

**HUMAN SERVICES**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**NJ FamilyCare – Children’s Programs Manual**

**Proposed Readoption with Amendments: N.J.A.C. 10:79**

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Agency Control Number: 16-P-04.

Proposal Number: PRN 2016-115.

Submit comments by September 30, 2016, to:

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The agency proposal follows:

## **Summary**

Pursuant to N.J.S.A. 52:14B-5.1, the NJ FamilyCare – Children’s Programs Manual, N.J.A.C. 10:79, is scheduled to expire on June 19, 2016. As the agency submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to December 16, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has made the determination that N.J.A.C. 10:79 should be readopted with minor amendments. The chapter regulates the NJ FamilyCare-Children's Program, which provides healthcare benefits to eligible children.

The chapter contains eight subchapters as follows:

N.J.A.C. 10:79-1, Introduction, includes the purpose and scope and definitions of the NJ FamilyCare-Children's Program.

N.J.A.C. 10:79-2, Case Processing, describes case processing, including application, interview, application processing, date of initial eligibility, retroactive eligibility for Plan A, redetermination of eligibility, and case transfers.

N.J.A.C. 10:79-3, Non-Financial Eligibility Factors, delineates the non-financial factors required to establish program eligibility. Following a section on general provisions are rules regarding citizenship, State residency, eligible children, household unit, third-party liability, health insurance coverage rules, persons sanctioned under Temporary Assistance for Needy Families (TANF) or Aid to Families with Dependent Children (AFDC) rules, and inmates of public institutions.

N.J.A.C. 10:79-4, Financial Eligibility, includes income eligibility factors, prospective budgeting of income, countable income standards, and resource eligibility.

N.J.A.C. 10:79-5, Administration, includes rules regarding eligibility determination agencies, administrative principles, confidentiality of information, materials distributed to applicants or eligible persons, non-discrimination, and case records.

N.J.A.C. 10:79-6, Beneficiary Rights and Responsibilities, explains notice of eligibility decisions, fair hearing procedures, post-application client responsibilities, grievances and appeals, right to a grievance review, premiums, limitations on cost-sharing, and co-payments.

N.J.A.C. 10:79-7, NJ FamilyCare-Children's Program Beneficiary Fraud and Abuse Policies, explains beneficiary fraud and abuse policies, including when termination of eligibility may take place, application for readmission, and applicability.

N.J.A.C. 10:79-8, Presumptive Eligibility for NJ FamilyCare-Children's Program, explains presumptive eligibility, including the scope of services provided, the period of presumptive eligibility, the presumptive eligibility determination entities, presumptive eligibility processing performed by the entities, responsibilities of the Division of Medical Assistance and Health Services, as well as the county welfare agencies and the Statewide eligibility determination agency, responsibilities of the applicant, the applicable notice and fair hearing rights, the scope of services during the presumptive eligibility period, and the limitation on the number of presumptive eligibility periods.

### **General Amendments**

Throughout the chapter, minor errors of grammar, spelling, and punctuation are corrected; parentheses are deleted, where appropriate, and minor revisions to grammar and punctuation are made accordingly with regard to the remaining text; references to "health maintenance organization" or "HMO" are updated to "managed care

organization” or “MCO” in order to reflect the term used in the chapter’s authorizing statute, N.J.S.A. 30:4J-8 et seq.; unnecessary cross-references to other provisions of this chapter and duplicative text are deleted; and rules and regulations are relocated, where appropriate, in order to address rules proposed for deletion.

### **Specific Amendments**

At N.J.A.C. 10:79-1.2, in the definition of “county welfare agency,” a reference to the Food Stamp Program is updated to refer to the Supplemental Nutrition Assistance Program. At 10:79-1.2, a definition of managed care organization is added.

At N.J.A.C. 10:79-2.6(a), a proposed amendment would clarify that retroactive eligibility is available for “up to” three months prior to the date of application, based on whether eligibility requirements are met in all or any of the three months. At N.J.A.C. 10:79-2.6(a) and (b), rule text pertaining to retroactivity and the start date of the program are proposed for deletion as they are now obsolete.

