

(b) For every two additional years in which the minimum annual contribution of \$300.00 is deposited in the account of a designated beneficiary, an additional amount of \$500.00, up to a maximum scholarship of \$3,000, subject to funding available therefor, shall be credited toward the qualified higher education expenses of a designated beneficiary at the time of a qualified withdrawal provided the requirements of (a)2 and 3 above are met.

(c) (No change.)

(d) A designated beneficiary satisfying the requirements of (a) or (a) and (b) above shall be eligible to receive a scholarship in any term of enrollment at an eligible institution of post-secondary education in New Jersey, but shall not be eligible to receive more than one such additional amount provided under (a) or (a) and (b) above.

(e) (No change.)

HUMAN SERVICES

(a)

DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES

Organizational Rules

Readoption with Amendments: N.J.A.C. 10:30

Adopted: April 19, 2021, by Sarah Adelman, Acting Commissioner, Department of Human Services.

Filed: April 28, 2021, as R.2021 d.054.

Authority: N.J.S.A. 26:2BB-5, 30:1B-6, and 52:14B-3 and 4(b); Reorganization Plans 001-2018 and 002-2004; and State Fiscal Year 2011 Budget.

Effective Date: April 28, 2021.

Expiration Date: April 28, 2028.

Take notice that N.J.A.C. 10:30, Division of Mental Health and Addiction Services: Organizational Rules, are intended to inform the public about the basic mission, functions, and organization of the Division of Mental Health and Addiction Services (Division). In addition, this chapter describes how the public can obtain information about the Division's services. On readoption of the Division's Organizational Rules, the Division is making amendments to improve readability and grammar, update agency names, and reflect the retention of the State Psychiatric Hospitals by the Department of Health, upon the return of the Division to the Department of Human Services, pursuant to Reorganization Plan 001-2018.

These organizational rules are exempt from the notice and public comment requirements of the Administrative Procedure Act and are effective upon filing with the Office of Administrative Law pursuant to N.J.S.A. 52:14B-1 et seq.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:30.

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

SUBCHAPTER 1. MISSION AND FUNCTIONS

10:30-1.1 Division mission and functions

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

[(d)] (d) The Division operates four psychiatric hospitals: three regional hospitals (Ancora Psychiatric Hospital, Greystone Park Psychiatric Hospital, and Trenton Psychiatric Hospital); and the Ann Klein Forensic Center. Specialized services for geriatrics, dually diagnosed, hearing impairment, and other co-occurring conditions are also provided at one or more of the four hospitals operated by the Division.]

[(e)] (d) (No change in text.)

[(f)] (e) The Division oversees the provision of a broad range of community mental health and addiction services throughout the State including, but not limited to, the following:

1. The Division contracts with various entities to provide and support community-based prevention, early intervention, treatment, education, and recovery mental health and addiction services, including **services** for at-risk and special populations.

2. The Division monitors and/or participates in the provision of community [and State institutional] care for quality assurance and improvement, training, program development, evaluation, management, information systems, fiscal and systems planning, and compliance with required assessment and treatment protocols and grant requirements.

3. (No change.)

4. The Division is responsible for the Statewide Intoxicated Driving Program (N.J.S.A. 39:4-50), which schedules individuals convicted of [driving under the influence] **intoxicated driving and/or related offenses to county-designated intoxicated driver resource centers** for detention, screening, evaluation, education, and treatment referral [by the county-based intoxicated driver resource centers].

5. The Division contracts with community agencies **and hospitals** to deliver screening services in order to provide clinical assessment and crisis stabilization to individuals in the least restrictive, clinically appropriate setting, as well as to coordinate access to various mental health care resources, such as inpatient and outpatient treatment.

[(g)] (f) (No change in text.)

[(h)] (g) The Department of [Human Services, Office of Licensing (OOL)] **Health, Health Systems Branch, Certificate of Need and Licensing (CN&L)**, licenses all community mental health programs and addiction treatment facilities and programs. [OOL] CN&L staff consult[s] with Division staff, including when reviewing and deciding waiver requests affecting mental health and addiction treatment licenses.

[(i)] (h) Through the Division's Disaster and Terrorism Branch, the Division works with, **and supports**, Federal, State, and local **partners, including emergency management and law enforcement**, to coordinate [and provide disaster crisis counseling] **behavioral health programs and/or interventions during disasters, terrorist events, public health emergencies, and community crises**.

