

SUBCHAPTER 5. RECOVERIES

10:167D-5.1 Benefits incorrectly paid

(a) The Department shall take all necessary action to recover the Tenants Assistance payments incorrectly or illegally made or the Lifeline Credit incorrectly or illegally applied, on behalf of an electric and/or gas utility customer, from the residential utility customer and any party or parties whose action or inaction resulted in the incorrect payment or from their respective estates, as the case may be. The action shall include, but is not limited to:

1. (No change.)
2. Reducing subsequent benefits from the Lifeline Programs to which the beneficiary may be entitled;
3. Reducing New Jersey State income tax refunds to which the beneficiary may be entitled; and
4. (No change.)

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

(f) For the purposes of carrying out the provisions of this section, no public utility, as defined herein, shall be held liable for any Lifeline Credit either improperly or illegally obtained by a beneficiary once that beneficiary has been identified by the appropriate State instrumentality and made known to the utility as an eligible beneficiary.

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

(a)

DIVISION OF AGING SERVICES

OFFICE OF STATE HEALTH INSURANCE FOR THE AGED AND DISABLED AND FACILITIES MANAGEMENT

Hearing Aid Assistance to the Aged and Disabled
Readoption with Amendments: N.J.A.C. 10:167E

Proposed: June 5, 2017, at 49 N.J.R. 1312(a).

Adopted: August 15, 2017, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: August 18, 2017, as R.2017 d.170, **without change**.

Authority: N.J.S.A. 30:4D-41, 52:14C-1 et seq., and 52:14D-1 et seq; and Reorganization Plan No. 001-1996.

Effective Dates: August 18, 2017, Readoption;
September 18, 2017, Amendments.

Expiration Date: August 18, 2024.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The Hearing Aid Assistance to the Aged and Disabled (HAAAD) program is completely State-funded. N.J.A.C. 10:167E is not being readopted and amended under the authority of, or in order to implement, comply with, or participate in any program established under Federal law, or under a State statute that incorporates or refers to Federal law, standards, or requirements.

The Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, and the regulations promulgated thereunder by the United States Secretary of Health and Human Services at 45 CFR Parts 160 and 164, known as the "Standards for Privacy of Individually Identifiable Health Information," (hereinafter collectively referred to as "HIPAA") apply to health information created or maintained by health plans, and health care clearinghouses. The Department's Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program may be a covered entity, specifically, a health plan, within the meaning of HIPAA. As HAAAD applicants often apply for the program through their PAAD application, HIPAA may cover the HAAAD program.

All HAAAD program staff have had the appropriate HIPAA training. HAAAD does not disclose to other agencies any health related information from the PAAD/HAAAD combined application. Therefore,

to the extent HAAAD may be subject to HIPAA, the rules readopted with amendments would meet, but not exceed, the requirements of HIPAA.

Except as described above, there are no Federal standards applicable to the subject matter of the rules readopted with amendments. Since any Federal requirements applicable to the rules are met, but not exceeded, no Federal standards analysis is required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:167E.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:167E-1.1 Purpose

(a) The purpose of this chapter, Hearing Aid Assistance to the Aged and Disabled (HAAAD), is to provide a payment of up to \$100.00 in a calendar year in which a hearing aid is purchased to offset the cost of the hearing aid for individuals who meet the age or disability, income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) Program.

(b) (No change.)

10:167E-1.2 Legal authority

The New Jersey Program of Hearing Aid Assistance to the Aged and Disabled (HAAAD) is established by Chapter 298, Laws of 1987 (N.J.S.A. 30:4D-36 et seq.), effective February 4, 1988.

SUBCHAPTER 2. DEFINITIONS

10:167E-2.2 Special needs trusts

(a) To be considered a special needs trust, the trust shall include the following provisions:

1.-9. (No change.)

10. The trust shall specifically state that the trustee shall be compensated only as provided by law in accordance with N.J.S.A. 3B:18-2 et seq. If the trust identifies a guardian, the trust shall specifically identify him or her by name. A guardian shall be compensated only as provided by law;

11. (No change.)

12. The State shall be given advance notice of any expenditure in excess of \$5,000, and of any amount which would substantially deplete the principal of the trust. Notice shall be given to the Office of State Health Insurance for the Aged & Disabled, Division of Aging Services, PO Box 715, Trenton, NJ 08625-0715, or any successor agency, 45 days prior to the expenditures; and

13. (No change.)

SUBCHAPTER 4. APPLICATION PROCESS

10:167E-4.2 Authorized agent

(a) In those instances where the applicant is incompetent or incapable of filing an eligibility application on his or her own behalf, the Department shall accept any one of the following, listed in the order of priority, as an authorized agent for the purpose of initiating such application:

1.-5. (No change.)

10:167E-4.3 Responsibilities in the application process

(a) The Department, through PAAD, establishes procedures on the application process consistent with law and supervises the operation with the policy and procedures so established.

(b) PAAD has responsibility in the application process to:

1. (No change.)

2. Process the PAAD and HAAAD applications;

3. (No change.)

4. Maintain eligibility applications and supporting documents for audit purposes.

(c) The applicant has the responsibility to do the following:

1. Complete the PAAD eligibility application for those applicants not enrolled in the PAAD Program, or the HAAAD eligibility application

for those applicants already enrolled in the PAAD Program. The application shall be legible and accurate. The applicant shall:

- i.-iv. (No change.)
- 2. (No change.)
- (d) (No change.)
- (e) The PAAD and HAAAD applications may be obtained as follows:
 1. The PAAD application can be found at <http://www.state.nj.us/humanservices/doas/forms/ap-2.pdf>, and the HAAAD application can be found at <http://www.state.nj.us/humanservices/doas/forms/ha-1.pdf>;
 - 2.-3. (No change.)
- (f) The PAAD application shall contain fields for the submission of information as required by N.J.A.C. 10:167-6.6 and the HAAAD application shall contain fields for the submission of information required by (c) above and other identifying information for the applicant, such as name, address, zip code, and applicant's Social Security number and PAAD identification number.