At N.J.A.C. 10:79-2.7(d), a reference to the Food Stamp Program is updated to refer to the Supplemental Nutrition Assistance Program.

At N.J.A.C. 10:79-3.5 and 3.6, revisions to existing text are made in order to unify the style of similar provisions within those sections.

At N.J.A.C. 10:79-3.9, the final sentence containing an unnecessary cross-reference is deleted.

N.J.A.C. 10:79-4.1(f) is deleted because it is duplicative of a requirement in subsection (e).

N.J.A.C. 10:79-5.5(b) is proposed for deletion as it is unnecessary.

At N.J.A.C. 10:79-6.5(a), language pertaining to when adverse action may be implemented is deleted that is duplicative of a requirement found at N.J.A.C. 10:79-6.3(a).

At N.J.A.C. 10:79-6.7, the section is updated to reflect the premiums currently paid by beneficiaries, which went into effect on July 1, 2014.

At N.J.A.C. 10:79-7.2, a cross-reference is added to the provisions of N.J.A.C. 10:79-7.1, regarding termination of eligibility for good cause.

At N.J.A.C. 10:79-8.4(b)4, references to parent, guardian, and caretaker are added in order to correct an omission of such persons in the rule. Such references are contained in the related provisions of other similar regulations.

At N.J.A.C. 10:79-8.6(b)2, an unnecessary cross-reference is deleted.

N.J.A.C. 10:79-8.8(b) is proposed for deletion as it is duplicative of provisions found at N.J.A.C. 10:79-2.3(f)3.

The Department has determined that the comment period for this notice of proposal will be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

### **Social Impact**

The rules proposed for readoption with amendments are expected to have a positive social impact by continuing to provide health care coverage, and access to primary and preventative care for otherwise uninsured children in New Jersey. In State Fiscal Year 2015, there was an average of 188,053 children enrolled quarterly in the NJ FamilyCare-Children's Program.

Providers of services should be impacted positively. They will continue to receive reimbursement for providing health care services to children who otherwise could not access primary and preventative health care. Hospitals can also expect to be positively impacted as access to primary and preventive health care services will reduce the need for the provision of acute care services, which hospitals would otherwise provide as charity care.

### **Economic Impact**

In State Fiscal Year (SFY) 2015, an average of 188,053 beneficiaries were enrolled quarterly in the NJ FamilyCare-Children's Program. Expenditures for these children in SFY 2015 totaled approximately \$411 million (Federal and State share combined) annually for the program.

The rules proposed for readoption with amendments will continue to have a positive economic impact on children enrolled in the program, and on their families, because they will continue to be able to access quality medical care, which they might otherwise be unable to afford. The rules proposed for readoption with amendments of this chapter will have a positive economic impact on providers, including managed care organizations, because providers will continue to be reimbursed for services. The proposed amendments at N.J.A.C. 10:79-6.7(b), (c) and (d) will have no economic impact because they reflect the amounts actually paid by beneficiaries, as of July 1, 2015. Those amounts are adjusted every year pursuant to N.J.A.C. 10:79-6.7(f). The proposed amendment at N.J.A.C. 10:79-6.7(a) will have no economic impact because it merely reflects the fact that parents and caretakers are no longer covered under Plan C, and that

children covered under Plan C do not, and did not previously, pay premiums for that coverage.

### **Federal Standards Statement**

The Federal standards contained in the Social Security Act (Act) allow a state, at its option, to provide health care coverage for uninsured children under age 19. The law extends to the states a degree of leeway in the manner in which coverage is provided to these children.

Sections 2101 through 2103 and 2110 of the Act (42 U.S.C. §§ 1397aa, 1397bb, 1397cc, and 1397jj); Section 1902(a)(10)(A)(ii) of the Act (42 U.S.C. § 1396a(a)(10)(A)(ii)); and Section 1905 of the Act (42 U.S.C. § 1396(d)) have been reviewed by the Division in regard to the rules proposed for readoption with amendments.

