

## 10:37D-1.2 Definitions

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

... “Division” means the Division of Mental Health and Addiction Services.

“Provider agency (PA)” means an agency \*[contracted or affiliated]\* with **\*which\*** the Division **\*contracts or affiliates\*** to provide specific direct mental health services to clients.

## SUBCHAPTER 2. MANAGEMENT STANDARDS

## 10:37D-2.1 Table of organization

(a) Each PA shall have a written table of organization.

1. (No change.)

2. The table of organization shall be revised within 90 days of any major change in the PA organizational structure.

3. (No change.)

## 10:37D-2.2 Policies and procedures

(a) Each PA shall develop policies and procedures to adequately guide PA operations to meet organizational, fiscal, programmatic, and management objectives.

1. Each PA shall ensure that agency policies and procedures are written, distributed to staff and clients, when relevant, and consistently enforced and monitored.

i. PA written policies and procedures shall include, but not be limited to, the following: client behavior management or modification systems (that is, rewards, privileges) and medication safety and storage.

2.-3. (No change.)

## 10:37D-2.3 Service accessibility

(a) Each PA shall make services accessible to clients.

1. (No change.)

2. All services shall be accessible to individuals with disabilities.

3.-4. (No change.)

## 10:37D-2.4 Staff communications

(a) There shall be documentation that managers provide staff with the information they need to effectively perform the functions of their assigned tasks.

1. Methods for communicating information may include staff meetings, written memoranda, PA internal website for staff use, and supervisory meetings. Documentation that such communication exists may include evidence of staff and supervisory meetings and informational memoranda.

## 10:37D-2.5 Environment

(a) Each PA shall maintain a clean and safe environment which promotes dignity and self respect for staff and clients.

1. Each PA shall demonstrate compliance to all applicable codes governing building, fire, safety, and health requirements in the State, county, and municipality in which the licensed program is located.

2.-3. (No change.)

## 10:37D-2.10 Personnel manual

(a) (No change.)

(b) There shall be documentation that the governing board has reviewed and approved the personnel manual on an annual basis.

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

## 10:37D-2.11 Personnel files

(a) Each PA shall maintain personnel files for all staff, volunteers, and student-interns.

1. Personnel files shall include applications and resumes with pertinent identifying data; a copy of employee contracts when applicable; copies of school affiliation agreements and verifications of professional credentials as appropriate; performance evaluations; and current job descriptions.

## 10:37D-2.12 Verification of staff credentials

(a) Each PA shall have written policies and procedures to ensure the verification of staff credentials, experience, and employment references.

1. (No change.)

2. Previous employment and experience shall be verified by documentation of written or telephone contact with an employee’s previous employers.

3. (No change.)

## 10:37D-2.13 Qualification of staff

(a) Each PA shall hire staff who are appropriately licensed, certified or trained in order to be able to assume responsibility for the services provided by the PA.

1. The PA governing board shall formally adopt policies and procedures to ensure that psychiatrists are Board certified or Board eligible by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry.

2. (No change.)

## 10:37D-2.14 Training

(a) Each PA shall orient, train, supervise and evaluate employees.

1.-5 (No change.)

6. There shall be procedures to orient and supervise the work of student interns and volunteers.

## SUBCHAPTER 3. GOVERNING BODY

## 10:37D-3.3 By-laws

(a) Each governing board shall establish by-laws that define its roles and functions.

1.-5. (No change.)

6. The by-laws shall conform to the requirements of N.J.S.A. 14A:2-9 or 15A:2-10, whichever is applicable.

## 10:37D-3.6 Functions of the board

(a) (No change.)

(b) The governing board shall appoint the Chief Executive Officer and evaluate his or performance annually.

(c) (No change.)

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## HUMAN SERVICES

### (a)

#### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

##### AFDC-Related Medicaid

##### Readoption with Amendments: N.J.A.C. 10:69

##### Adopted Repeal: N.J.A.C. 10:69-5.5

Proposed: July 3, 2017, at 49 N.J.R. 1789(a).

Adopted: October 16, 2017, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: October 31, 2017, as R.2017 d.209, **without change**.

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

Agency Control Number: 17-P-01.

Effective Dates: October 31, 2017, Readoption;

December 4, 2017, Amendments and Repeal.

Expiration Date: October 31, 2024.

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

**No comments were received.**

##### Federal Standards Statement

42 U.S.C. § 1396a(a)(8) mandates that a state must process applications promptly. 42 U.S.C. § 1396(a)(19) provides a safeguard for simplicity of administration and the best interest of the client. 42 U.S.C. § 1396a(e) contains a provision regarding continued eligibility for families ineligible because of income, resources, or hours of work. 42 U.S.C. § 1396a(a)(10)(A) provides for making medical assistance

available to all individuals who meet income and resource requirements. 42 U.S.C. § 1396b(x)(4) requires states to provide an individual who declares U.S. citizenship or nationality with reasonable opportunity to present evidence of his or her claim. 42 U.S.C. § 1396u-1 requires a state to use the AFDC eligibility standards in effect as of July 16, 1996, to determine Medicaid eligibility for low-income families, unless the state, at its option, implements less restrictive standards, which New Jersey has elected to do.

Federal regulations governing eligibility for AFDC-related Medicaid are codified at 42 CFR 435.2 through 435.139.

The Department has reviewed the Federal statutes and regulations cited above and has determined that the rules readopted with amendments and a repeal, comply with and 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. 10:69.

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

#### SUBCHAPTER 1. AFDC-RELATED MEDICAID IN NEW JERSEY

##### 10:69-1.2 Purpose and scope

The purpose of this chapter is to set forth the policies and procedures necessary for the orderly and equitable provision of AFDC-related Medicaid on a Statewide basis. It is binding on the county welfare agencies (CWAs) and enforceable by the Division of Medical Assistance and Health Services (DMAHS). Questions of interpretation shall be resolved by the Division of Medical Assistance and Health Services.

##### 10:69-1.3 Administrative organization

(a) The Department of Human Services (Department) is the administrative unit of State government, which has the responsibility for the Medicaid program and is designated under Federal law as the "single State agency."

(b) The Division of Medical Assistance and Health Services (DMAHS) is the administrative unit of the Department responsible for the general policies governing the administration of medical assistance, and for effecting the issuance of rules and administrative bulletins to implement statutory provisions and to coordinate the administration of medical assistance with the Division of Family Development. DMAHS provides for the payment of claims, evaluates health services rendered under the program, maintains administrative liaison with the other Departmental divisions, and establishes incapacity under the AFDC-related Medicaid program.

(c) DMAHS has local Medical Assistance Customer Centers (MACCs) throughout the State. The role of these offices is to act as a liaison with providers of health services; provide information about Medicaid to beneficiaries and members of the community; and provide information about Medicaid to, and cooperate with, appropriate agencies in order to ensure maximum utilization of the services available through the Medicaid program.

##### 10:69-1.4 Aid to Families with Dependent Children (AFDC)-related Medicaid

(a) (No change.)

(b) The AFDC-related Medicaid program is composed of two segments:

1.-2. (No change.)

##### 10:69-1.5 Definitions

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

"Adequate notice" means notice to a client of the county welfare agency (CWA) decision or action, which must state the nature, effective date, factual and legal basis of the decision or action, and the right to a fair hearing.

...  
"AFDC" means the former Aid to Families with Dependent Children program.

...  
"Agency" means the CWA.

"Applicant" means parent or parent-person who applies for AFDC-related Medicaid and whose application has not been officially acted upon by the CWA.

...  
"Caretaker relative" means the legally responsible adult or adults residing with the children for whom the application is being made.

...  
"Case record" means the official file of forms, chronological narrative, correspondence, and other documents pertinent to the application and eligibility of client case record. It constitutes a complete record which supports the decisions and actions of the CWA on a case.

...  
"County residence" relates only to identification of the CWA charged by law with responsibility for the official receipt, registration, and processing of applications, and is not an eligibility requirement and does not limit the opportunity for any person residing in New Jersey to qualify for Medicaid.

"County welfare agency (CWA)" means that agency of county government, that is charged with the responsibility for determining eligibility for public assistance programs, including AFDC-related Medicaid, Temporary Assistance to Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid and/or NJ FamilyCare. 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.

...  
"CWA director" means the county welfare agency director or staff member to whom he or she has delegated a specified responsibility.

"DCP&P" means the Division of Child Protection and Permanency within DCF. This Division was formerly known as DYFS.

"DDD" means the Division of Developmental Disabilities in the Department of Human Services.

...  
"Department of Children and Families (DCF)" means the New Jersey Department of Children and Families.

"Department of Human Services (DHS)" means the New Jersey Department of Human Services.

...  
"DFD" means the Division of Family Development in the Department of Human Services.

...  
"Disregards" means the amount discounted from income in the AFDC programs according to Federal and/or State regulations. (see N.J.A.C. 10:69-10)

...  
"DVRS" means the Division of Vocational and Rehabilitation Services in the Department of Human Services.

...  
"Family size" means, in an LRR's household, those persons identified in N.J.A.C. 10:69-3.31 (members of the eligible unit are not included).

...  
"Health Benefits Identification (HBID) Card" means a permanent, plastic identification card issued to each Medicaid beneficiary. The card is for identification purposes only; providers must verify eligibility in accordance with N.J.A.C. 10:49-2 before they provide services. The front of the card includes the beneficiary's name and a 16-digit card control number (CCN). The back of the card includes a magnetic strip that electronically stores the beneficiary's name and CCN.

"Health Benefits Identification (HBID) Emergency Services Letter" means a letter that contains pertinent information the provider will need to confirm eligibility and submit claims for services rendered to an eligible Medicaid beneficiary prior to the receipt of his or her HBID Card. The letter will include an expiration date indicating when the letter will no longer be acceptable as a substitute for the HBID Card.

...  
"Legally responsible relative (LRR)" means a relative held to be legally responsible for the support and care of one or more relatives by the laws of this State, as identified in N.J.A.C. 10:69-3.31.

...

“MACC” means a Medical Assistance Customer Center in the Division of Medical Assistance and Health Services.

“Mandatory payroll deductions” means deductions including, but not limited to, Federal, State, and city withholding taxes; Social Security; Medicare; unemployment compensation taxes; and garnishments as verified by legal document in possession of the employer.

...  
 “Policy” means guidelines, limited by and consistent with law, which control CWA and DMAHS staff in carrying out AFDC-related Medicaid programs.

...  
 “Recovery” means the process whereby the CWA seeks the repayment of AFDC-related Medicaid improperly or properly obtained.

...  
 “Referral” means a request from an agency, institution, or individual on behalf of another individual who is interested in applying for AFDC-related Medicaid; or a request from the CWA to another agency.

“Registration” means the action of the CWA in creating an official record of and assigning a control number to an application.

...  
 “Request for local administrative review” means any clear expression (oral or written, by letter or otherwise) by a client or his or her authorized representative that he or she wishes to present his or her case in a proceeding before the CWA director or his or her delegated representative. This is not to be confused with a request for a fair hearing.

...  
 “Secondary school” means a traditional academic high school or a vocational/technical school of corresponding grade level, up to 12th grade, ranking between a primary school and a college or university.

...  
 “Withdrawn application” means an oral or written request by an applicant that the CWA terminate its activity on his or her application.

SUBCHAPTER 2. THE APPLICATION PROCESS

10:69-2.1 General provisions

(a) Any person who believes he or she and his or her children are eligible for AFDC-related Medicaid shall be given the opportunity to apply without delay. Applicants shall be informed by the CWA about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

(b) CWA staff shall move with all reasonable speed in accepting, processing, and recommending action on applications for assistance. If an applicant is eligible, a Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter shall be issued as eligibility is established. The agency’s standards of promptness for acting on applications or redetermining eligibility shall not be a basis for delay in granting AFDC-related Medicaid.

(c) (No change.)

10:69-2.2 Provisions governing the initial contact

(a) The application process begins with an individual’s initial contact with the agency and ends with a decision by the CWA as to the eligibility for AFDC-related Medicaid. Both the applicant and the eligibility worker have an affirmative responsibility in verifying and documenting eligibility.

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

10:69-2.3 Purpose and scope of first contact

(a) The responsibility of the agency during the initial contact shall include, but not be limited, to:

1. (No change.)

2. Advising individual of general requirements of the application process, for example, the necessity of contacting certain relatives and of certain other collateral contacts with an explanation of the right of the applicant to confidentiality and to be primary source of information. The application form includes a blanket consent statement. The client should be informed that he or she is consenting to have the CWA contact others

by signing this form. The consent statement on the application form authorizes the CWA to contact such individuals and agencies to confirm the income of the applicant including, but not limited to, family members, the State Division of Taxation, landlords, employers, and banks, or other financial institutions. The eligibility worker shall specifically advise each applicant that by signing the waiver he or she is granting such an authorization. In addition to such oral explanations, the individual shall be provided with the pamphlet, Medicaid Rights and Responsibilities;

3.-6. (No change.)

10:69-2.4 Completion of forms

(a) (No change.)

(b) The applicant’s signature(s) and the date of application are required. The PA-1J requires three signatures of the applicant(s). In addition to the first page and the affidavit, the applicant(s), with the exception of non-needy parent-persons who do not request medical assistance for themselves, shall sign a release that authorizes the CWA to obtain State income tax information.

1.-2. (No change.)

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

10:69-2.5 Registration of applications

(a) (No change.)

(b) Registration shall be completed on the same day application is made, or, if application is made outside the CWA office, registration shall be completed within three working days.

10:69-2.6 Eligibility for AFDC-related Medicaid

(a)-(d) (No change.)

(e) Income standards for persons eligible under the AFDC-C-related and-F-related Medicaid appear at N.J.A.C. 10:69-10.3.

10:69-2.8 Eligibility factors other than need

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

(c) The relationship between adoptive parent and child(ren) in AFDC-related Medicaid is as follows:

1. The eligibility worker shall explain to the applicant that in order to apply for AFDC-related Medicaid, he or she shall be either the natural or adoptive parent or eligible to serve as a parent-person of the eligible child(ren). An applicant who is a parent-person has the option of applying either for the child(ren), him or herself as a needy parent-person, or for the entire household. The advantages and disadvantages of each option shall be thoroughly discussed.

2.-3. (No change.)

(d) Rules concerning Social Security numbers are as follows:

1. The AFDC-related Medicaid applicant shall supply the CWA with the Social Security number of each member of the eligible unit or apply for a Social Security number for any such person who does not already have one (see (d)3 and 5 below).

2. (No change.)

3. The CWA shall obtain a supply of Social Security Form SS-5, sufficient to accommodate all AFDC-related Medicaid applicants and eligible individuals that do not already have Social Security numbers. Upon application for AFDC-related Medicaid, the applicant shall be required to sign as many SS-5 forms as needed for the eligible family. The eligibility worker shall complete Form SS-5 on the basis of information provided by the applicant. Completed forms shall be forwarded to the county’s respective Social Security Administration District Office (SSA/DO). A copy of the SS-5 form shall be retained in the case record, and a copy given to the client if so requested.

i. (No change.)

ii. If any applicant refuses to provide or apply for the appropriate Social Security number(s), the CWA shall declare such person ineligible for AFDC-related Medicaid benefits. The eligibility of that individual shall be terminated in accordance with N.J.A.C. 10:69-2.15.

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

iii. AFDC-related Medicaid applicants who are legal residents of the United States in accordance with the provisions of the U.S. Citizenship and Immigration Services (USCIS), but not United States citizens, shall have Form PA-55, County Welfare Agency Alien Referral to Social

Security (SSA) District Office for Social Security Number Application, processed at the SSA/DO in order to be enumerated.

(1) (No change.)

(2) Form PA-55 is to be used to refer legal residents of the United States as determined by the U.S. Citizenship and Immigration Services, who are not U.S. citizens, to the SSA/DO. Liaisons in the SSA/DO have been instructed to return the bottom portion of that form to the specified CWA. For quality control purposes, the bottom portion of Form PA-55 is to be filed in the case record and shall serve as acceptable documentation that the individual has applied for a Social Security number.

(3) Each CWA is to create a tickler file to monitor the flow of referral forms (PA-55s) and receipts of acknowledgment (bottom portions of Form PA-55). Immediately upon receipt of such acknowledgment, CWAs shall input the filing date of the SS-5 form on the 105 form, thereby providing tracking for the issuance of Social Security numbers, and file the acknowledgment in the case record.