SUBCHAPTER 2. PUBLIC INFORMATION

10:30-2.1 Public information, requests, and submissions

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

[(c)] Questions concerning a specific State psychiatric hospital should be submitted in writing to the Chief Executive of that hospital.]

Recodify existing (d)-(f) as (c)-(e) (No change in text.)

[(g)] (f) The Division [and each hospital have] **has** advisory boards and/or stakeholder committees to facilitate ongoing public participation in the development of the mental health and addiction system.

(b)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Podiatry Services

Readoption with Amendments: N.J.A.C. 10:57

Proposed: April 20, 2020, at 52 N.J.R. 855(a).

Adopted: April 19, 2021, by Sarah Adelman, Acting Commissioner, Department of Human Services.

Filed: April 28, 2021, as R.2021 d.053, **without change**.

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

Agency Control Number: 19-A-09.

Effective Date: April 28, 2021, Readoption;
June 7, 2021, Amendments.

Expiration Date: April 28, 2028.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

Podiatry services are an optional Medicaid/NJ FamilyCare service consistent with Section 1902(a)(10)(A)(ii) of the Social Security Act, 42

U.S.C. § 1396a(a)(10)(ii), and Section 1905(a)(5) of the Social Security Act, 42 U.S.C. § 1396d(a)(5). New Jersey has elected to provide podiatry services. Podiatry services are regulated by 42 CFR 440.60, and reimbursement for podiatry services is regulated by 42 CFR 440.2(b). Podiatrists are required to render services within the scope of their practice as defined under State law.

Title XXI of the Social Security Act allows states the option of establishing a State Children’s Health Insurance Program for targeted low-income children. New Jersey elected this option through implementation of the NJ FamilyCare Children’s program. Sections 2103 and 2110, 42 U.S.C. §§ 1397cc and 1397jj, respectively, provide broad coverage guidelines and service definitions for the program. Section 2110(a)3 authorizes physician services, including those physicians specializing in podiatry.

The Department has reviewed the Federal standards and has determined that the rules readopted 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. 10:57.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:57-1.1 Introduction

(a) This chapter is concerned with the provision of podiatric services by a person licensed to practice podiatry in accordance with the New Jersey Medicaid/NJ FamilyCare programs, policies, and procedures and the standards of practice as defined by the laws of the State of New Jersey (N.J.S.A. 45:5-1 et seq.) and the American Podiatric Medical Association.

(b) An approved New Jersey Medicaid/NJ FamilyCare provider of podiatric services may be reimbursed for medically necessary covered services provided within the scope of her or his license, and her or his approved New Jersey Medicaid/NJ FamilyCare fee-for-service programs Provider Agreement.

(c) A podiatrist may enroll in the New Jersey Medicaid/NJ FamilyCare fee-for-service programs and provide covered, medically necessary services as an independent practitioner, or may provide such services as part of another entity, such as a hospital or clinic, physician group practice, a mixed practitioner practice, or under the managed care program.

10:57-1.2 Scope of services

Podiatry care under the Medicaid/NJ FamilyCare programs is available to covered persons if such services are essential. Essential podiatric care includes those services that require the professional knowledge and skill of a licensed podiatrist. For beneficiaries in the Medically Needy Program, podiatric care is only available to pregnant women, and the aged, the blind, or disabled. (For information on how to identify a covered person, please refer to N.J.A.C. 10:49-2.)

10:57-1.3 Definitions

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

...
 “Podiatry services” means those services performed by a licensed podiatrist within the scope of practice as defined by the laws of the State of New Jersey (N.J.S.A. 45:5-7) and that are within the scope of the services covered by the New Jersey Medicaid/NJ FamilyCare program.

...
 “Specialist” for purposes of the New Jersey Medicaid/NJ FamilyCare program, means a fully licensed podiatrist who:

- 1.-2. (No change.)

...

10:57-1.4 Provisions for provider participation

(a) In order to participate in the Medicaid/NJ FamilyCare programs, a podiatrist shall apply to, and be approved by, the New Jersey Medicaid/NJ FamilyCare program. Application for approval by the New Jersey Medicaid/NJ FamilyCare program requires completion and submission of

the “Medicaid Provider Application” (FD-20) and the “Medicaid Provider Agreement” (FD-62).

1. The documents referenced in (a) above are located as Forms #8 and #9 in the Appendix at the end of the Administration Chapter (N.J.A.C. 10:49), and may be obtained from, and submitted to:

DXC Technology
 Provider Enrollment
 PO Box 4804
 Trenton, New Jersey 08650-4804

(b) (No change.)