In addition, Section 2102 of the Act, 42 U.S.C. § 1397bb(b)(1)(A), specifies requirements regarding the eligibility of certain children for the NJ FamilyCare-Children's Program, including gathering information regarding access to, or coverage under, other health coverage programs as a condition of eligibility. The provisions in this chapter regarding other health insurance coverage do not exceed the Federal standards.

42 CFR Part 457 contains the regulatory requirements regarding the implementation of the above described provisions of the Act.

The Department has reviewed the Federal statutory and regulatory requirements and has determined that the rules proposed for readoption with amendments do not exceed Federal standards. Therefore, a Federal standards analysis is not required.

### **Jobs Impact**

Since the rules proposed for re adoption with amendments concern the eligibility of children for health insurance under the rules governing the NJ FamilyCare-Children's Program, the Division does not anticipate that the rules proposed for re adoption with amendments will result in the creation or loss of jobs in the State of New Jersey.

### **Agriculture Industry Impact**

Since the rules proposed for re adoption with amendments concern the eligibility of children for health insurance under the rules governing the NJ FamilyCare-Children's Program, the Department anticipates that the rules proposed for re adoption with amendments will have no impact on the agriculture industry in the State of New Jersey.

### **Regulatory Flexibility Analysis**

A regulatory flexibility analysis is necessary because some medical care providers and some eligibility determination agencies may be considered small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because they employ fewer than 100 full-time staff members.

The rules proposed for re adoption with amendments impose compliance and reporting requirements on eligibility determination agencies, such as ensuring that various types of information are included in an application (regarding citizenship, household unit, other insurance coverage, other third-party liability, and financial eligibility), ensuring compliance with relevant State and Federal laws regarding citizenship, confidentiality, non-discrimination, and ensuring that records are processed and maintained in an



appropriate manner. All eligibility information of the applicant must be collected and verified by the eligibility determination entity and must be reported to the Division. In addition, all eligibility factors must be considered when eligibility is determined or redetermined. These types of requirements must be the same for all, regardless of the size of the eligibility determination agency, because accurate and complete records must be maintained. In addition, all applicants must be treated equally, and each application must be evaluated in the same manner, whether the determination agency is regarded as a small business or a large business. The requirements cannot vary because of business size.

Staff is needed by eligibility determination agencies to process applications. There could be capital costs associated with the rules for equipment or space to accommodate staff to process eligibility determinations. However, it is expected that this can be done with existing staff, space, and equipment.

Providers are required to collect personal contribution to care (co-payments) from beneficiaries, which imposes compliance, recordkeeping, and reporting requirements on providers. However, providers of health care services already collect similar personal contributions to care from individuals who are covered under other health insurance policies. The compliance, recordkeeping, and reporting requirements on providers related to the collection of the personal contribution to care must be the same for all providers, regardless of size. The collection of the contribution must be complied with, regardless of business size, and the reporting and recordkeeping must be consistent for all providers because accurate and complete records must be maintained for all collections. This rulemaking does not anticipate that providers will incur significant costs in

the collection of the personal contribution to care, because many medical care providers are required to collect similar co-payments for individuals covered under other health care coverage policies, as provided in the private sector. Since medical care providers already have staff and procedures to collect these payments for other health coverage, this requirement does not impose a significant amount of additional work, or require additional staff or equipment. This requirement will not impose capital cost requirements on providers or require that professional services be employed.

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern the eligibility of children for health insurance under the rules governing the NJ FamilyCare-Children's Program.

### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules concern the eligibility of children for health insurance under the rules governing the NJ FamilyCare-Children's Program.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:79.

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

## SUBCHAPTER 1. INTRODUCTION

### 10:79-1.2 Definitions

Words and terms used in this chapter shall have the meanings specified below, unless specifically defined otherwise in this chapter, or the context clearly indicates otherwise.

...

“County welfare agency (CWA)” means that agency of county government, which is charged with the responsibility for determining eligibility for public assistance programs, including AFDC-Related Medicaid, Temporary Assistance to Needy Families (TANF), the [Food Stamp] **Supplemental Nutrition Assistance Program (SNAP)**, and NJ FamilyCare and Medicaid. Depending on the county, the CWA might be identified as the board of social services, the welfare board, the division of welfare, or the division of social services.