4. Procedures for verifying Social Security numbers are as follows:

i. The CWA shall verify the Social Security numbers (SSNs) provided by the eligible family with the Social Security Administration (SSA) by submitting them through FAMIS. Benefits shall not be denied, delayed, or terminated for an otherwise eligible family pending SSN verification. Once the SSNs have been verified, the CWA shall make a permanent annotation to the case file to prevent unnecessary reverification of the SSN in the future.

5. (No change.)

6. Every applicant for and recipient of Medicaid benefits is required to furnish a valid Social Security number to the CWA as a condition of eligibility for Medicaid. Any applicant or recipient who does not already have a Social Security number shall be required to apply for same. In addition, (d)2 through 5 above shall apply to Medicaid recipients.

(e) Rules concerning enumeration at birth are as follows:

1.-3. (No change.)

4. In instances of "enumeration at birth," the CWA worker shall not need to complete Form SS-5, "Application for a Social Security Number Card," for the newborn. Block QM/92 on FAMIS Form 105B shall be completed by utilizing the "888" coding option for the infant in such situations.

5. Parents who elect to enumerate their newborn child(ren) through this process are required to furnish the assigned SSN to the CWA when it is received. The CWA shall, however, request proof of receipt of the SSN after six months from the child's birth have lapsed or at time of the beneficiary's next redetermination, whichever occurs first. If a SSN has not been assigned to the newborn at that time, then the CWA shall complete the SS-5 form for such newborn.

6. If the family is unable to provide Form SSA-2853/0P4, then the child shall be enumerated by the CWA through completion of an SS-5 following current application procedures.

7. CWAs shall not contact hospitals to verify that a child was enumerated through those facilities.

(f) Rules concerning enumeration of others without a Social Security Number (SSN) are as follows:

1. When an applicant does not have an SSN, the system shall generate a generic identification number beginning with "777."

2. If the applicant has an SSN but the number is not known or an application has been filed and is pending, the system shall generate a generic identification number beginning with "888."

3. The CWA shall update and/or correct the identification number when proof of receipt of the applicant's SSN is provided or at the time of the client's annual redetermination, whichever is earliest.

#### 10:69-2.9 Deprivation of parental support in AFDC-C-related Medicaid

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

(c) Physical or mental incapacity of a parent shall be deemed to exist when both parents are in the home and one has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a nature as to reduce substantially or eliminate the parent's ability to support or care for the eligible child and be expected to last for at least 30 days.

1.-2. (No change.)

3. If the applicant receiving AFDC-related Medicaid under the AFDC-F segment is not found to be incapacitated, the CWA will so notify the applicant promptly of the denial of the application as to incapacity. (See N.J.A.C. 10:69-2.15.) Although the notice will show no grant change as a result of the denial, the applicant nonetheless has a right to a fair hearing.

4.-5. (No change.)

(d) Continued absence of the parent from the home constitutes deprivation of parental support or care. Absence shall be considered continued when it interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes the parent's performance of his or her function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he or she may have left only recently or sometime previously.

1. When information is received that an AFDC-related Medicaid beneficiary and his or her children are "living with" or being "frequently visited" by the allegedly absent parent of one or more of the children, the CWA shall immediately commence a comprehensive investigation of the family situation. Such investigation shall include:

i. Checking with appropriate authorities, for example, the Motor Vehicle Commission, the Postal Service, utility and telephone companies, employers, and landlords, to ascertain whether the allegedly absent parent's address is the same as the beneficiary's address;

ii.-v. (No change.)

2. When the investigation is completed, the CWA shall determine whether the parent is continually absent. If it is determined that the parent is residing with the eligible unit, such parent is not to be considered continually absent. If it has been determined that the parent is not residing with the eligible unit, in order to establish that such parent is not to be considered continually absent, evidence must exist of the parent's provision of three parental functions: maintenance, physical care, and guidance to the child(ren). Unless all three parental functions are present, the "absent" parent shall be considered continually absent. Evidence supporting the determination of continued absence shall be fully documented in the case record.

3. If the CWA is convinced that the parent is not absent and the family is no longer eligible for AFDC-C-related Medicaid based on deprivation of parental support or care, the CWA shall terminate AFDC-related Medicaid. The family shall be evaluated for eligibility for any other Medicaid program before termination. If termination is necessary, the adverse action notice shall give as the reason for the action that the "absent" parent is either living in the home or that his or her presence in the home is such that he or she can no longer be considered to be continually absent therefrom, and cite the appropriate regulations.

(e) (No change.)

#### 10:69-2.10 Ineligible family members

(a) In addition to those persons who are already not considered to be members of the eligible unit, the following persons shall also not be eligible for Medicaid and shall not be considered to be members of the eligible unit:

1.-2. (No change.)

3. Other aliens who are not eligible aliens as defined in N.J.A.C. 10:69-3.9.

#### 10:69-2.11 Residence requirement

An applicant for or beneficiary of AFDC-related Medicaid shall reside in New Jersey. Application for benefits should be made to CWA in the county of residence.

#### 10:69-2.12 Support from relatives

(a) The eligibility worker shall explain to applicant(s) that certain relatives must be contacted and evaluated to determine what capacity, if any, they have to contribute to the family's support. (See N.J.A.C. 10:69-3.31 for enumeration of relatives responsible in each program) Eligibility for AFDC-related Medicaid shall not be delayed pending evaluation of legally responsible relatives.

(b) (No change.)

## 10:69-2.13 Repayment (all segments)

The eligibility worker shall determine from the applicant whether there is a pending claim against any individual, group, or agency on behalf of any member of the eligible unit. If such a non-exempt claim does exist, the applicant shall be advised that the completion of the application form authorizes the CWA or the DMAHS to seek recovery of paid medical expenses from any recovery received for medical expenses for treatment of a medical condition.

## 10:69-2.15 Notice of approval, disapproval, and pending status and other information to client

(a) If immediate need is not apparent and a decision of approval or disapproval is not reached within 30 days of application, the CWA shall notify the applicant in writing of this fact and the reason for the delay. If the lack of decision is due to circumstances within the control and knowledge of the applicant, the CWA shall remind the applicant of the steps he or she must take to enable the CWA to make a decision. This notice shall include a sentence in Spanish cautioning the client that it relates to his or her eligibility for AFDC-related Medicaid and if he or she does not understand the notice he or she should contact the CWA. Translations to languages other than Spanish may be prepared based on knowledge of the population served by the CWA.

(b) (No change.)

(c) If the application is denied, the notice of disapproval shall meet the requirements in N.J.A.C. 10:69-6. In addition, for an applicant whose application has been denied for any reason other than death, the notification shall include:

1. (No change.)

2. Information about requesting a fair hearing to appeal the decision;

3. (No change.)

4. Information about the Supplemental Nutrition Assistance Program (SNAP) and other potentially available services.

(d) If the application is approved, the client shall be advised in writing:

1.-5. (No change.)

6. Of the use of the Health Benefits Identification (HBID) Card and/or Health Benefits Emergency Services Letter (see N.J.A.C. 10:49-2.15); and

7. (No change.)

(e) Notification to a beneficiary whose application has been approved following change of residence from another county shall include a statement that:

1. (No change.)

2. Future determination of eligibility will be made by this CWA rather than by the CWA of the county of previous residence.

(f) When the coverage is based on an earnings projection (see N.J.A.C. 10:69-10.25), a notice shall be sent advising the client that the coverage will be terminated after the initial calendar month of eligibility unless he or she provides wage verification as required. Such notice shall specify the date by which the verification must be received.

(g) Clients shall also be advised in writing that if he or she is dissatisfied with any action or inaction of the CWA, he or she may request a hearing. He or she shall be informed of the steps that are to be followed in making such a request in accordance with the requirements in N.J.A.C. 10:69-6.

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

## 10:69-2.18 Verification

(a) Verification of facts essential to eligibility is required in all segments of the AFDC-related Medicaid program (see N.J.A.C. 10:69-3.2 through 3.7). The eligibility worker shall verify all income.

1. The CWA shall try to verify all necessary information within the required time but shall not penalize the client if the CWA, through no fault of the client, is unable to obtain documentation.

(b) The CWA shall verify the age of all children for whom application is made and their relationship to the natural or adoptive parent(s) or parent-person(s) with whom they live (see N.J.A.C. 10:69-3.2 through 3.7).

(c) The CWA shall verify the deprivation factor in AFDC-C-related Medicaid.

1.-3. (No change.)

(d) The CWA shall verify school attendance in a school, college, training, or vocational program of dependent children ages 16 to 19 at the time of application as an eligibility criterion of AFDC-related Medicaid (see N.J.A.C. 10:69-10.5(a) and 10.9).

(e) The CWA shall verify the client's county of residence, whether temporary or permanent (see N.J.A.C. 10:69-3.23).

(f) (No change.)

(g) Subsequent to the initial application, verification is required for only those factors of eligibility that are subject to change or for those factors for which the original verification has become questionable.

## 10:69-2.19 Use of PA-1C as an application request

(a) Individuals who were admitted to a hospital and were subsequently referred to the CWA through the use of Form PA-1C, AFDC-related Medicaid Inquiry, may be eligible for AFDC-related Medicaid benefits from the date the PA-1C was completed, provided:

1. (No change.)

2. Except for good cause, including, but not limited to, hospitalizations lasting for three or more months, the homebound status of the applicant, the CWA was unable to schedule a timely application appointment, or the hospital failed to inform the applicant to apply at the CWA, the individual applies for AFDC-related Medicaid benefits within three months after the referral is made.

i. If the CWA determines that the individual had good cause for not applying within three months, an extension may be granted for an additional three months.

ii. Newborns of eligible women are deemed to have applied and shall be added to the Medicaid case, effective the date of birth, upon notifying the CWA of the birth.

## SUBCHAPTER 3. ESTABLISHING PROGRAM ELIGIBILITY IN AFDC-RELATED MEDICAID

## 10:69-3.3 Sources of evidence regarding eligibility

(a) (No change.)

(b) The client's statements regarding his or her eligibility are evidence. For purposes of AFDC-related Medicaid, the client's statements must be consistent and certain facts must be documented. The applicant shall be informed that the CWA needs to document the facts regarding certain eligibility criteria and that this process shall include contacting collateral sources as necessary:

1. (No change.)

2. Sources of collateral evidence to establish eligibility include, but are not limited to, the following: birth, death and marriage certificates, church records, immigration and naturalization papers, census records, school records, military service records, court records, employment records, records of public or private welfare agencies, voting records, medical records, personal records, tax records, and affidavits from knowledgeable persons.

(c)-(e) (No change.)

## 10:69-3.6 Issuance of summons or subpoena

(a) When all other means of determining facts and circumstances concerning an application for assistance has been exhausted, the CWA director may:

1.-2. (No change.)

(b) Action for contempt of court may be initiated when such person fails to obey a subpoena issued by the CWA director or to testify to facts and circumstances pertinent to the application for assistance.

(c) (No change.)

## 10:69-3.8 Applicant and eligible unit AFDC-C and-F

(a) The term applicant in AFDC-C refers to the parent(s) or parent-person(s) who makes an affirmative decision to apply for Medicaid or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for him or her in order to maintain and provide for one or more dependent children of eligible age who are in his or her care or custody (see N.J.A.C. 10:69-2.4(b)1). It may also include the stepparent, at the applicant's option, if the marriage meets the qualifications of N.J.A.C. 10:69-10.33. If the AFDC-C-related Medicaid beneficiary parent marries a non-needy individual on or after October 1,

1992, the AFDC-C beneficiary natural or adoptive parent, the stepparent and that stepparent's own natural or adoptive child(ren) as well as the natural or adoptive AFDC-C beneficiary parent shall be excluded from the eligible unit.

1.-3. (No change.)

4. When the AFDC-C child(ren) lives with a parent-person(s), the application shall be executed by the parent-person who shall be the designated payee.

i. (No change.)

ii. A pregnant woman who does not qualify for Medicaid Special should be evaluated against the eligibility criteria in N.J.A.C. 10:72. If the applicant meets all the eligibility requirements for the New Jersey Care ... Special Medicaid Programs requirements except for income, the application shall be referred to NJ FamilyCare — Children's Program (see N.J.A.C. 10:79) for possible eligibility.

iii. (No change.)

(b) The term applicant in AFDC-F refers to natural or adoptive parents, not incapacitated, both of whom shall be required to execute the formal written application unless one such parent is not available for reasons beyond the family's control. This parent shall be required to sign as promptly as he or she is available for such purpose (see N.J.A.C. 10:69-10.36 relevant to companion cases).

(c) To be eligible for AFDC-C, an individual shall be either a citizen of the United States or an eligible alien. (See N.J.A.C. 10:69-3.9 for alien status that may qualify an individual for AFDC-related Medicaid.)

1. Income of those ineligible individuals who are parents of otherwise eligible children shall be considered available to the eligible family and shall be calculated in accordance with the stepparent deeming formula at N.J.A.C. 10:69-10.33.

2. Medicaid coverage through AFDC-related Medicaid shall not be granted to an ineligible alien or to aliens admitted as students or visitors. However, United States citizen/eligible alien children of illegal aliens may still be able to receive AFDC-C- or AFDC-F-related Medicaid. The situations described in (c)2i through iii below serve as illustrations of how to determine AFDC-C or-F, status for U.S. citizen/eligible alien children of ineligible aliens.

i. In the case of one ineligible alien parent with U.S. citizen/eligible alien children, the children shall be eligible for Medicaid as AFDC-C due to parental deprivation (one parent is absent). The eligible unit shall consist of the U.S. citizen/eligible alien children. There is no Medicaid eligibility for the ineligible alien parent but his or her income shall be counted as available to the eligible unit in accordance with N.J.A.C. 10:69-10.

ii. If one parent is an eligible alien or U.S. citizen, and qualifies the children for Medicaid as AFDC-F segment, the children and eligible alien/citizen parent shall be eligible for Medicaid under the -F segment. The other parent's income shall be counted as available to the eligible unit in accordance with N.J.A.C. 10:69-10 but he or she is ineligible for Medicaid.

iii. (No change.)

10:69-3.9 AFDC-related Medicaid citizenship/eligibility requirements

(a) In order to be eligible for the Medicaid program, an individual must be a citizen of the United States, or an alien lawfully admitted for permanent residence, or an alien approved for temporary residence who can be classified as an eligible alien in accordance with this chapter.

1. The term "citizen of the United States" includes persons born in Puerto Rico, Guam, the Virgin Islands, Swains Island, American Samoa, and the Northern Mariana Islands and children born to American citizens outside the U.S. and its outlying possessions pursuant to Section 301 of the Immigration and Nationality Act (8 U.S.C. § 1401).

(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 Medicaid benefits:

1.-3. (No change.)

4. An alien whose deportation has been withheld pursuant to section 243 of the Immigration and Nationality Act;

5. An alien who has been granted parole for at least one year by the U.S. Citizenship and Immigration Services (USCIS) pursuant to section 212(d)(5) of the Immigration and Nationality Act;

6.-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 Medicaid benefits, subject to certain conditions described below:

i.-v. (No change.)

vi. The CWA shall apply the definitions "battery" and "extreme cruelty" and the standards for determining whether a substantial connection exists between the battery or cruelty and the need for Medicaid as issued by the Attorney General of the United States under his or her sole and unreviewable discretion.

(c) The following aliens entering the United States on or after August 22, 1996, and if otherwise meeting the eligibility criteria, are entitled to Medicaid benefits:

1.-4. (No change.)

5. An alien who has been granted parole for at least one year by the U.S. Citizenship and Immigration Services (USCIS) pursuant to section 212(d)(5) of the Immigration and Nationality Act but only after the alien has been present in the United States for five years;

6.-12. (No change.)

(d) (No change.)

(e) Persons claiming to be citizens and eligible aliens shall provide the CWA with documentation of citizenship or alien status.

(f) As a condition of eligibility, all applicants for AFDC-related Medicaid (except for those applying solely for services related to the treatment of an emergency medical condition) shall provide satisfactory documentation of United States citizenship. When the applicant or other person for whom the application is being made is an alien, the applicant's alien status shall be verified through evidence provided by the applicant with the U.S. Citizenship and Immigration Services (USCIS).

