

STATE OF NEW JERSEY

DEPARTMENT OF HUMAN SERVICES

NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION

PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY)(MARCH 9, 2020)

COVID-19 STATE OF EMERGENCY

Temporary Rule Modification adopted by Commissioner Carole Johnson, Department of Human Services

Date: May 6, 2020

Authority: N.J.S.A. App.A:9-45 & App.A:9-47; Executive Order No. 103 (Murphy)(“EO 103”)

Effective Date: May 6, 2020

Expiration Date: Concurrent with the end of the Public Health Emergency

This is an emergency adoption of temporary rule modification concerning certain rules at N.J.A.C. 10:51-1.25(j)(3), N.J.A.C.10:167A-1.27(j)(4) and N.J.A.C. 10:167C-1.25(j)(3), which require signatures by Medicaid/NJ FamilyCare, Pharmaceutical Assistance to the Aged and Disabled (PAAD) and Senior Gold beneficiaries at the time a prescription is dispensed or delivered. Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department of Human Services is modifying the rules listed below.

N.J.A.C. 10:51-1.25(j)(3), a Division of Medical Assistance and Health Services (DMAHS) regulation, requires that a Medicaid/NJ FamilyCare beneficiary provide a signature at the time a pharmacy dispenses or delivers a prescription to the beneficiary. N.J.A.C.10:167A-1.27(j)(4), a Division of Aging Services (DoAS) regulation, requires that a PAAD beneficiary provide a signature at the time a pharmacy dispenses or delivers a prescription to the beneficiary. N.J.A.C.10:167C-1.25(j)(3), a DoAS regulation, requires that a Senior Gold beneficiary provide a signature at the time a pharmacy dispenses or delivers a prescription to the beneficiary. During the public health emergency, beneficiaries of these programs will no longer be required to provide signatures at the time a prescription is dispensed or delivered. The pharmacist must document in the patient’s profile the date the beneficiary received the prescription. I find that these rule modifications are necessary to prevent unnecessary in-person contact during this emergency.

The proposed modifications follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

N.J.A.C. 10:51-1.25 Point-of-sale (POS) claims adjudication system

(j) Pharmacy software must provide the pharmacy with the capability of claim reversal and resubmission, if required.

1. A pharmacy may initiate a claim reversal of a previously submitted pharmacy claim for a period of 12 months from the initial date of claim service.
2. Pharmacies are required to initiate claim reversals for those services in which a claim was generated and adjudicated to payment by the fiscal agent's POS computer and the service was not subsequently provided to a Medicaid or NJ FamilyCare fee-for-service beneficiary.
3. All prescriptions adjudicated to payment by the fiscal agent's computer shall be subsequently dispensed and their receipt by Medicaid or NJ FamilyCare fee-for-service beneficiaries properly documented on an NJ FamilyCare approved certification statement/signature log. (See N.J.A.C. 10:49-9.6). **During a public health emergency, a NJ FamilyCare beneficiary is not required to provide a signature at the time a prescription is dispensed or delivered. The pharmacist must document in the patient's profile the date the beneficiary received the prescription.**

N.J.A.C. 10:167A-1.27 Point-of-sale (POS) claims adjudication system

(j) Pharmacy software must provide the pharmacy with the capability of claim reversal and resubmission, if required by Federal or State laws or regulations, or as follows:

1. A pharmacy may initiate a claim reversal of a previously submitted pharmacy claim for a period of 12 months from the initial date of claim service.
2. Pharmacies are required to initiate claim reversals for those services in which a claim was generated and adjudicated to payment by the fiscal agent's POS computer and the service was not subsequently provided to a PAAD beneficiary.
3. Upon notification by PAAD, the pharmacy shall reverse and reprocess a claim where the primary payer is Medicare Part D, the claim was denied for payment by the Medicare Part D provider and where the claim is successfully appealed through the Medicare Part D appeal process.
4. All prescriptions adjudicated to payment by the fiscal agent's computer shall be subsequently dispensed and their receipt by PAAD beneficiaries properly documented on a PAAD approved certification statement/signature log. (See N.J.A.C. 10:49-9.6). **During a public health emergency, a PAAD beneficiary is not required to provide a signature at the time a prescription is dispensed or delivered. The pharmacist must document in the patient's profile the date the beneficiary received the prescription.**

N.J.A.C. 10:167C-1.25 Point-of-sale (POS) claims adjudication system


(j) Pharmacy software must provide the pharmacy with the capability of claim reversal and resubmission, if required.

1. A pharmacy may initiate a claim reversal of a previously submitted pharmacy claim for a period of 12 months from the initial date of claim service.

2. Pharmacies are required to initiate claim reversals for those services in which a claim was generated and adjudicated to payment by the fiscal agent's POS computer and the service was not subsequently provided to a Senior Gold beneficiary.
3. All prescriptions adjudicated to payment by the fiscal agent's computer shall be subsequently dispensed and their receipt by Senior Gold beneficiaries properly documented on a Senior Gold approved certification statement/signature log. (See N.J.A.C. 10:49-9.8 and 9.9.) **During a public health emergency, a Senior Gold beneficiary is not required to provide a signature at the time a prescription is dispensed or delivered. The pharmacist must document in the patient's profile the date the beneficiary received the prescription.**

I find that the modification of the rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

May 6, 2020
Date



Carole Johnson,
Commissioner, Department of Human Services