...

**“Managed Care Organization” (MCO) shall have the same meaning as that contained in the definitions section at N.J.A.C. 10:74-1.4, as amended and supplemented.**

...

## SUBCHAPTER 2. CASE PROCESSING

### 10:79-2.3 Application processing

(a) The Statewide eligibility determination agency or CWA shall screen all mail-in and walk-in applications against the existing Medicaid eligibility file. Applications that involve family members who are already enrolled in the Medicaid program shall be forwarded to the applicable eligibility determination agency for inclusion in the existing case, as appropriate. The eligibility determination agencies are required to refer any child found not eligible for Medicaid or any child losing eligibility for Medicaid or NJ FamilyCare-Children's Program-Plan A to the NJ FamilyCare-Children's Program-Plan B, C, and D program. The CWA should process all applications mailed or forwarded to them or all walk-ins for NJ FamilyCare-Children's Program-Plan A if the child's family income appears to meet the income standards. NJ FamilyCare-Plan A cases that are enrolled in [an HMO] **a managed care organization (MCO)** that are under the jurisdiction of the CWA and who would qualify for NJ FamilyCare-Plan B solely due to an increase of household income can be retained at the CWA.

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

(f) For any application for NJ FamilyCare-Children's Program benefits under the provisions of this chapter, the eligibility determination agency must accomplish disposition of the application as soon as all factors of eligibility are met and verified but not later than 30 days from the date of application, [(]or from the date of the inquiry form PA-1C, if applicable)]. Exceptions to the timeliness standard appear in (f)2 below.

1.-4. (No change.)

(g) (No change.)

10:79-2.4 Application processing for the unborn NJ FamilyCare-Children's Program-Plan C and Plan D

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

(c) At the time of the application, the pregnant woman should select the unborn child's [HMO] **MCO** coverage, and provide the appropriate premium.

(d) The pregnant woman shall notify both the eligibility determination agency and the selected [HMO] **MCO** of the birth of the child within 10 calendar days of the birth. Failure to report the birth, select the [HMO] **MCO**, if not already selected, and pay the premium, if not yet paid, within 10 calendar days of the birth shall negate the original application, and the applicant for the newborn shall have to refile a new application with verification of eligibility reprocessed before eligibility can occur for the newborn. In the instance where a new application must be processed, the eligibility rules in this subchapter through N.J.A.C. 10:79-4 are effective.

10:79-2.5 Date of initial eligibility

(a) (No change.)

(b) Eligibility under Plan B, C, or D is established with the first date of enrollment with [a health maintenance organization (HMO)] **an MCO** and payment of applicable premiums (see N.J.A.C. 10:79-6.7).

1. Exception: For newborns, as indicated in N.J.A.C. 10:79-2.4, there is eligibility for fee-for-service Plan C and Plan D services from the date of birth until enrollment of the child into the [HMO] **MCO**, if all the requirements of N.J.A.C. 10:79-2.4 are met.

#### 10:79-2.6 Retroactive eligibility--Plan A only

(a) Retroactive eligibility is available to cover unpaid medical bills for **up to** three months prior to the date of application if the requirements are met in all or any of the three months. [Retroactive eligibility shall not be available for any period prior to the start of the program. For the purposes of this chapter, the start of the program for children eligible pursuant to N.J.A.C. 10:79-3.4(a)2, whose income is not more than 133 percent of the Federal poverty level, is February 1, 1998.]

(b) If the applicant for NJ FamilyCare-Children's Program-Plan A benefits has unpaid medical bills from DMAHS-enrolled providers for services rendered during the retroactive eligibility period, the eligibility determination agency shall assist the applicant with applying for payment of unpaid medical bills. [Retroactive eligibility shall not be available for any period prior to the start of the program.]

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

#### 10:79-2.7 Redetermination of eligibility

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

(c) The eligibility determination agency shall also reassess program eligibility as follows:

1. (No change.)