1. The following are acceptable documentation of United States citizenship:

i.-iv. (No change.)

v. U.S. Citizen I.D. Card (USCIS Form-197 or Naturalization Certificate (USCIS Form N-550 or N-570);

vi. Certificate of Citizenship (USCIS Form N-560 or N-561);

vii. Northern Mariana Identification Card (issued by the USCIS to a collectively naturalized citizen of the United States who was born in the United States before November 3, 1986);

viii. American Indian Card with a classification code "KIC" (issued by the USCIS to identify U.S. citizen members of the Texas Band of Kickapoos); or

ix. A contemporaneous hospital record of birth in one of the 50 states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam (on or after April 10, 1899), the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swains Island, or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in any of these jurisdictions.

x. Other documentation allowed in regulation by the Secretary of the U.S. Department of Health and Human Services in compliance with 42 U.S.C. §§ 1396b(i)(22) and (x).

2. The following sets forth acceptable documentation for eligible aliens:

i. If an applicant presents an expired USCIS document or is unable to present any document demonstrating his or her immigration status, the CWA shall refer the applicant to the local USCIS district office to obtain evidence of status. If, however, the applicant provides an alien registration number, but no documentation, the CWA shall file USCIS Form G-845 along with the alien registration number with the local USCIS district office to verify status;

ii. Lawful Permanent Resident—USCIS Form I-551, or for recent arrivals, a temporary I-551 stamp in a foreign passport or on Form I-94;

iii. Refugee—USCIS Form I-94 annotated with stamp showing entry as refugee under section 207 of the Immigration and Nationalization Act and date entry into the United States; USCIS Form I-688B annotated "274a. 12(a)(3)," I-766 annotated "A3," or I-571. Refugees usually adjust to Lawful Permanent Resident status after 12 months in the United States, but for purposes of determining Medicaid eligibility they

are considered refugees. Refugees whose status has been adjusted will have USCIS Form I-551 annotated "RE-6," "RE-7," "RE-8" or "RE-9";

iv. Asylees—USCIS Form I-94 annotated with a stamp showing grant of asylum under section 208 of the Immigration and Nationality Act, a grant letter from the Asylum Office of the U.S. Citizenship and Immigration Services, Forms-688B annotated "274a. 12(a)(5)" or I-766 annotated "A5";

v. Deportation Withheld—Order of an Immigration Judge showing deportation withheld under section 243(h) of the Immigration and Nationality Act and the date of the grant, or USCIS Form I-688B annotated "274a. 12(a)(10)" or I-766 annotated "A10";

vi. Parole for at Least a Year—USCIS Form I-94 annotated with stamp showing grant of parole under section 212(d)(5) of the Immigration and Nationality Act and a date showing granting of parole for at least a year;

vii. Conditional Entry under Law in Effect before April 1, 1980—USCIS Form I-94 with stamp showing admission under section 203(a)(7) of the Immigration and Nationality Act, refugee-conditional entry, or USCIS Forms I-688B annotated "274a. 12(a)(3)" or I-766 annotated "A3";

viii. Cuban Haitian Entrant—USCIS Form I-94 stamped "Cuban/Haitian Entrant under section 212(d)(5) of the INA";

ix. An American Indian born in Canada—USCIS Form I-551 with code S13 or an unexpired temporary I-551 stamps (with code S13) in a Canadian passport or on Form I-94;

x. (No change.)

xi. Amerasian Immigration—USCIS Form I-551 with the code AM1, AM2, or AM3 or passport stamped with an unexpired temporary I-551 showing a code AN6, AM7 or AM8;

3. For aliens subject to the five-year waiting period before eligibility for Medicaid can be established, the date of entry into the United States shall be determined as follows:

i. On USCIS Form I-94, the date of admission should be found on the refugee stamp. If missing, the CWA should contact the USCIS local district office by filing Form G-845, attaching a copy of the document.

ii. If the alien presents USCIS Form I-688B (Employment Authorization Document), I-766, or I-571 (Refugee Travel Document), the CWA shall ask the alien to present Form I-94. If that form is not available, the CWA shall contact the USCIS via the submission of Form G-845, attaching a copy of the documentation presented.

iii. If the alien presents a grant letter or court order, the date of entry shall be derived from the date of the letter or court order. If missing, the CWA shall contact the USCIS by submitting a Form G-845, attaching a copy of the document presented.

4. (No change.)

(g) An applicant who declares that he or she is a United States citizen, a national, or an otherwise eligible non-citizen, and who meets all other eligibility requirements, will be approved immediately for benefits and will be given "reasonable opportunity" to submit required documentation of citizenship or qualified alien immigration status.

1. Reasonable opportunity is defined as six months from the time that the applicant declares citizenship or qualified alien status and is informed of the need to provide documentation as long as the applicant is making a good faith effort to submit the documentation. Applicants will be properly noticed during this six-month period in accordance with the following schedule:

i. If, after approximately three months, the applicant has not submitted the required documentation, the eligibility agency shall provide written notice to the client setting forth the specific documentation that is still needed for this applicant to comply with the requirement and advising of the date of the upcoming date of the six-month deadline.

ii. If the applicant(s) have not submitted the required documentation towards the end of the fifth month of the reasonable opportunity period then a timely termination notice shall be sent to the applicant informing them of their termination date, to be effective at the end of the six-month period.

iii. The notices must clearly identify which household members have not complied and for which the adverse action is applicable. The termination notice shall inform the applicant that he or she may re-apply when he or she has secured the required documentation.

10:69-3.10 Parent in AFDC-C and-F Medicaid segments

(a) In AFDC-C, the term "parent" shall refer to the natural and/or adoptive parent(s) or parent-person(s).

1. By law, in AFDC-C certain relatives shall be recognized as taking the place of a parent. The term "parent-person" is used to designate one or more such relatives who include those of half-blood, those persons of preceding generations denoted by prefixes "grand" and "great," brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece. Such relative must be one with whom the dependent child is living, in a place of residence in New Jersey maintained by one or more such relatives as his or her or their own home.

i. (No change.)

ii. Health Benefit Identification (HBID) Cards and/or HBID Emergency Services Letters can be issued on behalf of child(ren) to persons authorized to act for specified relatives in emergency situations that deprive the child of the care of the relative through whom he or she has been receiving care, for a temporary period necessary to make and carry out plans for the child's continuing care and support.

2.-3. (No change.)

(b) (No change.)

10:69-3.12 Circumstances requiring special handling

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

(c) If, after considering the client's response according to the criteria in (b) above, the CWA has reasonable doubt of his or her mental competency (alleged incompetence), the eligibility worker shall accept an application from him or her and immediately refer the case to the social service unit to locate a protective payee.

(d) If any of the following conditions appear to exist in the relationship between parent and child, the case shall immediately be referred to the social service unit that shall contact the Division of Child Protection and Permanency (DCP&P) of the Department of Children and Families for appropriate action. The CWA shall provide DCP&P with pertinent information as appropriate and shall cooperate in planning and implementing action in the best interest of the child (See also N.J.A.C. 10:69-9.7).

1.-3. (No change.)

(e) (No change.)

(f) In the event of any indication that the death of a child resulted from abuse or neglect, such matter shall be reported immediately to DCP&P.

10:69-3.13 Age requirements

(a) To be considered of eligible age, a child in AFDC-related Medicaid must be under age 18, or under age 19 and a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and is reasonably expected to complete the program before reaching age 19. Program completion is defined as the day of ceremonial graduation. See N.J.A.C. 10:69-10.9 for definitions regarding school attendance.

1. (No change.)

(b) A child between 18 and 21 years of age residing with an AFDC-related Medicaid beneficiary family who, except for age, would be eligible for inclusion in the grant, may be eligible for Medicaid Special (see N.J.A.C. 10:69-4).

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

(e) The CWA shall establish and maintain appropriate administrative controls in all AFDC-related Medicaid cases, identifying those members of the eligible unit who may be rendered ineligible because of age. Specifically in this regard, agency controls shall provide advance identification of children attaining age 18 and/or 19, as appropriate for possible referral for general assistance. Parents approaching age 65 should be alerted to the Supplemental Security Income Program.

10:69-3.14 Noneligible persons in the household

When a noneligible individual is living in the household of an eligible unit, a monthly amount shall be recognized as the cost standard for that individual's share of household expenses (see N.J.A.C. 10:69-10.27).

10:69-3.15 Deprivation of parental support or care (AFDC-C)

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

(d) The determination of incapacity for persons other than those delineated in N.J.A.C. 10:69-2.9 is made by the Disability Review Section, Division of Medical Assistance and Health Services, on the basis of medical evidence provided by the eligibility worker. This is done in the following way:

1. (No change.)

(e) (No change.)

(f) The following concern a parent incapacitated by mental defect, illness, or impairment:

1. (No change.)

2. It is not necessary for purposes of eligibility of the spouse and child to establish whether the incapacitated parent is competent to manage his or her own affairs since the spouse can be payee for the Health Benefits Identification (HBID) Card. It is probable that in an instance where the mental condition is of such degree as to raise these questions, the parent should apply for disability assistance under SSI.

3. (No change.)

(g) The following concern "incapacity" and its relation to employment:

1. (No change.)

2. Thus, if because of his or her defect, illness, or impairment, he or she can engage only in part-time employment (that is, less than 30 hours per week), or his or her wages (or rate of pay) are less than those of other workers in the same type of work, he or she and any otherwise eligible dependents may be eligible for AFDC-related Medicaid. However, a parent who is found able to engage in full-time employment at normal rate of pay, but whose earnings are insufficient to adequately support his or her dependents, cannot be considered "incapacitated." In this situation, the CWA shall explore eligibility for AFDC-F.

3. When a parent has been determined "incapacitated" by reason of a temporary defect, illness, or impairment and no residual effects are anticipated upon recovery, such a parent shall be considered no longer "incapacitated" upon statement by the treating physician that he or she is able to resume full-time gainful employment in his or her previous or a similar occupation.

(h) The following concern refusal to undergo diagnostic evaluation, treatment, or related services:

1. (No change.)

2. The CWA shall make every effort to establish the facts of eligibility on the basis of available evidence in spite of the refusal to undergo diagnostic evaluation.

3.-4. (No change.)

(i) (No change.)

(j) Payment for medical expenses incurred on behalf of an AFDC-C-related Medicaid (incapacitated) applicant in the determination of initial eligibility shall be the responsibility of the CWA and made from the administration account. The CWA shall advise the physician that payment of the fee will be at the applicable rate contained in the schedule of fees for professional and diagnostic services set forth at N.J.A.C. 10:54-9. Transportation for diagnostic evaluations shall be made available.

#### 10:69-3.16 Continued absence of parent from the home

(a) The CWA shall make every reasonable effort to locate an absent parent in order to obtain support payments. An absent parent shall be given the opportunity to voluntarily support his or her child, but it shall be explained to both parents that the extent of support shall be established by the court.

(b) Each applicant and beneficiary is required to cooperate in obtaining support and establishing paternity whenever necessary as a condition of eligibility for AFDC-related Medicaid.

(c) "Continued absence from the home" (see N.J.A.C. 10:69-2.9(d)) may be for any reason. The following are some of the ways to establish absence:

1. (No change.)

2. A parent shall be considered absent from the home during a period of incarceration. There is a possible situation that a parent whose imprisonment is expected to be of short duration may also be "incapacitated." Where this appears to be so, consideration shall be

given to possible eligibility under the "incapacity" factor rather than the "absence" factor.

i. Evidence to substantiate "absence" when a parent is incarcerated in the State penal or correctional institution shall be secured by use of Forms PA-17B and PA-17C. When the "tear sheet" has been returned and the date of release determined, the CWA shall immediately redetermine the basis of continued eligibility and note it in file.

ii. With regard to the absent parent's incarceration in a county or municipal jail, the CWA shall need to develop a procedure in cooperation with each jail within its jurisdiction regarding exchange of information both at time of initial AFDC-C application and at time of release of incarcerated parents. PA-17B and PA-17C are not appropriate and shall not be used for local jails. Procedures established by the CWA with regard to county and municipal jails may vary from a formal procedure to personal telephone contacts or visits, provided the information required is obtained and acceptable to the CWA. In situations where the absent parent is incarcerated in another county, it is recommended that the CWA of such county be consulted regarding its method for contacting county and municipal jails and a mutually agreeable decision made as to which county will contact the jail.

3. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home. The CWA shall verify such court-imposed sentence and document its findings in the case record prior to case validation.

i. (No change.)

ii. Income, if any, of such a parent shall be treated in accordance with N.J.A.C. 10:69-10.

iii. (No change.)

4.-7. (No change.)

(d) The following concern the eligibility of a child born of unmarried parents:

1. (No change.)

2. Parents of a child born of unmarried parents are equally responsible for his or her support.

i. A father may voluntarily establish the fact of his paternity and establish with the CWA the extent of his ability to support his child. Voluntary support payments do not legally establish paternity and cannot be enforced in the absence of legally established paternity. A mother may initiate proceedings to establish paternity and/or gain support from the reputed father. She shall be informed of the advantages to the child of having paternity established legally such as certain inheritance rights and social security benefits (see N.J.A.C. 10:69-8.4).

3. Court action may be necessary to establish paternity or to obtain support; in the absence of the mother's willingness to initiate such proceedings, the CWA cannot refuse to establish Medicaid eligibility but may initiate proceedings. This provision shall be fully explained to each applicant mother of a child born of unmarried parents.

4. By law, the CWA are authorized to initiate proceedings to establish paternity and responsibility for support of a child born of unmarried parents who is a beneficiary of AFDC-related Medicaid. This authority should be used only when neither parent is willing to initiate proceedings. Filiation proceedings should be initiated in the Family Division of Superior Court.

(e) A parent may be considered continuously absent from the home when a condition of desertion is established. A desertion may already be a matter of public record, or may be alleged or presumed.

1. (No change.)

2. Where desertion has not been established but the applicant alleges that the child for whom he or she is applying has been deserted, the factor of continuing absence by reason of "desertion" shall be considered. The CWA shall request of the applicant/beneficiary, during the completion of the application, information relating to the deserting parent's whereabouts and ask applicant/beneficiary to acknowledge such desertion. By signing the application, the client attests to the accuracy and verity of his or her statements.

i. The continuing effort to locate absent parents is a responsibility of the CWA. Since the law permits use of Social Security numbers to aid in



location of deserting parents, the CWA shall make every effort to obtain such information.

(f) A parent shall be considered “continuously absent from the home” when by mutual agreement, not legal action, the parents have informally separated, for example, one parent is out of the home and such absent parent is not exercising responsibility as a member of the household consistent with the definition of “continued absence” although he or she may be making or demonstrating to the CWA his or her “intent” to make some financial contribution to the family.

(g) The CWA is charged with the general responsibility of reducing the extent of the beneficiary family’s reliance on AFDC-related Medicaid. In striving for this objective, the CWA shall attempt to effect a resumption of medical support provided to the AFDC-related Medicaid family by the absent parent within the ability of such parent. In cases of absent parent(s) whose whereabouts are unknown, the CWA will contact the State Parent Locator Service (see N.J.A.C. 10:69-11.9).

1. (No change.)

#### 10:69-3.17 Work criteria; determination of principal earner

(a) In order to determine qualification for AFDC-F eligibility, a determination shall first be made as to which parent is the principal earner in that family.

1.-2. (No change.)

3. If both parents earned an identical amount of income in such six-month period, the CWA shall designate which parent shall be the principal earner.

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

#### 10:69-3.19 Temporary absence from State

(a) A beneficiary family may leave the State for up to a one-month period with no resultant effect upon Medicaid eligibility. If absence from the State shall exceed or is anticipated to exceed the one-month period, the family shall immediately notify the CWA in order to request continuation of Medicaid for a three-month period following the month of departure, or any portion thereof. Such notice of intent to temporarily leave the State and request to continue Medicaid should be given to the CWA as far in advance of a planned absence as possible. Approval of such Medicaid continuation may be granted by the CWA quarterly for a period not to exceed one year. Authorization for extension of assistance beyond one year requires approval of the DMAHS.

(b) (No change.)

(c) Medicaid coverage shall not be automatically continued without inquiry with respect to a beneficiary family that leaves New Jersey when there has been no information provided to the agency establishing that the absence is purely temporary. All beneficiary families shall be advised that it is their responsibility to notify the CWA personally or in writing and arrange in advance, so far as possible, for any plan to leave New Jersey for any period in excess of one month if they wish Medicaid coverage to be continued during absence from the State. The decision whether or not to leave New Jersey, whether it is for permanent removal or temporary absence, shall rest with the beneficiary family and does not require official approval or disapproval by the agency.

