

8. The wishes of the individual in an advance directive or POLST, if one exists;

9.-10. (No change.)

(c) (No change.)

(d) If the Chief of BGS or his or her designee disagrees with, or has questions about, a recommendation of the Ethics Committee to withhold or withdraw potentially LSMT, he or she shall request a second review by the Ethics Committee in order to discuss the issues in question. If, after the second review, the Chief of BGS or his or her designee makes the decision not to consent to the request to withhold or withdraw LSMT, the order shall not be written. The Chief of BGS or his or her designee shall state in writing the reasons why consent has been denied. Copies of this statement shall be provided to the treating practitioner, the Ethics Committee, and DRNJ.

(e) (No change.)

(f) In the event immediate family and/or DRNJ objects to the decision of the Chief of BGS or his or her designee to withhold or withdraw LSMT, the decision will not be implemented without a court order.

10:48B-7.5 Do Not Resuscitate (DNR) Orders for individuals receiving BGS services

(a) The following procedures shall be followed when a recommendation has been made by the treating practitioner to execute a DNR Order for an individual for whom BGS is providing guardianship services:

1. The treating practitioner will submit a written recommendation for a DNR Order indicating the diagnosis and prognosis of the individual and the benefit or not if Cardiopulmonary Resuscitation (CPR) is instituted. If the individual is not terminally ill or permanently unconscious and the attending physician is recommending that CPR is medically contraindicated for the individual, the attending physician will specify in the written recommendation the reasons CPR is contraindicated.

2. (No change.)

3. A second treating physician will indicate in writing his or her concurrence with the treating practitioner's recommendation for a DNR Order.

4.-5. (No change.)

6. If the Chief of BGS, or his or her designee concurs with the recommendation for a DNR Order, the Chief or his or her designee shall prepare a certification based upon the following:

i. The recommendation of the treating practitioner, including a diagnosis, prognosis, and a medical treatment plan;

ii.-vii. (No change.)

7. Once the certification has been completed, the Chief of BGS or his or her designee shall communicate consent to the DNR Order to the treating practitioner and provide DRNJ with a copy of the certification no later than the next business day.

8. If an emergent request for a DNR Order is made by the treating practitioner and the Chief of BGS, or his or her designee, agrees with the request and concurs that the request meets the requirements of this chapter, consent will be given to the treating practitioner to enter a DNR order.

9. (No change.)

(b) (No change.)

(c) In the event an immediate family member and/or DRNJ, objects to the decision of the Chief of BGS or his or her designee to consent to a DNR Order, the decision will not be implemented without a court order.

(a)

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**CHILDREN AND FAMILIES**

**DIVISION OF THE CHILDREN'S SYSTEM OF CARE**

**Psychiatric Residential Treatment Facility Services for Individuals Under Age 21**

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

Proposed: July 18, 2016, at 48 N.J.R. 1421(a).

Adopted: October 26, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services and September 26, 2016, by Allison Blake, Commissioner, Department of Children and Families.

Filed: November 30, 2016, as R.2017 d.004, **without change**.

Authority: N.J.S.A. 9:3A-7, 30:4D-1 et seq., and 30:4J-8 et seq.

Agency Control Number: 16-A-03.

Effective Dates: November 30, 2016, Readoption; January 3, 2017, Amendments.

Expiration Date: November 30, 2023.

**Summary of Public Comment and Agency Response:**

**No comments were received.**

**Federal Standards Statement**

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

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

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

Therefore, a Federal standards analysis is not required.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:75.

**Full text** of the adopted amendments follows:

**SUBCHAPTER 1. GENERAL PROVISIONS**

10:75-1.1 Purpose and scope

(a) This chapter outlines the policies and procedures relevant to the provision of psychiatric residential treatment facility services to individuals under age 21 enrolled in Medicaid/NJ FamilyCare-Plan A. The rules of this chapter also apply to children/youth/young adults

enrolled with the Division of the Children’s System of Care (DCSOC), whether or not they are eligible for Medicaid/NJ FamilyCare.