(c) In order to be approved as a specialist under the Medicaid/NJ FamilyCare program, a licensed podiatrist shall possess either of the following:

- 1.-2. (No change.)
- (d) (No change.)

10:57-1.6 Basis of reimbursement

(a) Reimbursement for podiatry services covered under the New Jersey Medicaid/NJ FamilyCare fee-for-service program shall be on the basis of the customary charge, not to exceed a fixed fee schedule determined reasonable by the Commissioner, Department of Human Services (see N.J.A.C. 10:57-3 for fee schedule), and further limited by Federal policy relative to payment of practitioners and other individual providers. In no event shall the payment exceed the charge by the provider for identical services to other governmental agencies, or other groups or individuals in the community.

(b) (No change in text.)

SUBCHAPTER 2. PROVISION OF SERVICES

10:57-2.1 Covered and non-covered services

(a) The following foot care services shall not be covered:

1.-2. (No change.)

3. Routine foot care, routine hygienic care:

i. Exceptions:

(1) (No change.)

(2) Treatment of the foot for Medicaid/NJ FamilyCare beneficiaries with metabolic, neurological, and peripheral diseases (for examples, diabetes mellitus, arteriosclerosis obliterans, Buerger’s disease, chronic thrombo-phlebitis, peripheral neuropathies); and

(3) (No change.)

(b) (No change.)

10:57-2.7 Clinical laboratory services

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

(c) All independent clinical laboratories and other entities performing clinical laboratory testing shall possess certification as required by CLIA 1988, and the New Jersey Department of Health rules found at N.J.A.C. 8:44 and 8:45.

(d)-(e) (No change.)

(f) When a podiatrist refers a laboratory test to an independent clinical reference laboratory:

1. (No change.)

2. The clinical laboratory shall be licensed by the New Jersey State Department of Health, as described at (b) and (c) above, or comparable agency in the state in which the laboratory is located;

3. The clinical laboratory shall be approved for participation as an independent laboratory provider by the New Jersey Medicaid/NJ FamilyCare program in accordance with (b) above; and

4. Independent clinical laboratories shall bill the New Jersey Medicaid/NJ FamilyCare program for all reference laboratory work performed on their premises. The podiatrist will not be reimbursed for laboratory work performed by a reference laboratory.

10:57-2.8 Hospital outpatient department services

(a) A hospital-based podiatrist who is salaried and whose services are reimbursed as part of the hospital’s cost shall not bill fee-for-service to the New Jersey Medicaid/NJ FamilyCare program.

1. (No change.)

10:57-2.11 Pharmaceutical; podiatrist administered drugs

(a) The New Jersey Medicaid/NJ FamilyCare fee-for-service program shall reimburse podiatrists for certain approved drugs administered intradermally, subcutaneously, intra-muscularly, or intravenously in the office, home, or independent clinic setting according to the following reimbursement methodologies and the requirements of N.J.A.C. 10:51.

1. Podiatrist-administered medications shall be reimbursed directly to the podiatrist under certain situations. (See HCPCS, N.J.A.C. 10:57-3 for a listing of HCPCS procedure codes.)

i. A "J" code may be billed in conjunction with an office, home, or independent clinic visit when the criteria for an office or home visit is met and the procedure code is for the method of drug administration.

ii.-iv. (No change.)

v. No reimbursement will be made for an injection given as a preoperative medication or as a local anesthetic that is part of an operative or surgical procedure, since this injection would normally be included in the prescribed fee for such a procedure.

2. In situations where a drug required for administration has not been assigned a "J" code, the drug shall be prescribed by the podiatrist and obtained from a pharmacy that directly bills the New Jersey Medicaid/NJ FamilyCare program. In this situation, the podiatrist shall bill only for the administration of the drug.

10:57-2.12 Pharmaceutical services

All covered pharmaceutical services provided under the New Jersey Medicaid/NJ FamilyCare fee-for-service programs shall be provided to New Jersey Medicaid/NJ FamilyCare fee-for-service beneficiaries within the scope of N.J.A.C. 10:49, Administration, and 10:51, Pharmaceutical Services.