(d) (No change.)

(e) If a beneficiary family has left the State without notifying the agency of the nature, purpose, and expected duration of such absence, the CWA will make every effort to inform the family in writing of the information required to termination of their Medicaid coverage. This notice shall include a sentence in Spanish cautioning the client that inaction may jeopardize continued AFDC-related Medicaid and that if they do not understand it they should get help. Upon receipt of such information from the beneficiary family or a collateral source, Medicaid may be continued if deemed necessary by the CWA. Medicaid eligibility shall continue issued until the CWA has determined whether the beneficiary has or has not abandoned State residency, in accordance with N.J.A.C. 10:69-3.23.

#### 10:69-3.20 Management of out-of-State case records

(a) The CWA shall maintain an up-to-date record of all cases of beneficiaries approved to receive Medicaid while out of the State.

(b) There shall be monthly supervisory review of the status of these cases to assure that the Health Benefits Identification (HBID) Card does

not indicate active eligibility beyond the period for which approval has been given, unless and until extension of continued Medicaid coverage is approved.

#### 10:69-3.23 County residence for identification

(a) Residence in a county is not an eligibility requirement. A county of residence is necessary to identify which CWA is legally responsible for receipt, registration, and processing an application and for issuance of a Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter, but shall not preclude or limit the opportunity for any person residing in New Jersey to apply for and receive Medicaid coverage without delay.

(b) Wherever a family is living shall be considered that family’s county residence. When a beneficiary family, or any member thereof, goes to another county or state for the purpose of a temporary visit, that county or state shall not become the family’s residence unless N.J.A.C. 10:69-3.24 applies.

(c) (No change.)

#### 10:69-3.24 Change of county residence

(a) (No change.)

(b) A temporary visit by either the beneficiary family or any member thereof shall not be considered to be a change of county residence until that visit has continued for more than a three-month period (see N.J.A.C. 10:69-3.28 and 3.30).

1. Whenever it is determined that a beneficiary family whose application has not been validated has changed or is planning to change its residence from one county to another, the CWA of origin shall continue assistance while completing the validation, subject to the time limits set forth in N.J.A.C. 10:69-2.15, then transfer the case without delay to the receiving county.

2. Whenever it is determined that a beneficiary family whose application has been validated is planning to change its residence from one county to another, it shall be the responsibility of the CWA directors of the two counties concerned to effect the transfer without interruption of Medicaid coverage.

3. The county of origin shall initiate and the receiving county shall, on request, immediately cooperate in accomplishing a full investigation of the circumstances surrounding the move. If the move is permanent, each county shall execute its respective responsibilities in accordance with this paragraph.

i.-iii. (No change.)

iv. When a change in residence results in loss of Medicaid coverage, the receiving county shall send timely notice of such change to the client and a copy to the county of origin consistent with the requirements of N.J.A.C. 10:69-6. It is the receiving county’s responsibility to send adverse notice, when necessary, after determining the client’s circumstances following the change in county residence. In the event of a request for a fair hearing within 15 days of the mailing of such notice, the county of origin shall be notified and shall be responsible for Medicaid coverage pending the fair hearing.

(1) Whenever the beneficiary is entitled to receive Medicaid until the final hearing decision, the county of origin shall issue the Health Benefits Identification (HBID) Card and/or HBID Emergency Services Letter until the decision is rendered. The receiving county shall then immediately accept case responsibility.

(c) Those cases that are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC-related Medicaid cases. The procedures established at N.J.A.C. 10:69-3.26(b) are to be followed when transferring a case in Medicaid extension (see also N.J.A.C. 10:69-5.13).

#### 10:69-3.25 Verification of residence

(a) Verification of residence is necessary to ensure eligibility. Under some circumstances, documentary evidence of residence may not be available.

1. The following are examples of sources of evidence of residence:

i.-xii. (No change.)

xiii. Affidavits of knowledgeable persons that support other recorded evidence or knowledge of CWA.

## 10:69-3.26 Procedures governing release from State institutions

The procedures provided in this subchapter have been established specifically to govern relationships between the CWA and the several State institutions. These procedures do not necessarily apply to relationships with local mental hospitals and other institutions. When a CWA develops other procedures to expedite release of persons from local institutions, it shall submit complete plan material to the Division of Medical Assistance and Health Services for approval prior to granting Medicaid coverage to such persons.

## 10:69-3.27 Release from a State institution

(a) (No change.)

(b) When eligibility has been established, benefits can begin upon release from the institution, providing the parent and child will be living together within 30 days of the date of issuance except in circumstances identified in (b)1 below. This application may be registered and processed up to two months before anticipated date of release.

1. When an applicant parent is being released from an institution for the mentally ill or intellectually disabled, or a correctional facility, no Health Benefits Identification (HBID) Card or HBID Emergency Services Letter shall be issued until the actual release, discharge, or parole is a matter of record and verified by the CWA, and the applicant is not adjudged or alleged to be mentally incompetent.

(c) A parent or parent-person separated from a dependent child for a period no more than 30 days prior to application, who wishes to maintain an already established home for that child with whom such parent or parent-person customarily resides, may apply for and receive a Health Benefits Identification (HBID) Card or HBID Emergency Services Letter for the child(ren) temporarily absent from the home. In this case, such parent or parent-person must indicate plans to return to the home within two months from the month in which the HBID Card or HBID Emergency Services Letter is initially issued (see N.J.A.C. 10:69-3.28 through 3.30).

(d) In the case of the return to the home of a beneficiary family by a parent, parent-person, or spouse in AFDC-C or child of eligible age in any segment, no application for Medicaid is involved.

1. If the individual will return to a home or plans to establish a home with a dependent child in the county receiving the inquiry and appears eligible for Medicaid, the CWA of that county shall register the application, assist in completion of the plan as necessary, complete the determination of eligibility and be responsible for issuance of the Health Benefits Identification (HBID) Card or HBID Emergency Services Letter (see N.J.A.C. 10:69-3.24).

2. If the individual is to return to a home or desires to establish a home with a dependent child in another county, the CWA receiving the inquiry shall complete an application interview and assist the individual to complete an application form. All information that the applicant can supply shall be obtained and recorded on appropriate case record forms, which shall be forwarded to the county where the family currently resides or is planning to establish a home. The county receiving the application shall process and register the application without delay.

(e) Responsibility for initial planning for the return of a patient to the community rests with the institutional authorities. When AFDC-related Medicaid is necessary and the person appears eligible, the Division of Mental Health and Addiction Services shall coordinate the application with the appropriate CWA. The Division of Mental Health and Addiction Services shall be responsible for reviewing such referrals to assure that all essential information is assembled, and for expediting the processing of an application by the appropriate CWA for final determination of eligibility.

1. The institution shall routinely complete the following forms without change, a stock supply of which shall be provided to them by the DMAHS, and shall forward copies to the CWA along with copies of staff notes pertinent to each case:

i.-ii. (No change.)

2. Persons under the jurisdiction of Division of Developmental Disabilities, Bureau of Field Services, shall be referred directly to the appropriate CWA.

(f) When a parent is about to be released from a veteran's hospital, the hospital shall make referral in writing, with the knowledge and

consent of the veteran, to include the following minimum information: identifying data, the anticipated date of discharge, and a description of any known or tentative living arrangement following discharge.

1. (No change.)

2. Thereafter, the CWA shall arrange for an application interview and shall process the application as any other.

(g) The social service staff of the institution shall assist in completing the application in accordance with N.J.A.C. 10:69-2.

1. The social service worker is responsible for prompt investigation to determine initial eligibility, including inquiry regarding any funds held by the institution or other party in a personal account for the applicant. The social service worker shall discuss available services including assistance in locating a suitable living arrangement with the applicant. The social service worker shall not send the completed referral forms to the designated CWA.

(h) The CWA shall register cases transferred from Division of Mental Health and Addiction Services within one working day. The CWA shall determine initial eligibility within 30 days and so inform in writing the social service worker that will coordinate discharge of the client.

(i) (No change.)

## 10:69-3.28 Temporary absence of a family member

(a) Eligibility for AFDC-related Medicaid may exist during the absence of a child, parent, or parent-person from the home under the circumstances described in N.J.A.C. 10:69-3.29 and 3.30. When the absence is foreseeable, the CWA should make appropriate plans.

1. A parent or caretaker relative who fails to notify the CWA of the absence of the minor child from the home by the end of the five-day period that begins with the date that it becomes clear to the parent or relative that the minor child shall be absent for more than 180 consecutive days shall be ineligible for benefits for a period of three months from the date the CWA becomes aware of the beneficiary's failure to notify the agency of the absence, which shall begin with the month following the month in which the absence becomes known.

## 10:69-3.30 Absence for reasons other than institutional

(a) Temporary absence of a child that has not lasted more than 30 consecutive days does not affect eligibility. When the absence of a child lasts longer than 30 days or it appears that an absence will last longer than 30 days, the CWA shall review the situation.

1.-3. (No change.)

4. In unusual situations involving particular hardship, the CWA may consult with the Division of Medical Assistance and Health Services.

(b) Regarding parent or parent-person, temporary absence of not more than 30 days for whatever reason shall not affect eligibility provided that adequate care and supervision of the child(ren) has been arranged in advance. When necessary, arrangements shall be made by the CWA regarding changing the receiver of the Health Benefits Identification (HBID) Card or HBID Emergency Services Letter.

1. The CWA shall obtain approval from the DMAHS for continuing eligibility in unusual situations of temporary absence lasting more than 30 days.

(c) When the entire family unit leaves the State for a temporary visit, the provisions of N.J.A.C. 10:69-3.19 and 3.20 shall apply.

## 10:69-3.31 Legally responsible relatives (LRRs)

(a) Certain relatives are legally considered responsible to provide support if financially able and may be a source of income for an AFDC-related Medicaid applicant or beneficiary. The CWA shall determine the capacity of LRRs to contribute to the support of AFDC-related Medicaid applicants and beneficiaries.

(b) The CWA director is authorized under specified circumstances to apply to the appropriate court for a support order. In cases where a court order appears to be the only means of insuring consistent and actual support, the applicant/beneficiary may elect to receive from the CWA the grant for which he or she is eligible and request the CWA to collect the support payments (see N.J.A.C. 10:69-3.36). The applicant shall be fully informed of these provisions and their impact:

1. (No change.)

(c)-(e) (No change.)

(f) The eligible unit shall not be eligible for AFDC-related Medicaid when the amount of the legally responsible relative's evaluated capacity to support equals or exceeds his or her adjusted allowance and this support is actually provided to the eligible unit.

1.-3. (No change.)

4. For a LRR in the home of the eligible unit, see N.J.A.C. 10:69-3.10.

(g) (No change.)

(h) When an individual (under the age of 19) who is himself or herself a parent lives in the same home as his or her own parent(s) or legal guardian(s), and the adolescent parent applies for AFDC-C or -F, the income of such parent(s) or legal guardian(s) shall be considered available to the eligible unit in accordance with the deeming provisions of N.J.A.C. 10:69-10.44.

10:69-3.32 Support orders for legally responsible relatives

(a) The CWA director has authority, after due investigation, to direct a legally responsible relative to pay toward the support of an applicant for or beneficiary of AFDC-related Medicaid.

(b) Upon failure of such relative to comply, the director shall so certify in writing to the county court or to the court of juvenile and domestic relations of the county, whereupon such court may, after hearing, "order and adjudge the able relative or other persons responsible for the support of such applicant to pay such sum or to deliver to the court or to the CWA director such other pledge or guaranty as the circumstances may require in the discretion of the court for each such applicant."

(c) The CWA may also bring appropriate action in a court of competent jurisdiction to recover any sum of money due for Medicaid coverage given any person under this chapter against any person chargeable by law for the support of such persons.

(d) Where the relative from whom support is sought is a resident of another state and the CWA is unsuccessful in securing information and/or voluntary contributions commensurate with the evaluated capacity to support, either by direct correspondence or through an appropriate AFDC-related Medicaid agency, the procedures provided in the Uniform Interstate Family Support Act, N.J.S.A. 2A:4-30.124 et seq., shall apply.

(e) When there is evidence that a relative is failing to comply with the order of the CWA director, the director shall follow the legal procedure as provided in (b) above. Where there is failure to comply with the order of a court, the CWA shall consult with the probation department or with the court that placed the order.

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

(h) The following concern the inability of a legally responsible relative to comply with an order:

1. (No change.)

2. Where such situation is found to exist in respect to a relative under court order to support, the terms of the order cannot be changed except by amendment by the court itself after review. The CWA will assist in initiating amendment proceedings in such cases.

(i) Where the amount of support actually received, under court order and otherwise, exceeds the per capita share of the income standard for the family size for the individual for whose benefit it is paid, the client shall be informed of the right to choose whether to leave the eligible unit and have the benefit of all the income or to remain in the eligible unit. All consequences including those with regard to Medicaid shall be clearly and explicitly explained. This provision also applies to other legally designated income (see N.J.A.C. 10:69-10).

10:69-3.34 Liquidation of all debts, claims, interests, settlements, and trust funds

(a) Members of the eligible family shall take all necessary and reasonable action to avail themselves of funds for support from others who owe or may owe money to them or who are holding funds for them. Any funds made available by such action shall be considered as income to the eligible family, except as provided in N.J.A.C. 10:69-3.36(b).

1. When a trust fund exists for a member of the eligible family, the CWA shall determine whether or not the funds are currently accessible. If accessible, the funds represent a source of funds for support and shall be considered in determining eligibility.

i. (No change.)

10:69-3.35 Repayment

(a) The CWA shall, in all circumstances, take appropriate action to recover all AFDC-related Medicaid improperly granted. The action taken shall be in accordance with the appropriate sections of this chapter, N.J.A.C. 10:49, and any other applicable authority.

1. Recoveries of funds applicable to more than one CWA shall be divided according to the mutual agreement of the directors of the CWAs involved.

(b) Properly granted AFDC-related Medicaid coverage rules are as follows:

1. Repayment of Medicaid coverage in the AFDC-related Medicaid program (all segments) is required in certain cases in which Medicaid coverage is provided for treatment where another third party is responsible for payment of the medical services. Medicaid coverage is granted while the beneficiary(ies) awaits receipt of funds from some other source (see N.J.A.C. 10:69-3.36).

(c) Rules when agreement to repay is not required are as follows:

1. (No change.)

2. Upon signing an application for AFDC-related Medicaid (PA-1J), the applicant or beneficiary automatically assigns all support rights (whether for past due or future support) to the CWA. The signing of an Agreement to Repay is therefore not required when the pending payment arises from potential entitlement to payment of support from a relative.

10:69-3.36 Action by CWA upon voluntary liquidation

(a) Upon voluntary liquidation of a claim or interest, and the family is currently receiving AFDC-related Medicaid, the CWA shall evaluate the situation to determine the family's continued eligibility for Medicaid coverage.

(b) Rules on continued eligibility arising from sale of exempt resources (see N.J.A.C. 10:69-11.1 for exempt resources) are as follows:

1. The CWA shall not terminate eligibility when the proceeds from the sale of an exempt resource are promptly reinvested in another exempt resource of the same type. Funds designated by the client as being reserved for such reinvestment, including any interest accrued during the period, may be held for up to three months, provided the funds are held in escrow or are otherwise unavailable for daily living expenses. The three-month period may be extended upon written approval of the Division of Medical Assistance and Health Services.

#### SUBCHAPTER 4. MEDICAID SPECIAL

10:69-4.1 General provisions

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

(d) Rules concerning pregnant women under age 21 are as follows:

1. (No change.)

2. Eligibility is determined for an eligible family of two, or more if a multiple pregnancy (woman and unborn children), based on her income only, or, if she is married and living with her spouse, on an eligible family of three or more (woman, spouse and unborn children) including income of both spouses. Medicaid coverage does not include the spouse even though his income is included in the eligibility determination.

i. (No change.)

ii. A pregnant woman with other dependent children should be assisted in making immediate application for AFDC-related Medicaid based on AFDC rules in effect as of July 16, 1996, and for TANF cash assistance. If she is found ineligible under AFDC-related Medicaid rules, the CWA shall determine potential eligibility for New Jersey Care...Special Medicaid Programs coverage for pregnant women (see N.J.A.C. 10:72).

iii. After the birth of the child, so long as the mother was eligible for and receiving Medicaid Special benefits at the time of the birth of the child(ren), the child(ren) remain(s) eligible for Medicaid for period of one year, whether or not application has been made.