2. Promptly after information is obtained by the eligibility determination agency[, which] **that** indicates changes that may affect program eligibility. No adverse action shall be taken based on this information prior to the annual redetermination. If reevaluation of eligibility considering this new information appears to result in an

increase in benefit level to the beneficiary [(that is,] **through** enrollment in a Plan[, which] **that** does not require co-payments or premiums[]], such action shall be instituted immediately. For example:

i.-ii. (No change.)

(d) No case shall be terminated before evaluating for continued eligibility using data available from other sources, such as the [Food Stamp] **Supplemental Nutrition Assistance** or WorkFirst New Jersey Programs.

10:79-2.8 Case transfer between eligibility determination agencies

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

(d) For cases[, which] **that** are determined eligible for the NJ FamilyCare-Children's Program-Plan A program:

1. The county of origin has the responsibility to:

i. Transfer, within five working days from the date it is notified of the actual move, a copy of pertinent material to the CWA in the receiving county. Such material shall include, at a minimum, a copy of the first application and most recent application form, [(including] **with** all verification[]], Social Security number(s), and the new address in the receiving county;

ii.-iv. (No change.)

2. The receiving CWA shall have the responsibility to:

i.-iii. (No change.)

iv. Accept responsibility for the case, [(provided application to transfer has been made)], effective with the next month if the initial case material has been received before the 10th of the month;

v. Accept responsibility for the case, [(provided application to transfer has been made)], for the second month after the month of receipt of initial case material when such material is received on or after the 10th of the month;

vi.-viii. (No change.)

10:79-2.9 Case transfer from one [State approved] **State-approved** eligibility determination agency to another

(a) When an individual's eligibility transfers from one [State approved] **State-approved** eligibility determination agency to another, responsibility for the case shall be transferred in a manner, so as not to adversely affect the rights of any individual to program entitlement.

1.-2. (No change.)

3. The receiving agency shall have the responsibility to:

i.-iii. (No change.)

iv. Accept responsibility for the case, [(provided application to transfer has been made)], effective with the next month if the initial case material has been received before the 10th of the month;



v. Accept responsibility for the case, [(provided application to transfer has been made)], for the second month after the month of receipt of initial case material when such material is received on or after the 10th of the month;

vi.-ix. (No change.)

x. Assist in the selection of a managed care organization [(HMO)] **(MCO)**, as needed.

### SUBCHAPTER 3. NONFINANCIAL ELIGIBILITY FACTORS

#### 10:79-3.2 Citizenship

(a) (No change.)

(b) The following aliens, if present in the United States prior to August 22, 1996, and if otherwise meeting the eligibility criteria, are entitled to full NJ FamilyCare-Children's Program benefits:

1.-11. (No change.)

12. Certain legal aliens who are victims of domestic violence and when there is a substantial connection between the battery or cruelty suffered by an alien and his or her need for NJ FamilyCare-Children's Program benefits, subject to certain conditions described below:

i.-ii. (No change.)

iii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or the parent of the alien, [(without the active participation of the alien in the battery or cruelty)].

iv.-vi. (No change.)

(c)-(f) (No change.)

(g) As a condition of eligibility, all applicants for NJ FamilyCare-Children's Program, [(]except for those applying solely for services related to the treatment of an emergency medical condition[)], shall declare whether or not they are a citizen of the United States or an alien in a satisfactory immigration status. In the case of a child or incompetent applicant, another individual on the applicant's behalf shall declare whether or not they are citizens of the United States or an alien in a satisfactory immigration status.

1.-5. (No change.)

#### 10:79-3.3 State residency

(a) In order to be eligible for the NJ FamilyCare-Children's Program, the applicant/child must be a resident of the State of New Jersey. The term "resident" shall be interpreted to mean an applicant who is living in the State voluntarily and not for a temporary purpose, that is, with no intention of presently removing therefrom.

1. (No change.)

