J.A.C.