10:69-4.2 Determination of eligibility; Medicaid Special

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

(d) Medicaid Special is available only for U.S. citizens or eligible aliens (see N.J.A.C. 10:69-3.9 requirements related to alien status).

(e) (No change.)

## 10:69-4.3 College students and Medicaid Special

(a) A student's permanent residence is considered to be with his or her parents even though he or she is temporarily absent to attend college. A student shall be determined "not living with parents" only when the CWA has verified that all of the following conditions exist:

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

## SUBCHAPTER 5. CONTINUING ELIGIBILITY IN AFDC-RELATED MEDICAID

## 10:69-5.2 Requirements for periodic redetermination

(a) Redetermination is a review of factors affecting AFDC-related Medicaid eligibility, including, but not limited to, continued parental deprivation, or changes in income. At the redetermination, the parent(s) shall complete an application for continuation for Medicaid. If a redetermination is not conducted and the CWA is responsible, the right of the client to continued Medicaid shall not be jeopardized.

(b) For beneficiaries of AFDC-related Medicaid, all factors of eligibility shall be redetermined at least every 12 months. No case shall be terminated before evaluating eligibility, using data available from other sources, such as the Supplemental Nutrition Assistance Program (SNAP) or Work First programs. All cases determined ineligible for AFDC-Medicaid shall be screened for eligibility under all other program options. Referrals shall be coordinated to ensure that continuous coverage of benefits is available to the beneficiary, as applicable.

(c) Redeterminations shall be conducted in each case at least once every 12 months, but, at the beneficiary's option, the beneficiary may mail in the redetermination form to the CWA.

(d) It is the responsibility of the CWA to maintain a control file to assure that redeterminations are undertaken and acted upon at intervals as prescribed by this section. The redetermination time interval shall be contingent upon the month in which the beneficiary's permanent Health Benefits Identification (HBID) Card is issued, rather than on such factors as the date of application or final validation of eligibility.

## 10:69-5.4 Competency status in AFDC-related Medicaid

(a) (No change.)

(b) If it is the finding of the CWA that the parent or parent-person has demonstrated such inability to manage the medical care of the child, the child's Health Benefits Identification (HBID) Card or HBID Emergency Services Letter can be issued to a third party. In such cases, the client shall be fully advised of his or her rights.

## 10:69-5.5 (Reserved)

## 10:69-5.6 Requirements with respect to deprivation of parental support or care in AFDC-C

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

(c) The following concern incapacity status for a natural or adoptive parent:

1. (No change.)

2. The Disability Review Section, Division of Medical Assistance and Health Services shall designate the review date for the CWA. "Incapacity" shall be considered as continuing until the Disability Review Section officially determines that such incapacity no longer exists. The eligibility worker shall prepare Form DRS-2A, Interim Medical-Social Report, for the redetermination review. The CWA shall maintain controls on review dates so that any specific medical information or reports requested by the Disability Review Section may be obtained. In addition, the Disability Review Section shall maintain a control file in order to ensure appropriate and timely reevaluation by that Section. The Disability Review Section will notify CWAs one month in advance of cases scheduled for such review by means of Form DRS-5.

3. In any case in which, subsequent to a finding of "approved," the incapacitated parent becomes a beneficiary of Federal disability benefits or SSI benefits for reasons other than age, this of itself shall be considered conclusive proof of continuing incapacity, and the CWA shall disregard the "review date" for submittal to the Disability Review Section.

4. (No change.)

(d) When, subsequent to a finding of "approved" on the "incapacity" factor, the CWA learns that the parent has obtained full-time employment at normal rate of pay for a job appropriate to his or her capacity, then incapacity no longer exists.

(e) The following concern when an "incapacitated" natural or adoptive parent is in institution:

1. (No change.)

2. As soon as the date of discharge is known, or if the CWA learns that the parent has already been discharged to his or her home, the CWA shall submit the required record material to the Disability Review Section as appropriate to the situation; that is, if official determination of incapacity had already been made, the previous record shall be submitted for review with a completed Form DRS-2A; if the case had not been previously submitted, then a DRS-2 giving current situation and Form DRS-1 (Examining Physician's Report) shall be submitted. Whenever practical, the DRS-1 form should be prepared by a staff physician of the institution.

3. (No change.)

## 10:69-5.7 Marriage or remarriage

In AFDC-C, when eligibility is based on the absence of one parent and the remaining parent marries or remarries, such marriage or remarriage does not in and of itself terminate eligibility but does require prompt redetermination of financial need and eligible unit composition in accordance with N.J.A.C. 10:69-10.33.

## 10:69-5.8 Special conditions relating to parent(s) in AFDC-F

(a) (No change.)

(b) When a parent becomes hospitalized, incapacitated, committed to a mental institution, or incarcerated in a correctional facility and the CWA has evidence that this condition will continue beyond 30 days, the case shall be transferred to the AFDC-C segment. No interruption of Medicaid shall result if AFDC-related Medicaid eligibility begins with such aforementioned situation.

## 10:69-5.9 Legally responsible relatives capacity to support

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

(d) The CWA shall avoid making routine requests of other CWAs or of out-of-State agencies to contact relatives for reevaluation of capacity to support. When, after careful evaluation of the need for such service, it is considered essential to request an interview, the letter of request shall clearly identify both the nature and the purpose of the desired service.

## 10:69-5.11 Notice of agency decision

(a) (No change.)

(b) If the notice of intention to terminate Medicaid eligibility is related to identification of possible fraud, beneficiaries are entitled to timely notice as defined at N.J.A.C. 10:69-6.1.

1. Seven days notice shall be considered timely when, in the judgment of the CWA director, there is substantiated evidence that the client is receiving Medicaid coverage through willful fraud (see N.J.A.C. 10:69-9.15 through 9.18).

## 10:69-5.12 Periodic notice to client

(a) The client shall be informed periodically (at least once every 12 months) of his or her continuing obligation to furnish accurate and timely information to the CWA concerning changes in income or other circumstances that may affect the receipt of benefits. The applicant shall receive, and have explained if necessary, a copy of the pamphlet Medicaid Rights and Responsibilities. This pamphlet shall be given to the applicant at the time of application and at each redetermination if the beneficiary has not retained the copy previously provided. The client shall inform the CWA of any change as soon as possible but in no event later than two weeks after the change takes place. Failure of the client to so inform the CWA shall constitute willful withholding of information.

(b) (No change.)

## 10:69-5.13 Extension of Medicaid benefits

(a) (No change.)

(b) Those cases that are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC-related

Medicaid cases. The procedures established at N.J.A.C. 10:69-3.24 are to be followed when transferring a case in Medicaid extension.

(c) AFDC applicants may be eligible for retroactive Medicaid benefits; such determinations are made by the CWA. The eligibility worker shall ask if the family has unpaid medical bills from the previous three months and shall provide the applicant with appropriate forms. The CWA shall make a determination of eligibility for each of the three previous months, based on the eligibility rules in this chapter.

(d) (No change.)

(e) For newborns of eligible women who have applied, before or on the date of the birth, and are eligible for Medicaid on the date of birth, except for a presumptively eligible pregnant woman, as defined at N.J.A.C. 10:72-6.1, who is subsequently found ineligible for the month the child was born, eligibility continues for both mother and child through the last day of the month in which the 60-day post-partum period ends, without regard to other program requirements. So long as the mother remains eligible, or would remain eligible if pregnant, the child remains eligible for Medicaid for a period of one year, whether or not application has been made for the child.

(f) Individuals who were admitted to a hospital and were subsequently referred to the CWA through the use of Form PA-1C, Public Assistance Inquiry, may be eligible for Medicaid benefits from the date the PA-1C was completed, provided:

1. (No change.)

2. Except for good cause, including, but not limited to, hospitalizations lasting for three or more months, the homebound status of the applicant, the CWA was unable to schedule a timely application appointment, or the hospital failed to inform the applicant to apply at the CWA, the individual applies for AFDC-related Medicaid benefits within three months after the referral is made.

i. If the CWA determines that the individual had good cause for not applying within three months, an extension may be granted for an additional three months.

ii. Newborns of eligible women are deemed to have applied and shall be added to the Medicaid case, effective the date of birth, upon receipt of a valid Form PA-1C (see N.J.A.C. 10:69-2.19 for coverage limits).

(g) Those cases that are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC-related Medicaid cases. The procedures established at N.J.A.C. 10:69-3.24 are to be followed when transferring a case in Medicaid extension.

10:69-5.14 Change in eligible unit

(a) A newborn child shall be added to the AFDC-related Medicaid case effective with the date of birth, provided that the CWA is notified within one year of that date.

(b) The date of change for adding other members added to an eligible unit shall be the first day of the month the eligible unit reports to the CWA the addition of the member.

SUBCHAPTER 6. COMPLAINTS, HEARINGS, AND ADMINISTRATIVE REVIEWS

10:69-6.1 Definitions

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

“Adequate notice” means a written notice that meets the requirements of N.J.A.C. 10:69-6.2(d).

...

“Administrative review” means a review of a disputed matter that has been determined by the Director of the Division of Medical Assistance and Health Services not to constitute a contested case and therefore remains in the Division for review. At the discretion of the Director, an administrative review may be conducted as a procedure at which parties appear and are heard or it may be a paper review (see N.J.A.C. 10:69-6.6).

...

“Adverse action” means any action by a CWA resulting in denial of application for AFDC-related Medicaid. An adverse action is an action to deny an application for Medicaid, or to terminate Medicaid (including

service, vendor payments, or Medicaid entitlement) or to deny payment to a vendor for medical services required to be reimbursed by the CWA.

...

“Fair hearing” means a formal or informal procedure through which an AFDC-related Medicaid client may protest an adverse action or decision of the CWA regarding eligibility or manner of granting AFDC-related Medicaid. Fair hearing is a general term that includes administrative hearing and administrative review.

...

10:69-6.2 Right to fair hearing and administrative review

(a) It is the right of every applicant or beneficiary adversely affected by an action by a CWA to be afforded a fair hearing in a manner established by the rules in this subchapter and by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. These rules have been established pursuant to Federal regulations, 45 CFR 205.10, and the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) The CWA shall promptly notify the beneficiary in writing of any agency decision affecting that client. The term “agency decision” refers to a decision made by the CWA and includes any decision made by the CWA. In the case of a client who cannot be located, notice shall be sent to his or her last known address.

(c) (No change.)

(d) The written notice of adverse action shall, at a minimum, include the following:

1.-9. (No change.)

10. A sentence in Spanish cautioning the client that the notice relates to a change in Medicaid coverage and if he or she does not understand the notice, he or she should contact the CWA; and

11. (No change.)

(e) (No change.)

(f) Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of action when:

1.-4. (No change.)

5. The claimant’s whereabouts are unknown and agency mail has been returned by the post office indicating no known forwarding address. The Health Benefits Identification (HBID) Card or HBID Emergency Services Letter must, however, be made available to the beneficiary if his or her whereabouts become known during the medical coverage period, unless (f)5i below applies.

i. (No change.)

6. A beneficiary has been accepted for medical assistance in another state and that fact has been established by the CWA previously providing Medicaid coverage;

7.-8. (No change.)

10:69-6.3 Responsibilities of the CWA in processing hearing requests

(a)-(d) (No change.)

(e) To assure orderly and expeditious processing of complaints and hearing requests, each CWA shall designate a liaison between the county and State Division whose duties shall include, but not be limited to:

1. Informing the Bureau of Administrative Review and Appeals (BARA) by telephone on the same day an oral or written request for a hearing is received, providing the following information:

i.-v. (No change.)

2. Establishing a system to assure that every written request for a hearing received in the CWA office is stamped with the date of receipt and forwarded to BARA within one work day of the date;

3.-5. (No change.)

6. Submitting special reports on hearing requests prior to the hearing date, when requested by BARA;

7. (No change.)

8. Serving as the single individual in the CWA to be contacted regarding matters relating to hearings and the monitoring system.

(f) The CWA is responsible to inform the applicant/beneficiary who is requesting a hearing and elects to receive continued Medicaid that the ALJ may find him or her not entitled to all or a portion of the Medicaid coverage received during the pendency of the hearing and that, in such event, repayment may be required of the amount of benefits received from the effective date of the proposed adverse action to the date of the scheduled hearing.

## 1. (No change.)

## 10:69-6.4 Responsibilities of the Division of Medical Assistance and Health Services

(a) Each request for a fair hearing shall be registered by the Bureau of Administrative Review and Appeals (BARA) on the date the request is received.

(b) Requests initially received in BARA shall be transmitted by telephone to the CWA on the date received.

(c) BARA shall transmit each contested case to OAL within five work days of the receipt of the request.

(d) Written determination on entitlement to receive continuing Medicaid coverage shall be included in the OAL transmittal and sent to the applicant/beneficiary and the CWA.

## 10:69-6.7 Complaints and adjustment procedures

(a) Prompt and courteous attention shall be given to all complaints, whether or not such complaints constitute requests for fair hearing and whether or not they are directed to the CWA or the Division of Medical Assistance and Health Services. All complaints received shall be acknowledged promptly and, if it is not apparent from the complaint that a fair hearing request has been made, the acknowledgment shall inform the beneficiary of his or her right to a fair hearing.

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

(d) A request for a fair hearing may be either oral or in writing and addressed to the CWA or to DMAHS. Oral requests for fair hearing shall be immediately reduced to a written record by the staff person to whom the request is made. No special form of statement or manner of expression is required so long as the request identifies the nature of the complaint and the relief sought. Requests made to the CWA shall be immediately transmitted to the BARA, and in no event later than one work day after receipt of the request.

(e) Upon receipt of any request for a fair hearing, a determination shall be made by DMAHS on the appropriateness of an administrative hearing or administrative review (N.J.A.C. 10:69-6.6). If the matter is deemed contested, BARA will send an acknowledgment of the request to the client. All contested cases shall be promptly forwarded to the OAL for a hearing before an ALJ.

## 10:69-6.9 Eligibility for continued Medicaid coverage

## (a) (No change.)

(b) An adjournment of a hearing at the request of a beneficiary shall not prolong continuation of Medicaid coverage, unless the adjournment is due to delay caused by DMAHS, OAL, or the CWA; unavoidable causes, such as an illness on the part of the applicant/beneficiary; or the failure of the CWA to provide assistance for transportation when such assistance is required by regulations. Adjournment at the request of the CWA or by the ALJ shall not affect continued benefits.

(c) The CWA shall promptly inform the beneficiary in writing whether or not Medicaid coverage shall be continued unreduced pending a final decision.

## 10:69-6.10 Access to discovery of information in contested cases

The CWA shall provide the applicant/beneficiary and/or his or her authorized representative opportunity to review the entire case file or documents and records to be used in the administrative hearing. Such materials shall be made available at a reasonable time before the scheduled hearing date as well as during the hearing (see 45 CFR 205.10(a)(13)).

## 10:69-6.11 Representation at hearings

## (a) (No change.)

(b) The CWA representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action. If the CWA representative feels that he or she must be an advocate of the client and is unable to represent the agency, then another CWA staff person shall appear at the hearing to fulfill the above identified role.

## (c) (No change.)

## 10:69-6.12 Disposition of hearing request through withdrawal, abandonment, or settlement

(a) Prior to transmittal to OAL, if a party desires that a hearing request be withdrawn, that party shall notify the CWA or DMAHS in writing of the withdrawal request. DMAHS shall in turn acknowledge, in writing, receipt of the withdrawal request. No CWA shall deny or dismiss a request for a fair hearing. The determinations on the validity of each hearing request shall be made by the DMAHS including any determination on the appropriateness of processing hearing requests pursuant to this subchapter.

## (b) (No change.)

## 10:69-6.14 Hearings involving medical issues

## (a) (No change.)

(b) The CWA shall pay for this medical assessment which shall be obtained at reasonable expense.

## 10:69-6.15 Decision by Director, Division of Medical Assistance and Health Services

(a) A final administrative hearing decision shall be rendered by the Director of the DMAHS. The applicant/beneficiary, his or her representative, and the CWA shall be notified by mail of any decision or order.