2. When the authorized agent of a child or the applicant enters the State in order to receive medical care and applies for NJ FamilyCare-Children's Program to meet all or a portion of the costs of such care, the fact that the immediate purpose of the move was to secure medical care does not, in and of itself, have the effect of making the child/applicant ineligible for the NJ FamilyCare-Children's Program. It is the responsibility of the eligibility determination agency to evaluate all such cases and to make an eligibility determination, considering carefully all the following criteria:

i.-iii. (No change.)

iv. Whether the state in which the authorized agent or applicant previously resided recognizes him or her as having continuing eligibility under the state's Medicaid or Title XXI children's health assistance program, [(or other program providing payment for medical care)], of that jurisdiction.

3. (No change.)

#### 10:79-3.5 Household unit for NJ FamilyCare-Children's Program-Plan A

(a) For NJ FamilyCare-Children's Program-Plan A, the term "household unit" means those persons whose income is counted in the determination of eligibility under the provisions of this chapter. The following persons, if they reside with the program applicant or beneficiary, shall be considered members of the household unit:

[1. For a child:]

Recodify existing i. and ii. **as 1. and 2.** (No change in text.)

[iii.] **3.** The child's blood-related **siblings**, [(including **those of** half-blood)], and adoptive siblings under the age of 21; and

[iv.] **4.** (No change in text.)

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

#### 10:79-3.6 Household unit for NJ FamilyCare-Children's Program-Plan B, C, and D

(a) For Plan B, C, or D, the term household unit means those persons whose income is counted in the determination of eligibility under the provisions of this chapter. The

following persons, if they reside with the program applicant or beneficiary, shall be considered as members of the household unit:

1.-2. (No change.)

3. The **child's** blood-related siblings, [(including those of half-blood)], and adopted siblings under **the** age **of** 21;

4.-5. (No change.)

#### 10:79-3.7 [Third party] **Third-party** liability

(a) Program applicants and beneficiaries are required to identify to the eligibility determination agency any [third party (] **third-party** individual, entity, or program)] that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or beneficiary.

(b)-(d) (No change.)

#### 10:79-3.8 Health insurance coverage eligibility rules

(a) For the purposes of this chapter, the term "health insurance" does not include:

1. (No change.)

2. Accident-only coverage, [(including **coverage for accidental** death and dismemberment **only**)];

3.-12. (No change.)

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

(d) Eligibility for [a] coverage under a health insurance policy which is not readily accessible to the child shall not preclude the child from eligibility for NJ FamilyCare-Children's Program-Plan A.

1.-2. (No change.)

(e) (No change.)

(f) Exceptions to (e) above are listed below:

1.-4. (No change.)

5. Coverage or eligibility for coverage, as applicable, under a group health benefits plan, whether sponsored through a governing entity or private employer, for the three-month period shall not be used to preclude the child's eligibility for NJ FamilyCare-Children's Program-Plans B, C, and D when:

i.-ii. (No change.)

iii. The employer has ceased operations in this State, and the succeeding employer has altered the terms of a non-contributory group health plan to require a premium contribution [(for a class of employee to which the child's household member belongs)]; or

iv. (No change.)

6. (No change.)

#### 10:79-3.9 Persons sanctioned under TANF or AFDC rules

Persons who are ineligible for TANF or would have been ineligible for AFDC-related Medicaid using the rules in effect as of July 16, 1996, due to the imposition of a sanction of ineligibility for a factor of AFDC or TANF eligibility that does not apply in NJ

FamilyCare-Children's Program, [(]such as noncooperation with work registration[)], shall have eligibility determined under this chapter without regard to the sanction. [(For persons ineligible for TANF or AFDC-related Medicaid due to a period of ineligibility imposed as a result of the receipt of lump sum income, see N.J.A.C. 10:79-4.3(c)).]

#### SUBCHAPTER 4. FINANCIAL ELIGIBILITY

##### 10:79-4.1 Income eligibility limits

(a)-(e) (No change.)

[(f) Income eligibility exists for each month in which the household unit's income is equal to or less than the income limits.]

