

iii. Flight-Escape (4999).

2. An individual is considered a probation or parole violator when an impartial party (such as, but not limited to, a court or parole board) has determined that the individual violated a condition of their probation or parole as imposed pursuant to Federal or state law and that Federal, state, or local law enforcement authorities are actively seeking the individual to enforce the conditions of their probation or parole.

(b) Actively seeking, as used at (a) above, shall mean:

1. A Federal, state, or local law enforcement agency informing the CSSA that it intends to enforce an outstanding felony (high misdemeanor) warrant or to arrest an individual for a probation or parole violation within 20 days of submitting a request for information about the individual to the CSSA; or

2. A Federal, state, or local law enforcement agency informing the CSSA that it intends to enforce an outstanding felony (high misdemeanor) warrant or to arrest an individual for a probation or parole violation within 30 days of the date of a request from the CSSA about a specific outstanding felony (high misdemeanor) warrant or probation or parole violation.

(c) The CSSA shall give a law enforcement agency 20 days to respond to a request for information about the conditions of a felony (high misdemeanor) warrant or a probation or parole violation and as to whether or not the law enforcement agency intends to actively pursue the individual.

1. If the law enforcement agency does not indicate it intends to enforce the felony (high misdemeanor) warrant or arrest the individual for the probation or parole violation within 30 days of the date of the CSSA's request for information about the warrant, the CSSA shall determine that the individual is not a fleeing felon or a probation or parole violator and update the case file accordingly.

2. If the law enforcement agency does intend to enforce the felony (high misdemeanor) warrant or arrest the individual for the probation or parole violation within 30 days of the CSSA's request for information, the CSSA will postpone any action on the case file until the 30-day time period has expired.

3. At the conclusion of 30 days, the CSSA shall verify with the law enforcement agency whether it has attempted to execute the felony (high misdemeanor) warrant or arrest the probation or parole violator. If the law enforcement agency has taken such action, the CSSA shall deny an applicant or terminate a participant who has been determined to be a fleeing felon or probation or parole violator. If the law enforcement agency has not taken such action, the CSSA shall not consider the individual to be a fleeing felon or probation or parole violator, shall document the case accordingly, and shall take no further action.

(d) The CSSA shall continue the processing of any SNAP application while awaiting verification from a law enforcement agency that an individual is a fleeing felon or probation or parole violator. If program timeframes, including timeframes for expedited service pursuant to N.J.A.C. 10:87-2.28 through 2.30, require the CSSA to process the application before verification of fleeing felon or probation or parole violator status can be determined, the CSSA should process the application without consideration of the individual's status.

1. The existence of an outstanding felony (high misdemeanor) arrest warrant for any crime not set forth at (a)1 above shall not be sufficient to deny SNAP benefits based upon fleeing felon status, even if the individual is aware of an outstanding warrant.

2. If an individual self-declares that they are a fleeing felon or a probation or parole violator, the CSSA must verify such information from an independent source before accepting any self-declaration as true.

3. If an individual declares that a warrant has been satisfied, the individual shall be given the opportunity to submit documentation of such warrant having been satisfied.

(a)

## DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

### Notice of Readoption Medicaid Only

#### Readoption: N.J.A.C. 10:71

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.

Effective Date: August 14, 2025.

New Expiration Date: August 14, 2032.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:71, Medicaid Only, were scheduled to expire on October 23, 2025. The chapter regulates the Medicaid Only program for aged, blind, and disabled individuals. The Department of Human Services (Department) proposes to readopt the chapter without change.

The chapter includes nine subchapters, described as follows:

Subchapter 1, Introduction, explains the Medicaid Only program and describes which populations qualify for participation in the program if they meet all eligibility requirements. It also describes the administrative organization and principles of administration of the program and provides for availability of public review of the program rules.

Subchapter 2, The Application Process, provides definitions for use in the chapter, describes the Medicaid Only program application process and states the responsibilities of beneficiaries, the county board of social services, and the central office of the Division of Medical Assistance and Health Services (Division). It also describes the administrative procedures used throughout the application process and the process for allowing applicants to apply for retroactive eligibility.

Subchapter 3, Eligibility Factors, explains factors regarding eligibility for the Medicaid Only program that are not related to financial requirements, such as citizenship, alien status documentation, residence, age, disability, and blindness. It also describes the responsibilities and procedures of the county board of social services relating to these factors. Additionally, it regulates payment or non-payment for institutional care and advises of the resources available from the Division's Medical Assistance Customer Centers.