## 1. (No change.)

(b) An official and complete record of each administrative hearing shall be maintained in the files of DMAHS and the CWA for at least one year after the date the final decision is rendered. During this one year period, the applicant/beneficiary or his or her legal representative may review, upon appointment, all or any part of the official and complete record of his or her administrative hearing.

(c) A decision requiring action by the CWA may apply either prospectively with regard to future action by the CWA or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties.

## 1. (No change.)

(d) The DMAHS shall take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by the hearing decision, unless otherwise directed in the decision, will be implemented by the CWA immediately upon receipt of the decision.

(e) Final administrative action on administrative hearing decisions, including any corrective action required by the decision, shall be implemented by the CWA within 90 days of the date of the request for a fair hearing.

## SUBCHAPTER 7. CASE RECORDS AND FILES

## 10:69-7.1 Purpose of case records

(a) The case record is the official file of forms, chronological narrative, correspondence, and other documents pertinent to the application and eligibility of the client. It constitutes a complete record of the CWA's decisions and actions about eligibility for each case. Since it is the record of information on which decisions to grant, deny, or continue Medicaid coverage in accordance with law and regulations are made, it is mandatory that a case record be established for every individual who applies for and/or receives Medicaid.

## (b) (No change.)

## (c) The case record also serves:

1. To provide the information necessary for action in conformity with all relevant legal requirements in the CWA's relationship with the client;

2. To provide an adequate and accurate source of information for the DMAHS and Federal staff for statistical studies or other research purposes that will be statistical in nature and include no beneficiary's names; and

## 3. (No change.)

## 10:69-7.3 Documentation of verification of factors of eligibility

(a) It is essential that the CWA carefully document its verification of all eligibility requirements. It is extremely important that when reference

is made to a document or source of verification, sufficient information be provided so that the document or source can be readily identified.

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

10:69-7.4 Maintenance and custody of case records

(a) (No change.)

(b) All records shall be filed in a secure and fire-resistant room. A separate file shall be maintained for each program. The CWA director may further subclassify the case records in whatever manner is best suited to local administrative use and control, provided that all such classifications are cross-indexed so that it shall be possible to locate immediately the whole of any case record either by name or registration number.

(c) All records shall be maintained in accordance with the New Jersey Division of Revenue and Enterprise Services (DORES) Records Management Services (RMS) policy (see N.J.A.C. 15:3). The RMS website is: <http://www.nj.gov/treasury/revenue/rms/index.shtml>.

10:69-7.5 Movement of case records

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

(c) No case record or official part shall be removed from the offices of the CWA except at the specific authorization of the director, deputy director, or other person specifically designated by the agency director to authorize such removal.

10:69-7.6 Transfer of case records

No case record or official part of such record shall be permanently removed from its designated filing cabinet unless and until it is transferred in its entirety to the custody of some other CWA or it comes under the provisions of N.J.A.C. 10:69-7.7.

10:69-7.7 Retention and destruction of case records

(a) Each CWA shall retain all material normally kept in the "case folder" for the time periods indicated in (b) below. At the expiration of such time period the CWA may, at its option, destroy records in accordance with (c) and (d) below, continuing to retain those portions indicated. In permanent available archives, the CWA shall retain information showing the date and manner of destruction of each "case folder" destroyed.

1. (No change.)

(b) Retention periods are as follows:

1. (No change.)

2. The following concern records of cases in which reimbursement is owing:

i.-ii. (No change.)

iii. Records in cases in which reimbursement is owing shall be retained as follows:

Case Folders

Retention Period

AFDC-related Medicaid, New Jersey Care... Special Medicaid Programs, Medically Needy, NJ FamilyCare — Children's Program, MAA, and Medicaid Only

a.-b. (No change.)

iv. (No change.)

(c) Requests for destruction of case records shall be submitted on State Form ED-6, Request and Authorization for Records Disposal, which may be obtained from the Office of Eligibility Policy, Division of Medical Assistance and Health Services. Form ED-6 will be completed as follows:

1. Request Number and Date: Each CWA shall assign its own number to each request and the date upon which it was submitted;

2. (No change.)

3. From: Provide complete address of CWA;

i.-iv. (No change.)

v. Retention Period: Complete in accordance with (b) above;

vi. Requested By: Signature of CWA director or authorized agent; and

vii. (No change.)

4. All copies of the completed Form ED-6 shall be forwarded to Disposal Requests, Department of the Treasury, Division of Revenue and Enterprise Services, PO Box 661, Trenton, NJ 08625-0661, for approval. The CWA shall not destroy any records until such approval has been received by the CWA in writing.

5. Additional information regarding records management and disposal can be found on the RMS website: <http://www.nj.gov/treasury/revenue/rms/index.shtml>.

(d) (No change.)

10:69-7.8 Agency controls for other operational procedures

(a) Each CWA director shall establish operational procedures and appropriate controls for the staff that will expedite the processing of applications and ensure maximum compliance with policy and regulations.

(b) (No change.)

SUBCHAPTER 8. OTHER GOVERNMENTAL PROGRAMS

10:69-8.2 Procedures for securing information from the Social Security Administration

(a) CWAs are required to use the Automated Benefit Information Exchange (ABIE)/Beneficiary Earnings and Data Exchange (BENDEX) and the State Data Exchange (SDX) as the primary source of verification of Social Security (RSDI) and Supplemental Security Income (SSI) benefit information.

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

10:69-8.3 Release of information by CWA to Social Security Administration (SSA)

(a) When the SSA requests information to assist in determining an applicant's eligibility for any benefits, the CWA is authorized to release such information from its records.

(b) (No change.)

10:69-8.5 Department of Labor and Workforce Development

(a) The Department of Labor and Workforce Development is responsible for the administration of Unemployment Insurance and Temporary Disability Benefits.

(b) The Department of Labor and Workforce Development maintains local offices and provides itinerant services at necessary points, which vary from time to time with economic conditions, on specified days or during specified seasons of the year. The CWA may obtain copies of a published list of the local and itinerant offices from the Department of Labor and Workforce Development, PO Box 110, Trenton, New Jersey 08625-0110.

(c) It is essential that the CWA staffs familiarize themselves with the general rules of eligibility for receipt of unemployment insurance and temporary disability benefits, payment provisions, and duration of weekly payments for persons who have been engaged in "covered" employment.

(d) The following concern the verification of the status of a claim for unemployment insurance:

1. Claims for unemployment insurance benefits are filed at the appropriate local Reemployment Call Center or online at [www.njuifile.net](http://www.njuifile.net).

2. (No change.)

3. The CWA shall obtain unemployment status verifications via access to the Department of Labor and Workforce Development's Local Office Online Payment System (LOOPS).

(e) The following concern the verification of the status of a claim for temporary disability benefits:

1.-2. (No change.)

3. If the client still has not received payment, or notice of ineligibility for benefits for a claim made under the private plan, a direct inquiry in writing shall be sent to the employer. If filed under the State plan, the CWA shall confirm the status of the claim via access to the Department of Labor and Workforce Development's Disability Automated Benefit System (DABS). In such instances, Medicaid coverage shall be continued until receipt of a payment or indefinitely if payment does not cause ineligibility for AFDC-related Medicaid.

## 10:69-8.6 Functions of the Department of Veterans Affairs

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

(c) Information concerning eligibility for benefits and services may be obtained from the following sources:

1. (No change.)

2. The New Jersey Bureau of Veterans Services, Department of Military and Veterans' Affairs, maintains service offices to which persons seeking information or wishing to file for veterans benefits or services may be referred. The Department of Military and Veterans' Affairs can be reached by calling 1-800-624-0508, at <http://www.state.nj.us/military/veterans/programs.html>, or in writing to New Jersey Department of Military and Veterans' Affairs, PO Box 340, Trenton, NJ 08625-0340. That agency can provide the addresses of the local Veterans Service Office.

## SUBCHAPTER 9. OTHER AGENCY RESPONSIBILITIES

## 10:69-9.2 Issuance of manual

(a) Rules concerning assignment and responsibility are as follows:

1. The director of the CWA shall assign copies of this chapter as an eligibility manual to administrative staff and all other income maintenance staff members working with applicants and beneficiaries and to social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its contents and applies the required policy and procedures consistently.

2. The Division of Medical Assistance and Health Services (DMAHS) shall issue updates to this chapter with revisions duly promulgated in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as well as informational materials, as necessary. It is the responsibility of each holder of the manual to maintain its accuracy by accessing updated copies of the manual in accordance with (b) below.

3. One administrative copy of obsolete material related to this manual shall be kept by the CWA.

(b) This eligibility manual is a public document. It is extremely important that all copies in use be absolutely accurate and up-to-date. A copy of this manual is maintained on the LexisNexis website, <http://www.lexisnexis.com/njoal>, and can be accessed free of charge. It is available as follows for agencies/individuals without access to the internet:

1. Copies are available in the State office of the Division of Medical Assistance and Health Services and in each CWA office for examination or review during regular office hours on regular work days.

2. (No change.)

3. Welfare, social service, and other nonprofit organizations shall be furnished with a copy of this manual at no cost by submitting an official written request to:

Division of Medical Assistance and Health Services  
Office of Legal and Regulatory Affairs  
Mail Code #26  
PO Box 712  
Trenton, NJ 08625-0712  
Fax: 1-609-588-7343

4. A current up-to-date copy of the manual or any part of it is available from the Division of Medical Assistance and Health Services at the cost of printing and mailing to anyone who requests it in writing at the address in (b)3 above.

5. All State policy directives and supplementary information shall be posted on the DMAHS website and be sent to those who have been supplied with the eligibility manual and have requested to be added to the mailing list. The mailing list shall be maintained by DMAHS.

## 10:69-9.3 CWA reporting requirements

The CWA shall provide all reports as requested by the Division of Medical Assistance and Health Services (DMAHS).

## 10:69-9.4 Issuance of identification cards (validation of eligibility)

(a) Each individual eligible for AFDC-related Medicaid will be issued a permanent, plastic identification card, the Health Benefits Identification (HBID) Card. The card is for identification purposes only; providers must verify eligibility before they provide services. In

instances in which the individual requires emergency medical services prior to receiving his or her permanent HBID Card, the eligibility office will issue an HBID Emergency Services Letter containing the pertinent information that the provider will need to confirm eligibility and submit claims for services rendered to that client (see N.J.A.C. 10:49-2.15).

(b) Upon notification from a client that his or her HBID Card has been lost or stolen, the CWA shall immediately issue a replacement card.

(c) A client who resides in a State or county institution shall be identified by the FD-34 Form, "Validation of Eligibility" (see N.J.A.C. 10:49-2.16).

## 10:69-9.7 Reporting of child abuse and neglect

CWAs are required to report known or suspected instances of child abuse and neglect of a child receiving AFDC-related Medicaid to the Division of Child Protection and Permanency. Instances of abuse and neglect involve situations where a child experiences physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment under circumstances that indicate that the child's health or welfare is threatened.

## 10:69-9.8 Confidentiality of information

(a) No member, officer, or employee of the CWA shall produce or disclose any confidential information to any person except as authorized below.

1. (No change.)

2. The CWA may disclose information concerning an applicant or eligible person to persons and agencies directly related to the administration of the AFDC-related Medicaid program. Persons and agencies directly related to program administration are those who are properly authorized to be involved in the following:

i.-iv. (No change.)

3. The CWA may release information whenever the applicant or eligible person waives confidentiality, but only to the extent authorized by the waiver.

4. If a court issues a subpoena for a case record or any other confidential information or for any agency representative to testify concerning an applicant or eligible person, the CWA shall make a statement substantially as follows:

i. (No change.)

5. In no instance is it intended that any officer or employee of the CWA place him or herself in contempt of court through the refusal to follow orders of the court. In any instance of a subpoena for case record information or for agency testimony, a complete report of the disposition of the court's request shall be entered into the case record.

6. Pertinent information and records may be released in conjunction with any administrative hearing conducted by the Office of Administrative Law regarding action or inaction of the CWA affecting an applicant's or eligible person's eligibility or entitlement under the Medicaid program.

i. The CWA may release information whenever the applicant or eligible person waives confidentiality, but only to the extent authorized by the waiver.

ii. If a court issues a subpoena for a case record or any other confidential information or for any agency representative to testify concerning an applicant or eligible person, the CWA shall make a statement substantially as follows:

(1) (No change.)

iii. In no instance is it intended that any officer or employee of the CWA place himself or herself in contempt of court through the refusal to follow orders of the court. In any instance of a subpoena for case record information or for agency testimony, a complete report of the disposition of the court's request shall be entered into the case record.

iv. Pertinent information and records may be released in conjunction with any administrative hearing conducted by the Office of Administrative Law regarding action or inaction of the CWA affecting an applicant's or eligible person's eligibility or entitlement under the NJ FamilyCare — Children's Program.



10:69-9.11 Material sent to applicants or beneficiaries of AFDC-related Medicaid program

(a) All materials distributed to program applicants or eligible persons shall:

1.-3. (No change.)

4. Identify those individuals only in their capacity with the State or the CWA.

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

(c) The CWA may distribute materials directly related to the health and welfare of program applicants and eligible persons, such as announcements of free medical examinations, availability of surplus food, and consumer protection information.

10:69-9.12 Nondiscrimination

(a) Title VI of the Federal Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 70b), the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 et seq.), and the Americans with Disabilities Act of 1990, (42 U.S.C. §§ 12101 et seq.), Section 1557 of the Affordable Care Act of 2010 (ACA), and the regulations issued thereunder by the Department of Health and Human Services (45 CFR Parts 80, 84, and 90), prohibit discrimination on the basis of race, color, sex, religion, age, national origin, or disability in the administration of any program for which Federal funds are received. Strict compliance with the provisions of these acts and any regulations based thereon is required as a condition to receive Federal funds for the assistance programs administered by the CWA.

1. The CWA shall inform all staff members of their obligations in regard to the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 1557 of the ACA of 2010, and the Americans with Disabilities Act.

2. All persons seeking medical assistance shall be informed of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 1557 of the ACA, and the Americans with Disabilities Act.

3. All persons seeking or receiving medical assistance shall be afforded an opportunity to file a complaint alleging discrimination on the basis of race, color, sex, religion, age, national origin, or disability. Such complaints may be filed directly with the Regional Manager, U.S. Department of Health and Human Services, Office of Civil Rights, Jacob Javitz Federal Building, 26 Federal Plaza, Suite 3312, New York, New York 10278, or with the Director, Division of Medical Assistance and Health Services, PO Box 712, Trenton, New Jersey 08625-0712.

4. (No change.)

5. The CWA shall afford full cooperation in the investigation of complaints of discrimination as may be requested by the Federal Department of Health and Human Services, the State Division of Medical Assistance and Health Services, or the State Division of Civil Rights.

10:69-9.13 Extent of prohibited discriminatory practices

(a) The discriminatory practices prohibited under N.J.A.C. 10:69-9.12 extend to all CWA offices.

(b) Prohibited discriminatory practices extend to services purchased or otherwise obtained by the CWA from other agencies, organizations, and institutions for beneficiaries of the program, and to the treatment of clients in facilities in which such services are provided.

1. In case of medical emergencies, the CWA is authorized to utilize the services of any medical institution for the duration of the emergency, even though such institution refuses or fails to comply with the requirements prohibiting discriminatory actions. Both the following conditions must exist:

i.-ii. (No change.)

10:69-9.14 Procedures regarding payments to vendor

(a) The CWA shall establish procedures to ensure that all vendors to whom payment is being made, other than medical services, including, but not limited to, transportation, will receive on an annual basis a copy of Form WD-1A, A Statement Concerning Obligations of Vendors.

1. The CWA shall maintain a record of those vendors who have received this form, with the date of mailing.

(b) Rules concerning the assurance of compliance by vendors are:

1. All official invoice forms of the CWA shall contain the following statement directly above the vendor's signature:

i. (No change.)

2. The CWA, in the course of regular work activities, shall seek information concerning compliance and shall instruct staff to be alert to discover instances of discrimination on the part of physicians, dentists, optometrists, pharmacists, opticians, podiatrists, and other individual vendors in New Jersey, who receive payment for services directly from the CWA on behalf of AFDC-related Medicaid applicants or beneficiaries.