(b) (No change.)

10:75-1.2 Definitions

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

... “Care Management Organization (CMO)” means the community-based Department of Children and Families/Division of the Children’s System of Care (DCF/DCSOC) contracted entity that is responsible for creating, coordinating, and implementing an individualized plan of care for children with emotional and behavioral disturbances that are in need of intensive care coordination services.

... “Contract pricing” means the facility-specific rate, based on the rate determined in the contract negotiated with the DCF/DCSOC or the Department of Human Services.

... “Contracted System Administrator (CSA)” means the entity contracted by the Department of Children and Families/DCSOC to provide utilization management and care coordination activities for services to children, including all mental health services provided to individuals as part of the DCSOC, to monitor the quality of care, to prior authorize mental health services, and approve continued lengths of stay in DCSOC’s programs.

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

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

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

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

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

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

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

... “The Joint Commission (TJC)” means the nationwide, independent, not-for-profit organization that evaluates and accredits health care

organizations and programs, including, but not limited to, behavioral health care organizations including, but not limited to, psychiatric residential treatment facilities.

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

10:75-1.3 Program participation criteria

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

(b) (No change.)

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

1. Be licensed by the New Jersey DCF Office of Licensing as a residential facility in accordance with N.J.A.C. 10:127 or 10:128 or other State agencies with the authority to license such facilities to provide care to children;

2. Be accredited as a PRTF by TJC or any other accrediting agency authorized by DHS and DCF; and

3. Provide a copy of their license and a copy of their accreditation to DCF/DCSOC.

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

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

2. Be accredited by TJC or any other accrediting agency authorized by DCF and DHS as a provider of inpatient psychiatric services for children; and

3. Provide a copy of their license, or their Medicaid enrollment agreement, and a copy of their accreditation to DCF/DCSOC.

(e) (No change.)

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

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

1.-3. (No change.)

10:75-1.4 Beneficiary eligibility

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

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

10:75-1.5 Recordkeeping

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

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

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

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

#### 10:75-1.6 Serious occurrences

(a) In the event of any serious occurrence, all PRTF providers shall report the occurrence to the appropriate authorities in accordance with 42 CFR 483.374(b) and (b) through (d) below.

(b) (No change.)

(c) In-State PRTF providers who are licensed by, and under contract with, DCF/DCSOC shall report all serious occurrences as follows:

1.-4. (No change.)

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

1.-4. (No change.)

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

1.-4. (No change.)

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

1.-4. (No change.)

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

1.-6. (No change.)

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

## SUBCHAPTER 2. PROGRAM REQUIREMENTS

### 10:75-2.1 General requirements

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

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

1. (No change)

2. By a facility that is accredited by TJC or by an agency authorized by DHS and DCF; and

3. (No change.)

### 10:75-2.2 Certification of need for PRTF services

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

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

2. For children/youth/young adults receiving services coordinated by the DCF/DCSOC, this certification may be completed by the child's

CMO or the CSA, if the teams assembled by the CMO or the CSA meet the requirements of 42 CFR 441.152.

(b) (No change.)

### 10:75-2.3 Authorization for PRTF services

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

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

### 10:75-2.4 Individual plan of care

(a) (No change.)

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

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

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

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

(d) (No change.)

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

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

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

### 10:75-2.5 Individual treatment teams

(a) (No change.)

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

1.-2. (No change.)

3. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases, and a psychologist who has a master's degree in clinical psychology or who has been certified by the State or by the State psychological association (see N.J.S.A. 45:14B-1 et seq.); and one of the following:

i. (No change.)

ii. A registered nurse with specialized training or one year's experience in treating individuals with behavioral health challenges; or

iii. An occupational therapist who is licensed and who has specialized training or one year of experience in treating individuals with behavioral health challenges.