10:57-2.13 Medical exception process (MEP)

(a) For pharmacy claims with service dates on or after September 1, 1999, which exceed Prospective Drug Use Review (PDUR) standards recommended by the New Jersey Drug Utilization Review Board (NJ DURB) and approved by the Commissioners of DHS and DOH, the Division of Medical Assistance and Health Services has established a Medical Exception Process (MEP). See N.J.A.C. 10:51-2.23 for more information on the PDUR program.

10:57-3.2 HCPCS procedure codes and maximum fee allowance

(a) MEDICINE

<u>IND</u>	<u>HCPCS Code</u>	<u>Mod</u>	<u>\$</u>	<u>Maximum Fee Allowance</u>	<u>NS</u>	<u>Anes Basic Units</u>
	90703		17.72		3.40	
...	93923	26	18.10		15.10	
	93923	TC	26.90		22.00	
...	93970		62.00		58.00	
...	93971	TC	NA		18.00	
	96360		20.22		17.19	
	96361		7.12		6.05	
	96365		38.35		32.60	
	96366		11.39		9.68	
	96367		16.53		14.05	
	96368		11.03		9.37	
	96369		89.74		76.28	
	96370		8.13		6.91	
	96371		35.38		30.97	
	96372		8.72		7.41	
	96373		9.87		8.39	
	96374		20.78		17.66	
	96375		8.84		7.51	
	96376		14.14		12.01	
	96379		2.50		2.50	
...						
N	99201		24.78		21.06	
N	99202		41.08		34.92	

(b) (No change.)

(c) The medical exception process shall apply to all pharmacy claims, regardless of claim media, unless there is a recommended exemption by the NJ DURB that has been approved by the Commissioners of DHS and DOH, in accordance with the rules of those Departments.

(d) The medical exception process (MEP) is as follows:

1.-2. (No change.)

3. The MEP contractor shall notify the pharmacy and prescriber of the results of their review and include, at a minimum, the beneficiary's name, mailing address, identification number, the reviewer, service description, service date, and prior authorization number, if approved, the length of the approval, and the appeals process if the pharmacist does not agree with the results of the review.

4.-5. (No change.)

SUBCHAPTER 3. CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS) HEALTHCARE COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:57-3.1 Introduction to the HCPCS procedure coding system

(a) (No change.)

(b) HCPCS has been developed as a two-level coding system, as follows:

1.-2. (No change.)

(c) (No change.)

(d) Listed in this subsection are general policies of the New Jersey Medicaid/NJ FamilyCare program that pertain to HCPCS. Specific information concerning the responsibilities of a podiatrist when rendering Medicaid/NJ FamilyCare fee-for-service covered services and requesting reimbursement are located at N.J.A.C. 10:57-1.8, Recordkeeping, and 1.6, Basis of reimbursement.

1. General requirements are as follows:

i.-v. (No change.)

vi. The use of a procedure code will be interpreted by the New Jersey Medicaid/NJ FamilyCare program as evidence that the practitioner personally furnished, as a minimum, the services for which it stands.

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<u>IND</u>	<u>HCPCS Code</u>	<u>Mod</u>	<u>S</u>	<u>Maximum Fee Allowance</u> <u>\$</u>	<u>NS</u>	<u>Anes Basic Units</u>
N	99203		58.02		49.31	
N	99204		87.59		74.45	
N	99205		109.89		93.40	
...						
N	99212		24.41		20.22	
N	99213		39.85		33.87	
N	99214		58.21		49.48	
N	99215		77.76		66.10	
N	99217		38.64		32.84	
N	99221		53.17		45.19	
N	99222		71.88		61.10	
N	99223		106.24		90.30	
...						
N	99232		38.20		32.47	
N	99233		54.59		46.40	
N	99234		69.80		59.33	
N	99235		88.90		75.56	
N	99236		114.23		97.10	
N	99238		38.64		32.84	
N	99239		56.64		48.14	
...						
	99283		32.23		27.40	
	99284		61.11		51.94	
	99285		89.92		76.43	
N	99304		45.67		38.82	
N	99305		66.07		56.16	
N	99306		84.57		71.88	
N	99307		22.39		19.03	
N	99308		35.08		29.81	
N	99309		46.62		39.63	
N	99310		68.95		58.60	
N	99315		38.83		33.01	
N	99316		55.80		47.43	
N	99318		48.66		41.36	
N	99324		28.06		23.85	
N	99325		40.56		34.47	
N	99326		70.36		59.81	
N	99334		30.65		26.05	
N	99335		48.26		41.02	
N	99336		68.73		58.42	
N	99341		29.18		24.81	
N	99342		41.94		35.65	
N	99343		63.82		58.07	
N	99344		96.05		81.64	
	99345		116.83		99.30	
...						
	99349		68.14		57.92	
	99350		94.43		80.26	
...						