3. Any evidence of discrimination by the vendors described in (b)2 above that comes to the attention of the CWA shall be reported immediately to the Director, Division of Medical Assistance and Health Services.

10:69-9.15 Eligibility fraud by applicants and beneficiaries

(a) To protect the CWA and the public, it is essential to exercise appropriate controls against the commission of fraud relating to program eligibility.

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

10:69-9.16 Criteria for identifying cases of possible fraud

(a) Fraud is defined as obtaining or attempting to obtain Medicaid coverage to which an individual is not entitled by means of willful misrepresentation or by intentional concealment of a relevant fact. There are three basic elements that must be established:

1.-2. (No change.)

3. If the CWA had known the misrepresentation or concealment, or attempt to misrepresent or conceal a relevant fact, Medicaid coverage would not have been granted.

(b) (No change.)

10:69-9.17 County welfare agency responsibility; administrative plan

(a) The role of the CWA is limited to responsibility for determining whether there is a basis in fact for believing that fraud may have been committed so that referral to the county prosecutor, other proper law enforcement official, or Division of Medical Assistance and Health Services for legal action is justified. The action taken by the law enforcement official following referral determines what further legal action shall be pursued. Whether fraud has actually occurred is a question for the courts.

1. The CWA director may utilize the power of subpoena given him or her by N.J.S.A. 44:7-20 to secure testimony and records pertinent to the investigation and needed to determine true facts.

(b) Each CWA shall develop an operational method to carry out its responsibility that is best suited to its administrative structure and to local conditions and resources. There must be clear allocation of duties and functions in the total process of including investigation, reporting, evaluation, and the decision to refer. In respect to the function of investigation, the CWA may select one or a combination of the following plans:

1. Cooperative arrangements with other county agencies:

i. The CWA may arrange for special investigation of cases of suspected fraud by another appropriate agency or official such as office of the county adjuster, the probation department, or the office of the county prosecutor, without cost to the CWA.

2. The CWA may appoint a "special investigator(s)" whose duty shall be to give special attention to case situations involving suspicion of fraud (and other related situations requiring special investigating skills), to prepare the necessary reports, and to function in a liaison capacity for the director and CWA to the law enforcement authorities. Such special investigator(s) shall have no law enforcement authority, and shall not engage in activity which is properly the responsibility of the eligibility worker.

3. The CWA may elect to have staff carry the responsibility for the necessary special investigation in instances of suspected fraud, relying upon consultation with CWA counsel for the technical aspects of establishing adequate evidence on which to base a decision.

4. Whatever administrative plan is adopted, there will be instances where discussion should be arranged with CWA counsel and/or the county prosecutor's office as to the nature and conduct of the investigation.

(c) The CWA shall file with the Division of Medical Assistance and Health Services a detailed description of the administrative plan, and shall advise the division of any subsequent proposed change in the plan before it becomes effective.

#### 10:69-9.18 Referral by the CWA in cases of suspected fraud

When the investigation of any case of suspected fraud is completed, the director of the CWA, in consultation with counsel, shall be responsible for determining whether the matter should be referred to the county prosecutor, other proper law enforcement official, and/or the Division of Medical Assistance and Health Services (DMAHS).

#### 10:69-9.19 Reports on cases involving fraudulent receipt of Medicaid coverage

(a) In cases where the CWA has completed an investigation based upon a belief that fraud has been committed, a report shall be routed through the CWA director to the Division of Medical Assistance and Health Services. The report shall be completed when the CWA determines that no fraud exists, when the case is disposed of through administrative action, or when the case is forwarded to the county prosecutor.

(b) Upon disposition of the case by law enforcement officials (county prosecutor or municipal court), a subsequent report shall be completed and routed through the CWA director to the Division of Medical Assistance and Health Services.

#### 10:69-9.20 Recovery of incorrectly paid Medicaid benefits

(a) In every fraud case, in addition to any criminal prosecution, recovery of the amount of assistance provided for medical care or supplies shall be sought. If the beneficiary is involved in a Medicaid managed care plan, the higher of the payments made by the managed care plan, or the amount expended by the Medicaid program for capitation costs shall be recovered. Recoveries of incorrect assistance by the CWAs shall be governed by N.J.A.C. 10:49-14.4(b). Recovery of civil penalties shall be pursued by DMAHS in accordance with N.J.S.A. 30:4D-17(c). The threat of prosecution should not be used as a means of effecting recovery; nor should the fact of a recovery affect the CWA decision concerning proper referral to the prosecutor. However, any recovery, or plan for recovery, should be reported to the prosecutor whenever such a referral has been made.

(b) The provision of (a) above is not intended to limit the responsibility and obligation of the CWA to seek recovery, through voluntary agreement or civil action, of funds improperly received by a client under circumstances other than fraud.

#### 10:69-9.21 Reporting criminal offenses to law enforcement authorities

(a) Investigation of new applications or investigations for redetermination of eligibility may indicate to the CWA that a crime may have been committed. Allegations of the suspected commission of a crime may also be made known to the CWA through various other sources, including, but not limited to, phone calls, written communications, or verbal communications from individuals. In matters of reporting of criminal offenses, the CWA shall, at all times, maintain full compliance with the provisions of N.J.A.C. 10:69-7, dealing with basic principles for safeguarding of information.

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

(d) When the CWA becomes aware of facts that would indicate that one of the crimes in (b) or (c) above has been or may have been committed or receives a direct allegation in any form, written, verbal, or anonymous, that such a crime has been committed, it shall proceed as follows:

1. The CWA director shall personally, and in collaboration with counsel, review whatever facts and circumstances are immediately available in order to determine whether there is suspicion that a crime was committed.

2. If the CWA director is satisfied that there is evidence to support an investigation as to whether a crime has been committed, he or she shall, after consultation with counsel, report the matter to the county

prosecutor, or to a local police department or to the State Police if so directed by the office of the prosecutor. If such matter involves suspected child abuse or neglect, it shall also be reported to the social service unit which shall contact the Division of Child Protection and Permanency (see N.J.A.C. 10:69-3.12).

3. (No change.)

4. The CWA shall cooperate fully with any subsequent investigation initiated by the law enforcement agency within the limits of this chapter. A CWA staff member may sign a written complaint only upon a written request from the law enforcement agency, provided his or her information of the facts to be stated in such complaint is based upon his or her own personal knowledge and belief.

#### 10:69-9.22 Rights of individual under investigation

(a) The CWA shall insure that an individual under investigation shall have the following rights:

1.-3. (No change.)

#### 10:69-9.23 Basis for recovery of incorrectly paid benefits for purposes other than for fraud, or third-party liability

(a) (No change.)

(b) Incorrectly paid benefits may occur through administrative error; failure of a client to inform the CWA or designee pursuant to Federal regulation of a change in income or circumstances; or when the client has received continued Medicaid coverage but has been found ineligible to receive such Medicaid coverage or part of such coverage by the fair hearing decision.

(c) The CWA or designee pursuant to Federal regulation shall seek recovery of all overpayments regardless of fault including AFDC-related Medicaid payments caused by administrative action or inaction. The CWA or designee pursuant to Federal regulation shall recover such incorrectly paid benefits in accordance with procedures set forth in this chapter.

(d) Medicaid incorrectly paid benefits to an eligible unit, all members of which are no longer receiving AFDC-related Medicaid program, shall be recovered by the CWA through a court of appropriate jurisdiction if the family does not voluntarily repay the overpayment.

(e) In locating former beneficiaries who have outstanding incorrectly paid benefits, the CWA shall use appropriate data sources such as unemployment insurance files, the Division of Taxation, the New Jersey Motor Vehicle Commission, Bendex, and other data sources relating to current or former beneficiaries.

(f) For incorrectly paid benefits occurring prior to October 1, 1981, the CWA shall recover only if the overpayment resulted from willful withholding of information by the beneficiary.

(g) The CWA may waive recovery of AFDC-related Medicaid incorrectly paid benefits if the eligible unit is no longer receiving AFDC-related Medicaid and the amount overpaid is less than \$35.00. When the amount of the incorrectly paid benefit to an eligible unit no longer receiving AFDC-related Medicaid is \$35.00 or more, the CWA may waive the recovery of the incorrectly paid benefit, if after a reasonable effort to recover the incorrectly paid benefits, the CWA determines it is no longer cost effective to continue recovery efforts. Recovery of overpayments due to fraud may not be waived regardless of the amount of incorrectly paid benefit.

1.-2. (No change.)

(h) The CWA shall not initiate or continue recovery of any outstanding incorrectly paid benefits of Medicaid coverage that occurred in another state.

### SUBCHAPTER 10. INCOME

#### 10:69-10.4 Eligible unit; all related Medicaid programs

(a) The eligible unit shall be comprised of those family members who apply for and are eligible to receive AFDC-related Medicaid program. It shall include one or more eligible children unless such child is a related Medicaid program beneficiary of SSI benefits.

1. (No change.)

2. A stepparent of the children for whom AFDC-related Medicaid program is sought may be included in the eligible unit if the provisions of N.J.A.C. 10:69-10.33 apply. If the non-needy stepparent marries the

AFDC-C related Medicaid program beneficiary parent on or after October 1, 1992, and the provisions of N.J.A.C. 10:69-3.7 apply, the stepparent and his or her natural or adoptive children, as well as the natural or adoptive AFDC-C related Medicaid program beneficiary parent, shall be excluded from the eligible unit.

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

10:69-10.5 Eligible unit; AFDC-C- and -F related Medicaid program

(a) The AFDC-C related Medicaid program shall include:

1. The natural or adoptive parent(s) of one or more of the eligible child(ren) unless the AFDC-C-related Medicaid program beneficiary parent marries on or after October 1, 1992, and is excluded from AFDC-related Medicaid program eligibility in accordance with the provisions of N.J.A.C. 10:69-10.33;

2.-4. (No change.)

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

10:69-10.12 Earned income from self-employment including provisions of personal care services

(a) (No change.)

(b) In the case of an individual who is self-employed, it may be clearly evident that the expense of producing the income exceeds the income produced. AFDC-related Medicaid program shall not be continued if such person persists in operating the business.

1. A period of up to 24 months from the start of a new business shall be considered adequate to demonstrate a new business's potential for self-support. In situations where, in the judgment of the CWA, additional time would enable the business to show a profit, the period may be extended up to 12 months.

2. (No change.)

(c) (No change.)

10:69-10.13 Earned income disregards for AFDC-related Medicaid

(a) The CWA shall disregard from the earned income of each employed individual in the eligible family, the first \$90.00 of such earnings to cover work-related expenses including, but not limited to, transportation and mandatory payroll deductions.

(b) The CWA shall disregard from the total earned income not already disregarded, an amount equal to the difference between 133 percent of the Federal poverty level (see 42 CFR 9902(2)) and the Income Standard established for the size of the family unit, in accordance with the chart at N.J.A.C. 10:69-10.3(b) as follows:

1.-2. (No change.)

(c) For applications received on and after June 15, 2002, the CWA shall disregard from the total earned income not already disregarded, the first \$30.00 and one-third of the remainder for each employed individual.

1.-5. (No change.)

(d) The CWA shall disregard from the remaining earned income, the actual costs paid for child care or for care of an incapacitated individual in the same home as the AFDC-C or-F eligible family when the circumstances described at (d)1 through 4 below exist. The amount of the disregard shall not exceed the limits as follows.

1.-4. (No change.)

(e)-(g) (No change.)

10:69-10.17 Division of Child Protection and Permanency payments for foster care

(a) Division of Child Protection and Permanency's basic monthly payments for the placement of children in foster care and the clothing allowance shall be considered as equal to the cost of providing such care and maintenance. However, when extra payment is received for special services, such additional amount shall be considered as earned income from self-employment (see N.J.A.C. 10:69-10.13).

(b) (No change.)

10:69-10.21 Contributions of support

(a) (No change.)

(b) When shelter is being provided by a legally responsible relative (LRR) who has been determined by the CWA IV-A unit to have a capacity to provide support, the actual cash value shall, whenever possible, be determined and recognized as unearned income to the

eligible unit. Where the actual value cannot be established, and is not stipulated by a court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI in N.J.A.C. 10:69-10.42(c) and shall not exceed the LRR's evaluated capacity.

(c) Non-obligatory contributions, other than occasional gifts identified in N.J.A.C. 10:69-10.22, shall be recognized as unearned income only when made in cash to one or more members of the eligible unit. This does not apply to LRRs who have an evaluated capacity to support.

10:69-10.22 Exempt income

(a) (No change.)

(b) Income shall be exempted as follows:

1. (No change.)

2. Earned income credit (EIC) payments shall be excluded;

3. Payments for child care (see N.J.A.C. 10:69-10.13);

4. Child care payments for "special circumstance" children and transportation or the cost of transportation, which is not available from any other source, to transport the "special circumstance" child to and from the child care site when it is essential for the child's physical health and safety;

5. Supplemental aid by other agencies or organizations, whether public or private, provided that:

i.-ii. (No change.)

iii. Such aid is to any undergraduate student for educational purposes;

6. Any income received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c. 81);

7. Funds received by applicants and beneficiaries through certain Federal programs shall be regarded as exempt income.

i.-vi. (No change.)

vii. Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35;

8. The value farm and garden products raised by the eligible unit for its own use is not considered income;

9. Activity support payments and one time lump sum payments associated with participation in the Early Employment Initiative (EEI) program, as set forth in N.J.A.C. 10:90-17.3; and

10. (No change.)

(c) (No change.)

10:69-10.23 Nonrecurring earned or unearned lump sum income

(a) When a beneficiary receives nonrecurring earned or unearned lump sum income, including retroactive RSDI payments and other monthly benefits, and payments in the nature of a windfall, such as inheritances and lottery winnings or personal injury and worker compensation awards, to the extent it is not earmarked and used for the purpose for which it was paid, for example, moneys for back medical bills resulting from accidents or injury, funeral and burial costs, or replacement or repair of resources, that income will be added together with all other income received that month by the eligible family after application of the disregards in this subchapter and the exemption of income in N.J.A.C. 10:69-10.22. The TANF grant shall not be considered income. No portion of lump sum or other income may be applied toward the resource limit in the month of its receipt. When this total exceeds the standard of need for the eligible family size as set forth at N.J.A.C. 10:69-10.2, the family shall be ineligible for AFDC-related Medicaid program for the number of full months derived by dividing this total income by the standard of need applicable to the eligible family. Any remaining income from this calculation is treated as if it is unearned income received in the first month following the period of ineligibility and is considered available for use at that time. SSI payments and one-time lump sum payments associated with participation in the EEI program shall not be subject to lump sum treatment.

1.-2. (No change.)

3. In the event the nonrecurring income is not reported timely, the period of ineligibility shall begin at the point the ineligibility would have occurred had the CWA had knowledge of its receipt. The amount of

Medicaid overpayment for the period of ineligibility must be established and recovery made.

4. (No change.)

5. Once established, the period of ineligibility may be reduced only in the circumstances below. It is the responsibility of the former eligible family to provide all necessary information and documentation required to make a determination to shorten the period of ineligibility. The basis for a determination to shorten the period of ineligibility shall be thoroughly documented in the case record.

i. (No change.)

ii. The period of ineligibility may be recalculated if the income used to determine such period becomes unavailable to the eligible family for reasons beyond the control of the family members. Acceptable reasons are limited to those below:

(1) The former eligible family shall thoroughly substantiate an allegation of loss or theft of part or all of the lump sum income and shall provide the CWA with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income, the CWA shall reduce the amount of the original lump sum by the amount of the loss or theft. Loss of the income, for the purposes of this section, shall include circumstances where a member of the former eligible family has absconded with the funds.

(2) (No change.)

iii. (No change.)

6. (No change.)

(b) For the AFDC-related program, lump sum income and the resulting period of ineligibility shall be treated in accordance with the following provisions:

1. Only those individuals actually receiving AFDC-related Medicaid or Medicaid Special are considered to be AFDC-related Medicaid program beneficiaries. Any individual receiving Medicaid Only, New Jersey Care ... Special Medicaid programs, Medicaid Special, NJ FamilyCare — Children's Program, or any other medical coverage is not considered an AFDC-related Medicaid program beneficiary. Therefore, a period of ineligibility imposed on a beneficiary of Medicaid Only or Medicaid Special benefits due to the receipt of lump sum income cannot be carried over into the AFDC-related Medicaid program, and cannot cause ineligibility for AFDC-related Medicaid program benefits.