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

### 10:75-2.7 Temporary absence from the facility

(a) A provider may seek reimbursement for a resident's temporary absence from the facility due to a hospital leave or therapeutic leave for periods of up to 14 continuous days per episode. If the beneficiary is

**HUMAN SERVICES**

**ADOPTIONS**

present in the facility for any part of the day, beginning and ending at midnight, the HCPCS procedure codes for a day of service shall be used for that day. (See N.J.A.C. 10:75-5.2.)

(b) (No change.)

**SUBCHAPTER 3. EMERGENCY SAFETY INTERVENTIONS**

**10:75-3.1 Scope**

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

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

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

(c) The agreements or affiliations shall ensure that:

1. (No change.)

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

3. Services are available 24 hours a day, seven days a week.

(d) (No change in text.)

(e) (No change in text.)

**SUBCHAPTER 4. REIMBURSEMENT**

**10:75-4.1 Basis of reimbursement**

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

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

Molina Medicaid Solutions  
PO Box 4808  
Trenton, New Jersey 08650-4808

(b) (No change.)

(c) (No change in text.)

**SUBCHAPTER 5. HEALTHCARE COMMON PROCEDURE CODING SYSTEM (HCPCS)**

**10:75-5.1 Introduction**

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

1.-2. (No change.)

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

**10:75-5.2 PRTF procedure codes**

HCPCS			Maximum Fee	
<u>IND</u>	<u>Code</u>	<u>Mod</u>	<u>Description</u>	<u>Allowance</u>
	Y9947		Mental health rehabilitation services provided in TJC or DHS/DCF authorized agency accredited RTCs licensed by DCF.	Contract pricing

<u>IND</u>	<u>Code</u>	<u>Mod</u>	<u>Description</u>	<u>Maximum Fee Allowance</u>
	Y9948		Mental health rehabilitation services provided in TJC or DHS/DCF authorized agency accredited PRTFs licensed by DCF.	Contract pricing
	Y9949		Therapeutic Leave—TJC or DHS/DCF authorized agency accredited PRTFs licensed by DCF or enrolled by the Division of Medical Assistance and Health Services.	Contract pricing
	Y9950		Hospital Leave—TJC or DHS/DCF authorized agency accredited PRTFs licensed by the DCF or under contract with the Division of or enrolled by the Division of Medical Assistance and Health Services.	Contract pricing
	Y9951		Therapeutic Leave for beneficiaries residing in TJC or DHS/DCF authorized agency accredited RTCs licensed by DCF.	Contract pricing
	Y9952		Hospital Leave for beneficiaries residing in TJC or DHS/DCF authorized agency accredited RTCs licensed by DCF.	Contract pricing

**(a)**

**DIVISION OF AGING SERVICES  
OFFICE OF STATE HEALTH INSURANCE FOR THE  
AGED AND DISABLED AND FACILITIES  
MANAGEMENT**

**Notice of Administrative Changes  
Pharmaceutical Assistance to the Aged and  
Disabled Eligibility Manual: Income Standards  
Senior Gold Prescription Program Manual: Income  
Standards  
Lifeline Credit Program/Tenants Lifeline Assistance  
Program Manual: Income Standards  
Hearing Aid Assistance to the Aged and Disabled:  
Income Standards  
N.J.A.C. 10:167-6.2, 10:167B-6.2, 10:167D-4.2, and  
10:167E-5.2**

**Take notice** that the Department of Human Services is changing the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Eligibility Manual at N.J.A.C. 10:167-6.2 to reflect an increase of the maximum annual income limits for PAAD eligibility by 0.3 percent. This change will be operative on January 1, 2017.

N.J.S.A. 30:4D-21 establishes that PAAD annual income eligibility limits are to "increase by the amount of the maximum Social Security benefit cost-of-living increase for [each] year for single and married persons, respectively." On October 18, 2016, the Social Security Administration (SSA) announced that the cost-of-living adjustment for 2017 would increase by 0.3 percent. See [www.socialsecurity.gov/cola](http://www.socialsecurity.gov/cola)