(b) SURGERY

<u>IND</u>	<u>HCPCS Code</u>	<u>Mod</u>	<u>Follow Up Days</u>	<u>S</u>	<u>Maximum Fee\$ Allowance</u> <u>\$</u>	<u>NS</u>	<u>Anes Basic Units</u>
...	11043		0	23.93		20.34	3
...	11730		0	11.58		9.84	3
	11732		0	3.91		3.32	3
...	15050		30	62.87		53.44	4
...	16035		0	21.07		17.91	3
...	20670		0	42.82		36.40	3

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<u>IND</u>	<u>HCPCS Code</u>	<u>Mod</u>	<u>Follow Up Days</u>	<u>\$</u>	<u>Maximum Fee\$ Allowance \$</u>	<u>NS</u>	<u>Anes Basic Units</u>
...	20690		0	65.48		55.66	5
	20692		21	211.75		180.00	3
...	27604		0	54.65		46.45	3
	27605		15	38.34		32.59	0
...	27613		0	28.18		23.95	3
	27614		0	64.45		54.78	3
...	27618		0	50.28		42.74	3
...	27656		90	911.18		774.50	3
...	27884		0	63.93		54.34	4
...	28001		0	31.48		26.76	3
	28002		0	49.26		41.87	3
...	28010		0	25.77		21.90	3
...	28024		60	52.18		44.35	3
...	28043		0	45.16		38.39	3
...	28190		0	29.14		24.77	3
	28192		30	52.85		44.92	4
	28193		30	59.81		50.84	4
...	28230		30	49.26		41.87	3
...	28272		30	44.48		37.80	3
...	28312		30	58.55		49.77	3
...	28344		45	63.12		53.65	3
...	28470		30	24.58		20.72	3
...	28675		60	65.73		55.87	3
...	28820		45	63.67		54.12	3
	28820	50	45	94.96		80.71	3
	28825		45	60.94		51.80	3
	28825	50	45	90.89		77.25	3
E D	29740		0	11.05		9.39	3
E D	29750		0	11.32		9.62	3
...	29899		90	225.00		191.00	3
...	36470		0	16.70		14.19	0
	36471		0	20.03		17.02	0
...	64774		30	45.96		39.06	3
...							

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

10:57-3.3 Descriptions of Level II Codes

<u>IND</u>	<u>HCPCS Code</u>	<u>Mod</u>	<u>Description</u>	<u>\$</u>	<u>Maximum Fee Allowance \$</u>	<u>NS</u>
...	J0690		Injection, cefazolin sodium, (ancef, kefzol) up to500 mg	2.83		2.83

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<u>IND</u>	<u>HCPCS Code</u>	<u>Mod</u>	<u>Description</u>	<u>S</u>	<u>Maximum Fee Allowance</u> <u>\$</u>	<u>NS</u>
	J0696		Injection, ceftriaxone sodium, (rocephin) per250 mg	12.97		12.97
	J1100		Injection, dexamethasone sodium phosphate, up to4 mg/ml	0.13		0.13
...	L3031		Foot, Insert/plate, removable, addition to lower extremity orthosis, high strength, lightweight material, all hybrid lamination/prepreg composite, each	80.34		80.34
...	L3170		Foot, plastic heel stabilizer	31.99		31.99
...	L3215		Orthopedic footwear, woman's shoes, oxford	38.00		38.00
	L3216		Orthopedic footwear, woman's shoes, depth inlay	50.00		50.00
	L3217		Orthopedic footwear, woman's shoes, hightop, depth inlay	58.00		58.00
	L3219		Orthopedic footwear, man's shoes, oxford	38.00		38.00
	L3221		Orthopedic footwear, man's shoes, depth inlay	50.00		50.00
	L3222		Orthopedic footwear, man's shoes, hightop, depth inlay	58.00		58.00
	L3230		Orthopedic footwear, custom shoes, depth inlay	190.00		190.00
...	L3300		Lift, elevation, heel, tapered to metatarsals, per inch	32.78		32.78
	L3310		Lift, elevation, heel and sole, neoprene, per inch	51.17		51.17
...	L3334		Lift, elevation, heel, per inch	23.98		23.98
...	L3649		Orthopedic shoe, modification, addition or transfer, NOS	28.00		28.00
...	Q0112		All potassium hydroxide(KOH) preparations	0.10		0.10

10:57-3.4 Qualifiers for podiatry services

(a) The following is a list of HCPCS codes with their associated qualifiers. Providers shall use the following procedure codes in billing each of the procedures.