Subchapter 4, Resources, explains the process of distinguishing countable resources from excludable resources in determining eligibility for the Medicaid Only program, and sets forth the standards and limits. It also explains the requirements regarding deeming of resources. It also sets forth specific rules regarding the resources of couples when one spouse is institutionalized and the other spouse remains in the community. Additionally, the subchapter regulates the use of trusts and the transfer of assets as they relate to eligibility.

Subchapter 5, Income, sets forth income limits for beneficiaries in various living arrangements. In addition, the subchapter sets forth criteria for includable and excludable income and requirements regarding deeming of income. It also contains criteria for post-eligibility treatment of income for institutionalized individuals and explains eligibility pursuant to life care and pay-as-you-go agreements. It also regulates deeming from sponsors to aliens.

Subchapter 6, Case Records and Files, explains the contents of, and the responsibilities of maintaining, the official case records of the Medicaid Only program.

Subchapter 7, Other Payments, explains other payments for which Medicaid Only program beneficiaries may qualify in certain situations, such as funeral expenses, travel costs for health care, childcare, and other payments.

Subchapter 8, Responsibilities, explains other agency responsibilities, such as determinations of continuing eligibility, recording and notice requirements, redeterminations of medical eligibility, responding to complaints and requests for fair hearings, responding to fraud, reporting criminal offenses to law enforcement authorities, safeguarding information, and observing nondiscrimination requirements.

Subchapter 9, Medical Assistance for the Aged Continuation, sets forth requirements regarding continuation of medical services to individuals who were receiving Medical Assistance for the Aged prior to June 30, 1982.

While the Department is readopting this chapter without change, it recognizes that further rulemaking may be necessary to update the chapter to reflect current program requirements and any applicable Federal rules. Thus, the Department will continue to review the rules and may consider making substantial amendments prior to the next scheduled expiration.

An administrative review of the rules has been conducted, and a determination has been made that N.J.A.C. 10:71 should be readopted because the rules are necessary, reasonable, adequate, efficient, understandable, and responsive to the purposes for which they were originally promulgated. 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.

## CORRECTIONS

### (a)

#### STATE PAROLE BOARD

#### Parole Board Rules

#### Division of Parole Rules

#### Readoption with Amendments: N.J.A.C. 10A:71

#### Adopted Amendments: N.J.A.C. 10A:72-1.1, 2.4, 4.1, 4.3 through 4.7, 4.12, 5.1, 5.4, 5.5, 5.6, 8.3, 10.1 through 10.5, 10.7, 16.1, 16.5, and 16.10

#### Adopted New Rules: N.J.A.C. 10A:71-5.9 and 10A:72-6.9

Proposed: April 21, 2025, at 57 N.J.R. 822(a).

Adopted: July 30, 2025, by the New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairperson.

Filed: August 8, 2025, as R.2025 d.105, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4-123.48.d, 30:4-123.51.b, and 30:4-123.92.d.

Effective Dates: August 8, 2025, Readoption;  
September 15, 2025, Amendments and New Rules.

Expiration Dates: August 8, 2032, N.J.A.C. 10A:71;  
July 23, 2028, N.J.A.C. 10A:72.

#### Summary of Public Comments and Agency Responses:

The official comment period ended on June 20, 2025. In response to the notice of proposal, the State Parole Board (SPB) received one comment letter dated June 20, 2025, from Stephanie Lutz, Deputy Public Defender, Office of the Public Defender (OPD).

1. COMMENT: The OPD advised the SPB that the Summary of the notice of proposal refers to proposed amendments at N.J.A.C. 10A:72 pertaining to "certain parolees residing with or having unsupervised contact with minors." The OPD noted, however, that the proposed changes or new rules themselves do not refer to this topic. The OPD requested that if the SPB did, in fact, propose changes and new rules related to certain parolees residing with or having unsupervised contact with minors, the rulemaking be made available for review and comment.

RESPONSE: In reviewing the Summary of the notice of proposal and the proposed amendments at N.J.A.C. 10A:72, the SPB determined that inclusion of the phrase "certain parolees residing with or having unsupervised contact with minor" was an oversight as the proposed amendments at N.J.A.C. 10A:72 do not relate to the aforementioned topic. The SPB appreciates the OPD bringing this matter to the attention of the SPB.