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

#### 10:69-10.24 Treatment of support income and payments

(a) The first \$50.00 of any child support payments received on behalf of a dependent child or children by any family applying for or eligible for AFDC-related Medicaid program shall be disregarded. Such child support payments shall include disregarded child support (DCS) payments paid the family through the child support and paternity process and direct support payments received by the eligible unit that represent a current monthly support obligation. These moneys are disregarded in determination of initial eligibility, maximum income eligibility, and the prospective needs test. The total amount of child support disregarded shall not exceed \$50.00 per month per eligible unit.

(b) Child support and alimony paid by any member of the eligible unit to individuals not living in the same household shall be deducted from the eligible unit's income in the determination of eligibility for AFDC-related Medicaid program benefits.

#### 10:69-10.25 Prospective budgeting

(a) (No change.)

(b) AFDC-related Medicaid program eligibility shall be based on a best estimate of the family's income and other circumstances that will exist until the next reported significant change in circumstance or redetermination, whichever is first. The best estimate of income is based on the family's and the agency's reasonable expectations and knowledge of current, past, and future circumstances. In determining the best estimate of income, the CWA shall use income projections and the concept of "significant and non-significant" income and circumstance changes. Verification of the income used shall be clearly documented in the case record.

1. For purposes of determining the family's eligibility, the CWA shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application,

redetermination, or change in circumstance based on the submission of documentation of income from the employer that is representative of a typical full pay period from each employer who provides wages to the applicant and/or the members of the eligible unit as defined at N.J.A.C. 10:69-3.7 and 3.8. Likewise, all unearned income received within this four-week period is also determined. All earned and unearned income received within this four week period shall be verified and documented in the case record, even if all four weeks of income are not ultimately used to calculate the best estimate.

2. The receipt of income generally occurs weekly, biweekly, or on a semi-monthly basis. The CWA shall convert the reported income amount to a gross monthly amount by multiplying the reported income amount by the appropriate conversion factor as follows: weekly amounts by 4.333; biweekly amounts by 2.167; and semi-monthly amounts by two.

(c) Significant income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible unit size that are expected to continue into the future. Examples of significant changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a job or a source of unearned income; permanent or long term changes in hours worked and/or rate of pay; permanent or long term changes in unearned income; changing from part-time to full-time employment (or vice versa); promotion or demotion; beginning to work piece work or regular overtime (or vice versa); changing employers; short term plant closings (such as one or more weeks); periods of sick leave without compensation (more than one day); or addition of or loss of an eligible family member.

1. The CWA shall use information about past significant changes of a continuous nature in estimating future income. The date of an anticipated significant income/circumstance change may be used to schedule a desk review to coincide with the expected date of the change, in order to recalculate the best estimate of income.

2. Families shall be required to report all significant changes in income and circumstances that could affect eligibility as soon as possible, but in no event later than 10 business days of the date the change happened. The CWA shall initiate appropriate action on the reported change within 10 business days of receiving the report of the change, subject to timely and/or adequate notice requirements.

(d) (No change.)

(e) The following procedures are to be followed in determining the best estimate of income:

1.-2. (No change.)

3. Determination of any significant changes that are expected in the future. If a significant change is expected and the exact nature of the change is known, the CWA shall use the information in determining the best estimate of income and shall require that the family provide the required verification subsequent to the change to determine if the best estimate was correct or needs to be recalculated. If the exact nature of the anticipated change is not known, then a desk review can be scheduled to coincide with the expected date of change and/or the client advised to report the change within 10 business days of the date of change.

4. (No change in text.)

(f) If there are no significant changes in circumstances, a new best estimate of income shall, at a minimum, be completed at the time of the next redetermination of eligibility.

1. (No change.)

2. A significant change in circumstances of the eligible family may result in loss of eligibility. The termination of eligibility shall be effective no later than the first day of the month following the month in which the significant change in circumstance occurred, or 10 business days after the change is reported to the CWA, whichever is later. Termination of eligibility shall be subject to timely and adequate notice and meet the requirements of N.J.A.C. 10:69-6.

#### 10:69-10.27 Income from eligible and noneligible individuals in the household

(a) (No change.)

(b) A noneligible individual is neither sanctioned nor required by law or regulation to be included in the eligible unit. When a noneligible individual is living in the household of an eligible unit, the income from that living arrangement to the eligible unit shall be treated in accordance with N.J.A.C. 10:69-10.3, if extensive personal services are provided, or N.J.A.C. 10:69-10.20. If the noneligible individual is a non-qualified alien parent (see N.J.A.C. 10:69-3.9), his or her income shall be considered available to the eligible unit and shall be calculated in accordance with the step-parent deeming formula in N.J.A.C. 10:69-10.33.

#### 10:69-10.29 Needs of certain children temporarily in the home

When an institutionalized child is on temporary visit home (and an AFDC-related Medicaid program eligible case is not in existence), he or she may be eligible for General Assistance if the visit does not exceed 21 consecutive days. If the length of such child's visit is expected to exceed 21 days, the CWA shall process an AFDC-related Medicaid program application and evaluate the family's eligibility for AFDC-related Medicaid program for the duration of the visit.

#### 10:69-10.30 Initial eligibility and application of disregards

(a) On all new applications, reapplications, or reopened applications, initial financial eligibility must be established before an HBID Card can be issued.

1. For AFDC-C- and F-related Medicaid cases, when the eligible family received AFDC-related Medicaid program assistance in one of the four months prior to the month of application, all earned income disregards at N.J.A.C. 10:69-10.13 shall apply to the determination of initial eligibility. For AFDC-C- and AFDC-F-related Medicaid cases that have not received AFDC-related Medicaid benefits in one of the four months prior to the month of application, the earned income disregards apply, except that the disregard of the first \$30.00 of the remaining income plus one-third of the remainder does not apply. If total income equals or exceeds the income standard in this subchapter for the eligible family size, the family is ineligible for Medicaid. In the computation of initial Medicaid eligibility, application of the \$30.00 and one-third earned income disregards is subject to the limitations at N.J.A.C. 10:69-10.13.

2. (No change.)

#### 10:69-10.39 Calculation of contributions of legally responsible relatives

(a) The CWA shall determine what contribution, whether in cash or kind, the relative is currently contributing or is willing to contribute toward the support of the eligibility unit.

1. (No change.)

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

(f) The CWA IV-D unit shall determine the capacity of an absent parent to support his or her dependent children.

#### 10:69-10.42 Acceptable forms of LRR support

(a) The LRR may fulfill his or her obligation to support the person or persons for whom he or she is responsible by contributing one or more of the following:

1.-2. (No change.)

3. Any other item determined to be mutually satisfactory to the client and CWA for which equitable monetary value can be clearly established.

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

#### 10:69-10.43 Eligibility of sponsored aliens and deeming of sponsor's income to a sponsored alien

(a) (No change.)

(b) The amount of income of a sponsor that shall be deemed to be the unearned income of an alien shall be determined as follows:

1.-2. (No change.)

3. The amount determined in (b)2 above shall be reduced by the following:

i. The appropriate amount from the standard of need (N.J.A.C. 10:69-10.2) for the sponsor, spouse, and other persons residing in his or her household who are or could be claimed by the sponsor as dependents for determination of Federal personal income tax liability and who are not beneficiaries of AFDC-related Medicaid;

ii.-iii. (No change.)

4. (No change.)

(c) (No change.)

(d) For the period of alien sponsor deeming, the sponsored alien who is not exempt from deeming under (a)1 above shall provide the CWA with any information and documentation necessary to determine the income of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

1. If the alien's circumstances change during the deeming period such that the alien is no longer exempt from or subject to deeming in accordance with (a)1i through vi above, the CWA shall reflect the resulting change in unearned income in the eligibility determination.

2.-3. (No change.)

(e) (No change.)

(f) Any individual sponsor of an alien, and the alien, shall be jointly and severally liable for any incorrectly paid AFDC-Medicaid benefits made to the alien during the alien sponsored deeming period that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (f)1 below.

1. When a sponsor is found to have good cause or to be without fault for not providing information to the CWA, the sponsor shall not be held liable for a recovery of incorrectly paid benefits.

i. (No change.)

2. (No change.)

### SUBCHAPTER 12. PRESUMPTIVE ELIGIBILITY FOR AFDC-RELATED MEDICAID CHILDREN

#### 10:69-12.1 Scope

This subchapter describes presumptive eligibility for children up to the age of 19 who otherwise meet the eligibility requirements for AFDC-related Medicaid or Medicaid Special. The presumptive eligibility determination makes it possible for a child or the children to be covered by AFDC-related Medicaid or Medicaid Special services from a Medicaid provider for a temporary period prior to application for AFDC-related Medicaid or Medicaid Special benefits and while an application for these benefits is being processed by the CWA.

#### 10:69-12.2 Period of presumptive eligibility

(a) (No change.)

(b) The period of presumptive eligibility shall terminate:

1. (No change.)

2. If the child, if appropriate, the child's parent, guardian, caretaker relative, or sponsoring adult fails to file an application with the CWA, on the last day of the month subsequent to the month in which the child(ren) was determined presumptively eligible.

#### 10:69-12.4 Presumptive eligibility processing performed by the presumptive eligibility determination entity

(a) From preliminary information provided by the child, if appropriate, a parent, guardian, caretaker relative, or sponsoring adult, the qualified presumptive eligibility entity shall determine if the child meets the eligibility criteria of this subchapter. The qualified presumptive eligibility entity shall obtain sufficient information from the child, if appropriate, parent, guardian, caretaker relative, or sponsoring adult by having the child, if appropriate, parent, guardian, caretaker relative, or sponsoring adult to complete the one-page presumptive eligibility (PE) application. For purposes of the presumptive eligibility determination, the approved presumptive eligibility entity shall request from the child, if appropriate, parent, guardian, caretaker relative, or sponsoring adult only that information necessary to determine the child's presumptive eligibility or ineligibility. The approved presumptive eligibility determination entity shall make the determination of eligibility based solely on information obtained in the interview and shall not require any verification or documentation of the presumptive eligibility applicant's statements.

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

1. Complete and sign the one-page presumptive eligibility (PE) application and forward the original of the application to the Division of

Medical Assistance and Health Services within two working days of the date the presumptive eligibility determination was made;

2. Forward a copy of the completed application and a referral, if appropriate, to the CWA of the child’s county of residence;

3. Inform the child, if appropriate, parent, guardian, caretaker relative, or sponsoring adult that they must contact the CWA in order to set up an appointment to complete the application process for AFDC-related Medicaid or Medicaid Special benefits;

4. Give the child, if the child has completed the application for presumptive eligibility, parent, guardian, caretaker relative, or sponsoring adult of the presumptively eligible child a copy of both the application and any referral; and

5. Advise the child, if the child has completed the application for presumptive eligibility, parent, guardian, caretaker relative, or sponsoring adult of the presumptively eligible child, in writing, of the address and telephone number of the appropriate CWA.

(c) For any child for whom the approved presumptive eligibility determination entity is unable to determine presumptive eligibility, or who is ineligible under the criteria and standards of this subchapter or any other Division rules that apply to children, the approved presumptive eligibility determination entity shall refer the child to the appropriate eligibility determination agency for evaluation of potential eligibility for any other Medicaid or NJ FamilyCare — Children’s Program entitlement. The address and telephone number of the appropriate eligibility determination agency shall be provided, in writing, to the child, if appropriate, parent, guardian, caretaker relative, or sponsoring adult of the child.

10:69-12.5 Presumptive eligibility processing performed by the Division of Medical Assistance and Health Services

(a) Upon receipt of a properly completed application from the approved presumptive eligibility determination entity, Division staff shall:

1.-2. (No change.)

3. Issue a Health Benefits Identification (HBID) Card; and

4. Notify the approved presumptive eligibility determination agency and the appropriate CWA of the presumptive eligibility identification number assigned to the beneficiary.

10:69-12.6 Presumptive eligibility processing performed by the county welfare agency (CWA)

(a) Upon receipt of the presumptive eligibility application from the qualified presumptive eligibility determination entity, the CWA shall check the Medicaid, Medically Needy, and NJ FamilyCare — Children’s Program Eligibility database for existing eligibility. If the child is receiving Medicaid or NJ FamilyCare — Children’s Program benefits, no further action shall be required by the CWA.

(b) If the child is not currently receiving Medicaid or NJ FamilyCare — Children’s Program benefits, the CWA shall, notwithstanding the application disposition standards in N.J.A.C. 10:69-2.1, arrive at a case disposition within the presumptive eligibility period.

1. If the time specified in N.J.A.C. 10:69-12.2(b)2 has elapsed without a determination being made by the CWA, the CWA shall notify the Division of Medical Assistance and Health Services of any such delay. The Division shall continue the child’s presumptive eligibility until a final determination is made by the CWA.

i. The CWA shall also provide the individual applying on the child’s behalf with written notification of the delay prior to the expiration of the presumptive eligibility period, of the specific reasons for the delay. See N.J.A.C. 10:69-12.8(b) for the requirements related to the applicant’s rights to a fair hearing due to the delay.

(c) In the case of a presumptively eligible child who is determined ineligible for AFDC-related Medicaid or Medicaid Special within the presumptive eligibility period, the child’s eligibility shall terminate on the date of the eligibility determination. If the child is ineligible for AFDC-related Medicaid, Medicaid Special, or any other Medicaid program, the CWA shall provide the applicant with a written notice of such denial and the reasons why, as set forth in N.J.A.C. 10:69-12.8. If appropriate, the CWA shall also refer the child to NJ FamilyCare — Children’s Program for an application for benefits.

10:69-12.7 Responsibility of the applicant

The child, if appropriate, parent, guardian, or caretaker of a presumptively eligible child shall contact the CWA during the presumptive eligibility period so that a face-to-face interview can be scheduled. As part of the eligibility determination process for AFDC-related Medicaid or Medicaid Special, the parent, guardian, or caretaker of a presumptively eligible child shall be interviewed by the CWA staff, complete any forms required as a part of the application process, and assist the CWA in securing evidence that verifies eligibility.

10:69-12.8 Notification and fair hearing rights

(a) For a presumptively eligible child who is subsequently determined ineligible for AFDC-related Medicaid benefits, Medicaid Special benefits, or any other Medicaid or NJ FamilyCare — Children’s Program benefits program, the CWA:

1.-2. (No change.)

(b) For a presumptively eligible child whose eligibility for AFDC-related Medicaid or Medicaid Special has not yet been determined within the presumptive eligibility period, in accordance with N.J.A.C. 10:69-2.15, the CWA shall provide the child, if appropriate, parent, guardian, or caretaker relative 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 AFDC-related Medicaid or Medicaid Special application processing. The presumptively eligible beneficiary shall be entitled to a fair hearing based on the CWA’s failure to determine the child’s AFDC-related Medicaid or Medicaid Special eligibility or ineligibility within the application processing period.

(c) (No change.)

10:69-12.10 Limitation on number of presumptive eligibility periods

All beneficiaries of presumptive eligibility for children who make an application for presumptive eligibility benefits for any Medicaid or NJ FamilyCare-Children’s Program shall be limited to one continuous presumptive eligibility period during the year, which shall be counted from the first day the applicant initially received presumptive eligibility.

(a)

**DIVISION OF AGING SERVICES  
OFFICE OF AREA AGENCY ON AGING  
ADMINISTRATION**

**Notice of Readoption  
Planning and Service Areas and Area Agencies on  
Aging**

**Readoption: N.J.A.C. 10:165**

Authority: N.J.S.A. 40:23-6.8 and 6.44; 42 U.S.C. §§ 3001 et seq.; and 42 CFR 1321.

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

Effective Date: October 31, 2017.

New Expiration Date: October 31, 2024.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:165 were to expire on March 23, 2018. N.J.A.C. 10:165 establishes the procedures for creating planning and service areas as required pursuant to the Older Americans Act of 1965 (the Act), 42 U.S.C. §§ 3001 et seq., for the State to obtain funding under the Act in order to administer and establish a broad network of services for older adults. The rules cover the designation and revocation of designation of a public or private nonprofit agency or organization as an Area Agency on Aging for each planning and service area. The Division of Aging Services, created pursuant to N.J.S.A. 30:1A-14 has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1),