#### SUBCHAPTER 5. ADMINISTRATION

##### 10:79-5.1 Eligibility determination agencies--Plans B, C, and D

Financial eligibility for the NJ FamilyCare-Children's Program-Plan A is administered by either the Statewide eligibility determination agency or the county welfare agencies under the supervision of the Division of Medical Assistance and Health Services. Financial eligibility for the NJ FamilyCare-Children's Program-Plans B, C, and D is administered by the Statewide eligibility determination agency under the supervision of the Division of Medical Assistance and Health Services. If a change in the family's financial eligibility level necessitates a transfer from NJ FamilyCare-Children's Program-Plan A to Plan B, the responsibility for the administration of the case may be retained by the CWA if the child is enrolled in an [HMO] **MCO**.

10:79-5.5 Material distributed to NJ FamilyCare-Children's Program applicants or eligible persons

(a) (No change.)

[(b) The eligibility determination agency shall not distribute materials such as "holiday" greetings, general public announcements, partisan voting information, or alien registration notices.]

[(c)] **(b)** (No change in text.)

## SUBCHAPTER 6. BENEFICIARY RIGHTS AND RESPONSIBILITIES

10:79-6.1 Notice of the eligibility determination agency decision-Plan A

(a) The eligibility determination agency shall promptly notify any applicant for, or beneficiary of, the NJ FamilyCare-Children's Program-Plan A in writing of any agency decision affecting the applicant or beneficiary. When a decision relates to any adverse action which may entitle a beneficiary to a fair hearing, the action may not be implemented until at least 10 days after the mailing of the notice [(see (e) below for exceptions to the 10-day notice requirement)].

1.-3. (No change.)

(b) (No change.)

(c) All notices of denial or termination shall include an explicit statement of the reason for program ineligibility and, [(]except in the case of the death of an applicant or beneficiary[)], advise of the right to reapply whenever the applicant or beneficiary

believes that circumstances have changed, such that the reason for program ineligibility no longer exist.

1. (No change.)

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

10:79-6.3 Notice of the Statewide determination agency decision-Plans B, C, and D

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

(c) All notices of denial or termination shall include an explicit statement of the reason for program ineligibility and, [(]except in the case of the death of an applicant or beneficiary[)] advise of the right to reapply whenever the applicant or beneficiary believes that circumstances have changed, such that the reason for program ineligibility no longer exists.

1. (No change.)

(d) (No change.)

10:79-6.5 Grievances and appeals for NJ FamilyCare-Children's Program-Plan B, C, and D

(a) It is the right of every applicant for, or beneficiary of, NJ FamilyCare-Children's Program-Plan B, C, or D, to be afforded the opportunity for a grievance review in the manner established in the policies and procedures set forth below. The notification of the right to a grievance review shall be incorporated in or attached to each adverse action notice and shall include explanation on how to request a grievance. [The



applicant or beneficiary shall be provided 10 days notice before any adverse action is implemented.] Appropriate complaints and grievances regarding NJ FamilyCare-Children's Program should be referred to:

NJ FamilyCare-Children's Program

PO Box 8367

Trenton, NJ 08650-9802

(b) (No change.)

(c) In a situation where a beneficiary is denied services through the [health maintenance organization (HMO)] **MCO** provider, the beneficiary should be referred to the [HMO's] **MCO's** complaint and/or grievance system.

(d) (No change.)

#### 10:79-6.7 Premiums

(a) [For] **Effective July 1, 2015**, families with income above 150 percent and at or below 200 percent of the Federal poverty level eligible for NJ FamilyCare-Children's Program-Plan C[, a monthly premium shall be required to be paid of \$33.50 for the first parent/caretaker and \$14.00 for the second parent/caretaker] **do not have to pay a monthly premium.**

(b) Effective July 1, [2009] **2015**, for children in families with gross income above 200 percent and at or below 250 percent of the Federal poverty level eligible for NJ FamilyCare-Children's Program-Plan D, a monthly premium shall be required. There

shall be a single dollar premium of [~~\$40.00~~] **\$43.00** per month per family that applies to all families, regardless of income and regardless of the number of children in the family.