1. HCPCS 36415—Maximum units per date of service is 10. Not applicable if the laboratory study, in any part, is performed by the office staff or by the provider.

2. (No change.)

3. HCPCS 96360—IV infusion therapy. Not to be used for routine IV drug injection or infusion. Reimbursement is contingent upon the required medical necessity, handwritten chart documentation, including time and indication of physician's presence with the patient to the exclusion of his other duties.

4. HCPCS 96361—IV infusion therapy. Not to be used for routine IV drug injection or infusion. Reimbursement is contingent upon the required medical necessity, handwritten chart documentation, including time and indication of podiatrist's presence with the patient to the exclusion of his or her other duties.

5. HCPCS 99201, 99202, 99203, 99204, 99205, 99221, 99222, 99223, 99304, 99305, 99306, 99324, 99325, 99326—Office or other outpatient services—new patient; Hospital inpatient services—initial hospital care; Nursing facility services—comprehensive nursing facility assessments; and Domiciliary, Rest home, or Custodial care services—new patient.

i. (No change.)

6. HCPCS 99211, 99212, 99213, 99214, 99215, 99231, 99232, 99233, 99307, 99308, 99309, 99310, 99318, 99334, 99335, 99336—Office or other outpatient services—established patient; Hospital inpatient services—subsequent hospital care; Nursing facility services—subsequent nursing facility care; and Domiciliary, Rest home or Custodial care services—established patient.

i. (No change.)

7. HCPCS 99341, 99342, 99343, 99344, 99345, 99347, 99348, 99349, 99350, and 99600 Home services and House calls.

i.-iii. (No change.)

iv. The HCPCS codes 99244, 99245, 99254, and 99255 shall be utilized for Comprehensive consultation.

(1) HCPCS 99244, 99245, 99254, and 99255, require a comprehensive evaluation by history and physical examination within the scope of a podiatric specialist's practice. An alternative to that would be the utilization of one or more hours of the consulting podiatrist's personal time in the performance of the consultation.

(2) HCPCS 99244, 99245, 99254, and 99255, require the following applicable statements, or language essentially similar to those statements, to be inserted in the "remarks" section of the claim form. The form is to be signed by the podiatrist who performed the consultation.

Examples:

"I personally performed a comprehensive evaluation by history and physical examination within the scope of my podiatric practice as a specialist." or

"This consultation utilized 60 or more minutes of my personal time."

8. The HCPCS codes 99241, 99242, 99243, 99251, 99252, and 99253, shall be utilized for Limited consultation. The area being covered for reimbursement purposes is "limited" in the sense that it requires less than the requirements designated as comprehensive consultation as noted above.

Recodify existing 10.-12. as 9.-11. (No change in text.)

APPENDIX A

FISCAL AGENT BILLING SUPPLEMENT

AGENCY NOTE: The Fiscal Agent Billing Supplement is appended as a part of this chapter but is not reproduced in the New Jersey Administrative Code. When revisions are made to the Fiscal Agent Billing Supplement, replacement pages will be distributed to providers and copies will be filed with the Office of Administrative Law. For a copy of the Fiscal Agent Billing Supplement, write to:

DXC Technology
PO Box 4801
Trenton, New Jersey 08619-4801
or contact
Office of Administrative Law
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TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Information Searches

Adopted Amendment: N.J.A.C. 13:18-11.4

Proposed: October 5, 2020, at 52 N.J.R. 1814(a).

Adopted: April 13, 2021, by the Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Filed: May 12, 2021, as R.2021 d.059, **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. 39:2-3.4, 39:2A-21, and 39:2A-28.

Effective Date: June 7, 2021.

Expiration Date: August 30, 2025.

Summary of Public Comments and Agency Responses:

The written comments received by the Motor Vehicle Commission ("Commission" or "MVC") regarding its October 5, 2020, notice of proposal at 52 N.J.R. 1814(a), are available for inspection at the Office of the Chief Administrator, Legal and Regulatory Affairs, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey.