2. COMMENT: The OPD noted that the Summary of the notice of proposal refers to the amendments at N.J.A.C. 10A:71-7.7(c)2 and 7.14(c)2 as reflecting that a parolee determined to be indigent has the right to be represented by an attorney assigned by the Office of the Public Defender at a preliminary violation hearing and revocation hearing, respectively. The OPD noted that the proposed amendments themselves would remove the reference to the indigency requirement. The OPD advised that the amendment to the OPD enabling statute establishing the Parole Revocation and Resentencing Unit does not impose an indigency requirement for these services (N.J.S.A. 2A:158A-5.3). The OPD advised that the proposed amendments to the respective sections are correct.

RESPONSE: The SPB appreciates the OPD identifying that the language in the Summary of the notice of proposal did not coincide with the respective proposed amendments and the acknowledgement that the respective proposed amendments correctly reflect the amendment to the OPD enabling statute.

3. COMMENT: In reference to the new rule proposed at N.J.A.C. 10A:71-6.12(i) pertaining to Global Positioning System (GPS) monitoring pursuant to the Sex Offender Monitoring Act (S.O.M.A.), the OPD requested the SPB include language reflecting the judicial prohibition on the retroactive application of S.O.M.A. to parolees whose predicate offense occurred prior to the enactment of S.O.M.A. on August 6, 2007.

The OPD advised that the Appellate Division banned the retroactive application of S.O.M.A. in *State v. F.W.*, 443 N.J. Super. 476 (App. Div. 2016), *certif. denied*, 227 N.J. 150 (2016). The OPD noted that in *F.W.* the court held that prosecuting and punishing the defendant for a third-degree crime created through S.O.M.A. violated the Ex Post Facto Clause when the defendant committed the predicate offense prior to the enactment of S.O.M.A. The OPD noted that though the defendant in *F.W.* was subject to Community Supervision for Life (CSL), not Parole Supervision for Life (PSL), the court's reasoning would apply to similarly situated individuals on PSL who committed the predicate offense prior to the enactment of S.O.M.A.

The OPD recommended that the proposed new rule at N.J.A.C. 10A:71-6.12(i) be clarified to explicitly exclude the subset of PSL offenders whose predicate offenses occurred prior to the enactment of S.O.M.A. The OPD believed that setting forth the exclusion in the text of the rule will ensure fairness, minimize confusion, and avoid time-consuming litigation.

RESPONSE: The SPB does not believe that the suggested change at N.J.A.C. 10A:71-6.12(i) is necessary. The SPB's Division of Parole staff is cognizant of the effective date of S.O.M.A. and the SPB is confident that the Division of Parole will apply the rule in a fair manner; that there will not be confusion in the application of the rule; and that the Division of Parole will act in a manner that will preclude time-consuming litigation.

The SPB notes that the PSL statute, N.J.S.A. 2C:43-6.4, vests in the SPB, the authority to impose special conditions of supervision in the case of an offender on PSL, as needed, for the protection of the public and to foster rehabilitation. Therefore, though the new rule may not be mandatorily applied to offenders on PSL whose predicate offense was committed prior to the enactment of S.O.M.A., the SPB is not precluded from imposing a form of electronic monitoring on said offenders when the present circumstances of an offender's case warrant the imposition of such a special condition.

The SPB will adopt the amendment without change.

4. COMMENT: The OPD advised that the proposed rule at N.J.A.C. 10A:72-6.9 eliminates the longstanding reasonable suspicion requirement for the Division of Parole to search a parolee's residence.

The OPD noted that the reasonable suspicion standard for warrantless probation searches was permitted by the United States Supreme Court in the "special needs" doctrine after the Court weighed the privacy rights of probationers and the special needs of probation; that, likewise, New Jersey Courts have permitted warrantless parole searches that are justified by reasonable suspicion; and that New Jersey Courts have never authorized what the SPB proposes at N.J.A.C. 10A:72-6.9, the suspicionless search of a parolee's residence.

The OPD noted that one's residence is afforded the highest level of protection from government intrusion and that the searches proposed pursuant to N.J.A.C. 10A:72-6.9 are unlikely to pass muster under the