(c) Effective July 1, [~~2009~~] **2015**, for children in families with gross income above 250 percent and at or below 300 percent of the Federal poverty level eligible for NJ FamilyCare-Children's Program-Plan D, a monthly premium shall be required. There shall be a single dollar premium of [~~\$79.00~~] **\$86.00** per month per family that applies to all families, regardless of income and regardless of the number of children in the family.

(d) Effective July 1, [~~2009~~] **2014**, for children in families with gross income above 300 percent and at or below 350 percent of the Federal poverty level eligible for NJ FamilyCare Children's Program-Plan D, a monthly premium shall be required. There shall be a single dollar premium of [~~\$133.00~~] **\$144.50** per month per family that applies to all families, regardless of income and regardless of the number of children in the family.

(e)-(f) (No change.)

## SUBCHAPTER 7. NJ FAMILYCARE-CHILDREN'S PROGRAM BENEFICIARY FRAUD AND ABUSE POLICIES

### 10:79-7.2 Application for readmission subsequent to termination of eligibility

After at least one year has elapsed from the date of the final agency decision terminating the eligibility of an applicant or beneficiary of NJ FamilyCare-Children's Program-Plan B, C, or D for good cause **under N.J.A.C. 10:79-7.1**, the terminated individual, or anyone with authority to act on his or her behalf, may apply to the Director

for readmission to the NJ FamilyCare-Children's Program-Plan B, C, or D. The Director has full discretion to approve or deny such an application. Any individual whose application for readmission has been denied may request an administrative law hearing on the denial, and/or may submit another application to the Director when at least two years have elapsed from the date of the final agency decision denying readmission.

## SUBCHAPTER 8. PRESUMPTIVE ELIGIBILITY FOR NJ FAMILYCARE-CHILDREN'S PROGRAM

### 10:79-8.2 Period of presumptive eligibility

(a) The period of presumptive eligibility shall begin on the date an approved presumptive eligibility entity determines that, based on information provided by the family of the presumptively eligible beneficiary, the child[(ren)] meets the requirements and standards of this chapter.

(b) The period of presumptive eligibility shall terminate:

1. (No change.)

2. If the child, or the child's parent, guardian, caretaker, or authorized agent fails to cooperate in the application process with the eligibility determination agency, on the last day of the month subsequent to the month in which the child[(ren)] was [(were)] determined presumptively eligible.

### 10:79-8.4 Presumptive eligibility processing performed by the presumptive eligibility determination entity

(a) (No change.)

(b) For any child determined presumptively eligible, the approved presumptive eligibility determination entity shall:

1.-3. (No change.)

4. Give the child (if appropriate) or the **parent, guardian, caretaker, or** authorized agent of the presumptively eligible child a copy of the completed one-page PE application; and

5. (No change.)

(c) (No change.)

#### 10:79-8.6 Responsibilities of the eligibility determination agency

(a) (No change.)

(b) If the child is not currently receiving Medicaid, Medically Needy, or NJ FamilyCare-Children's Program benefits, the eligibility determination agency shall, notwithstanding the application disposition standards in N.J.A.C. 10:79-2.3(f), arrive at a case disposition within the presumptive eligibility period.

1. (No change.)

2. The eligibility determination agency shall also provide the individual applying on the child's behalf with written notification, prior to the expiration of the presumptive eligibility period, of the specific reasons for the delay. [(See N.J.A.C. 10:79-8.8 for information regarding the notice and the rights of the applicant to a fair hearing.)]

(c) (No change.)

#### 10:79-8.8 Notification and fair hearing rights

(a) (No change.)

[(b) For a presumptively eligible child whose eligibility for NJ FamilyCare-Children's Program has not yet been determined within the presumptive eligibility period, in accordance with N.J.A.C. 10:79-2.3(f)3, the eligibility determination agency shall provide the parent, guardian, caretaker or authorized agent of the presumptively eligible child with written notification prior to the expiration of the presumptive eligibility period, setting forth the specific reasons for the delay in the NJ FamilyCare-Children's Program application processing.]

[(c)] **(b)** (No change in text.)