SUBCHAPTER 5. ELIGIBILITY REQUIREMENTS

10:167E-5.1 Age

(a) To be eligible for HAAAD, the applicant must be 65 years of age or older or must be between 18 and 65 and receiving Social Security Title II disability benefits. Individuals under age 65 who receive disability benefits on behalf of someone other than themselves are ineligible. The applicant shall be able to document his or her age upon request by the Department. The Department shall require that the applicant submit a photocopy of his or her birth certificate or other acceptable proof of age if over 65 years of age.

(b) The following are acceptable proofs of age:

1. Primary proof: The applicant is required to submit a photocopy of one of the following documents:
 - i.-iii. (No change.)
 - iv. Social Security records verifying age, which can be obtained from local Social Security office; or
 - v. Railroad retirement letter, which can be obtained from Railroad Retirement Board.
 2. Secondary proofs: If the applicant cannot supply one of the documents listed in (b)1 above, copies of any two of the following documents are acceptable:
 - i.-iv. (No change.)
 - v. Church record of baptism for age five or after;
 - vi.-xvii. (No change.)
- (c) (No change.)

10:167E-5.2 Income standards

(a) Any single permanent resident of New Jersey who is 65 years of age or older or who is between 18 and 65 and is receiving Social Security Title II disability benefits must have an annual income of less than \$26,655 to be eligible for HAAAD.

(b) Any married permanent resident of New Jersey who is 65 years of age or older or who is between 18 and 65 and is receiving Social Security Title II disability benefits, and his or her spouse, must have a combined annual income of less than \$32,680 to be eligible for HAAAD.

1.-2. (No change.)

(c) All income, from whatever source derived, is considered in determining eligibility for the purpose of HAAAD. Jointly owned income sources will be allocated according to degree of ownership.

1. All income, taxable and nontaxable, is to be included. Examples of possible sources of income, which shall be gross amounts unless otherwise noted, are as follows:

- i.-xvi. (No change.)
- xvii. Annuities, whether contributory, non-contributory, qualified or non-qualified;
- xviii. Retirement benefits including distribution from Individual Retirement Arrangements (IRAs), such as Traditional, Simple, Roth, or Educational, and benefit payments from foreign countries;
- xix. Net business income;
- xx.-xxi. (No change.)
- xxii. Net rental income after expenses.

2. Sources of income which are excluded in considering eligibility for HAAAD are as follows:

- i.- iv. (No change.)
- v. Stipends from the Volunteers in Service to America (VISTA), Foster Grandparents programs, Workforce 55+ program and programs under Title V of the Older Americans Act of 1965;
- vi. (No change.)
- Recodify existing viii.-x. as vii.-ix. (No change in text.)
- x. Proceeds received by the beneficiary of a special needs trust as described in N.J.A.C. 10:167-2.2;
- xi. Rollovers from one tax deferred financial instrument, such as pension, annuity, IRA, insurance contract or other retirement benefits, to another tax deferred financial instrument;
- xii. (No change in text.)
- xiii. An insurance policyholder's original contributions if demutualization of the policy occurs and, in that case, only the earnings on the policy would be counted.

(d) The applicant must be able to document the amounts reported upon request by the Department, and will be required to submit photocopies of his or her Federal, State and city income tax return and other acceptable evidence.

(e)-(h) (No change.)

(i) The income eligibility limits shall increase annually on January 1 by the amount of the maximum Social Security benefit cost-of-living adjustment for that year for single and married persons, respectively, in accordance with 42 U.S.C. § 415(i)(2)(D), incorporated herein by reference. The Commissioner shall publish the new income limits annually in the New Jersey Register.

10:167E-5.7 Eligibility period

A person eligible for HAAAD is entitled to receive a payment of up to \$100.00 in a calendar year. Only one benefit may be issued in the period between January 1 and December 31 of any year.

10:167E-5.9 Appeal process

(a) When PAAD determines that an applicant is ineligible for HAAAD benefits, the applicant has the right to appeal the decision by submitting a written request for a fair hearing to Pharmaceutical Assistance to the Aged and Disabled, Department of Human Services, PO Box 715, Trenton, New Jersey 08625-0715, within 30 calendar days from the date of mailing of the notice of ineligibility. The document must clearly state the valid basis for such a request.

(b) PAAD shall forward the hearing request to the Office of Administrative Law, which will schedule the hearing and notify all parties of the date, time, and location.

(c) The petitioner shall have the burden of demonstrating that PAAD's determination deviates from the requirements and standards of the regulations and statute.

(a)

DIVISION OF FAMILY DEVELOPMENT

Notice of Administrative Changes

Income Eligibility and Co-Payment Schedules for Subsidized Child Care Assistance or Services

N.J.A.C. 10:15 Appendix

Take notice that, in accordance with N.J.A.C. 10:15-9.1(b), the Department of Human Services announces that the following income eligibility and co-payment schedules for subsidized child care assistance or services are effective as of March 1, 2017. The co-payment amounts are to be utilized in all Child Care and Special Initiatives Programs when new child care supports and/or agreements are generated for periods of service on or after March 1, 2017. The schedules are set forth in the chapter Appendix.

Full text of the changed rule follows:

(**Agency Note:** The text of N.J.A.C. 10:15 Appendix showing changes to the schedules through boldfaced and bracketed text could not