The following individuals, on behalf of the following organizations, submitted timely written comments to the Commission regarding the notice of proposal: Michael Sassano Jr., on behalf of Recovery Title Solutions (Recovery); John Tumino, President, on behalf of Tumino's Towing Inc. (Tumino's); John H. Glass, President, on behalf of Garden State Towing Association, Inc. (GSTA); Julie Bradley, on behalf of American Civil Liberties Union of New Jersey (ACLU-NJ); and, Katherine M. Sastre, on behalf of New Jersey Alliance for Immigrant Justice (NJAIJ).

1. COMMENT: Recovery, Tumino's, and GSTA (collectively "towing commenters") state that towing companies in New Jersey are bearing the burden of paying for corrected owner and lienholder searches related to tows initiated by public agencies as opposed to private/commercial entities, when the information supplied to them by the public agencies is incorrect or delayed. The towing commenters recommend that they be permitted to retrieve owner and lienholder information for free within the

CAIR system, in order for the towing companies to satisfy statutory notification requirements. The towing commenters recommend they be given CAIR searches for free, or alternately a discounted rate of \$2.00 per search, under these circumstances.

RESPONSE: The Commission acknowledges the towing commenters' comments regarding CAIR fees. The Commission charges all commercial businesses and individuals a standard rate for use of the CAIR system for owner and lienholder searches, and without a legal or other compelling basis for the reduction of the fees to towing companies, in particular, it would not be appropriate for the Commission to discount the rate to towing companies above other commercial enterprises. Other commercial businesses, which utilize the CAIR system, are also required by rules and other requirements imposed by governmental and quasi-governmental entities to conduct owner and lienholder searches for a multitude of reasons, and those searches are accomplished under CAIR's standard cost structure. There is no legal or equitable basis to favor towing companies over other commercial enterprises. The Commission has determined that the CAIR fees are justified and do not require any change to the final adoption related to this comment.

2. COMMENT: The ACLU-NJ and NJAIJ raise concerns about prevention of the misuse of personal information and suggest that the rules should contain further clarification that there are no acceptable surveillance purposes for which the program participants may use the Commission information beyond the exceptions contained in the New Jersey Driver Privacy Protection Act (NJ DPPA). Specifically, these entities comment that the Commission should amend paragraphs (h)13, (j)4, (k)13, and (m)4 to include the words "or take any other action" in order to clarify that program participants may not use Commission records for any reasons not specifically related to motor vehicle activity.

RESPONSE: The Commission acknowledges this comment of the ACLU-NJ and NJAIJ. The Commission agrees that protection and security of personal information are of paramount concern and that the misuse of information in the context of surveillance is never acceptable. The Commission believes that the language in the Commission's final adoption is sufficiently clear and strong to accomplish the objectives of securing its information and limiting uses to those specified in the NJ DPPA. The Commission has determined that the language contained in the final adoption is appropriate and will protect against the misuse of its information, and that the requested change suggested in this comment does not further the protection and security of personal information.

3. COMMENT: The ACLU-NJ and NJAIJ recommend and request that the Commission remove the language providing that program participants "must submit an individual request for the evaluation and consideration of the Commission" for "any other purpose involving surveillance" at paragraph (j)4 and (m)4, in order to clarify that there is no acceptable surveillance purpose for which program participants may use Commission information beyond the exceptions contained in the NJDPPA.

RESPONSE: The Commission acknowledges this comment of the ACLU-NJ and NJAIJ and believes that the language contained in the final adoption is clear and unequivocal. Specifically, the final adoption already requires that any use of the Commission's information be consistent with prevailing law, specifically the NJ DPPA. The Commission only permits its information to be used in compliance with the NJ DPPA and for the specific permitted purposes identified thereunder. Accordingly, the Commission has determined that the language contained in the final adoption is strong enough to protect the use of its information and the requested change in this comment is neither necessary nor required.

4. COMMENT: The ACLU-NJ and NJAIJ comment that the Commission should include language requiring public reporting of its data-sharing practices, specifically including the following: disclosure of mechanisms by which the U.S. Department of Homeland Security has obtained, or can obtain, personal information, and what information is provided; monthly records of the identities of CAIR requesters and the number of requests by each requestor; and an annual audit of existing program participants' accounts in the CAIR database.

RESPONSE: The Commission acknowledges the comments of the ACLU-NJ and NJAIJ and their request for mandatory reporting. The request that a requirement for mandatory disclosure of the information indicated be added to this final adoption is not supported by any applicable law, and under the circumstances, the Commission cannot justify