

**HUMAN SERVICES**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Hospice Services Manual**

**Readoption with Amendments: N.J.A.C. 10:53A**

Proposed: August 17, 2015, at 47 N.J.R. 2044(a).

Adopted: November 23, 2015, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: December 21, 2015, as R.2016 d.007, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Agency Control Number: 15-A-02.

Effective Date: December 21, 2015, Readoption;

January 19, 2016, Amendments.

Expiration Date: December 21, 2022.

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

**No comments were received.**

**Summary** of Agency-Initiated Changes:

Minor amendments intended to make technical corrections to the text are being made upon adoption.

Throughout the chapter, the name of the “Department of Health and Senior Services (DHSS)” is being changed to the “Department of Health (DOH)” to reflect the current name of this department.

Throughout the chapter, the name of the “county boards of social services (CBOSS)” is being changed to “county welfare agencies (CWA)” to reflect the current name of these agencies.

Throughout the chapter, the name of the “Division of Youth and Family Services” is being changed to the “Division of Child Protection and Permanency” to reflect the current name of this division.

Throughout the chapter, including Appendix B, the name of the Medicaid/NJ FamilyCare fiscal agent is being changed from “Unisys” to “Molina Medicaid Systems” to reflect the name of the current fiscal agent.

Pursuant to N.J.A.C. 1:30-6.3, these agency-initiated changes are not considered to be substantial because they make technical corrections to the existing text and do not change

the scope or purpose of the rules as originally proposed. Therefore, no additional public notice or comment period is required.

### **Federal Standards Statement**

The rules readopted with amendments do not exceed current Federal law or regulations related to the provision of hospice services. The Federal Medicaid program at 42 U.S.C. §1396d(o) allows states to cover hospice services. Section 1905(o)(1)(A) of the Social Security Act defines coverage of hospice care as described at Section 1861(dd)(1) of the Social Security Act.

Title XXI of the Social Security Act allows states to establish a children's health insurance program for targeted low-income children. New Jersey elected this option through implementation of the NJ FamilyCare children's program. Section 2103, 42 U.S.C. § 1397cc, provides broad coverage guidelines for the program. Hospice services are provided to beneficiaries in the NJ FamilyCare children's program in accordance with section 2110(a)(23) of the Social Security Act.

The Department has reviewed the applicable Federal statute and regulations and that review indicates that the rules readopted with amendments do not exceed Federal standards.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:53A.

**Full text** of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

SUBCHAPTER 1. GENERAL PROVISIONS

10:53A-1.2 Definitions

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

. . .

**\*“DCP&P” means the Division of Child Protection and Permanency within the New Jersey Department of Children and Families.\***

\*[“DHSS” means the New Jersey Department of Health and Senior Services.]\*

. . .

**\*“DOH” means the New Jersey Department of Health.\***

. . .

"Eligibility determining agency" means the agency responsible for determining a beneficiary's financial eligibility for hospice services. These agencies include the medical assistance customer centers, the county \*[boards of social services]\* **\*welfare agencies\***

and the Division of \*[Youth and Family Services]\* **\*Child Protection and Permanency\***. These agencies determine financial eligibility after medical necessity has been certified. See N.J.A.C. 10:53A-3 for details.

. . .

## SUBCHAPTER 2. PROVIDER REQUIREMENTS

### 10:53A-2.1 Hospice enrollment requirements and billing processes

(a) To be approved by the Division as a hospice provider, a hospice must:

1. – 2. (No change.)

3. Complete and submit the Medicaid "Provider Application" (FD-20); "Ownership and Controlling Interest Statement" (CMS-1513); and the "Medicaid Provider Agreement" (FD-62).

i. Documents specific to provider enrollment, referenced in (a)3 above, are located as Forms #8, #9, and #10 in the Appendix of the Administration chapter (N.J.A.C. 10:49--Appendix), and may be obtained from and submitted to:

\*[Unisys Corporation]\* **\*Molina Medicaid Solutions\***

Provider Enrollment

PO Box 4804

Trenton, New Jersey 08650-4804

ii. Hospice provider agreements are approved by *\*[the]\**:

*\*[Unisys Corporation]\** **\*Molina Medicaid Solutions\***

Provider Enrollment

PO Box 4804

Trenton, New Jersey 08650-4804

iii. (No change.)

(b) – (f) (No change.)

#### 10:53A-2.2 Changing from one hospice to another

(a) In order for a hospice beneficiary to change hospices, the hospice policies and procedures listed below shall be followed:

1. – 2. (No change.)

3. The original hospice of enrollment and the new hospice must send the Hospice Eligibility Form, FD-383 to the medical assistance customer center (MACC), county *\*[board of social services (CBOSS)]\** **\*welfare agency (CWA)\***, or *\*[Division of Youth and Family Services (DYFS)]\**, as applicable, **\*Division of Child Protection and Permanency (DCP&P)\*** in order to change providers. (See Form #6, the Hospice Eligibility Form, FD-383, in the Appendix in this chapter, incorporated herein by

reference and N.J.A.C. 10:53A-3.2 for the policy for medical and financial eligibility for Medicaid/NJ FamilyCare FFS\*)\*.

10:53A-2.5 Administrative policy for admission and discharge from room and board services in a nursing facility

(a) If a beneficiary of hospice services is admitted to a nursing facility (NF) from any location, or is changed from nursing facility status to hospice status (while residing in a nursing facility), or is discharged from the hospice or dies, the NF shall submit to the \*[CBOSS]\* **CWA** and the \*[DHSS]\* **DOH** field office, a completed Notification from Long-Term Care Facility of Admission or Termination of a Medicaid Patient LTC-2 (Form #9 in the Appendix, incorporated herein by reference) to prompt a change in the beneficiary's status. For SSI beneficiaries, the hospice shall be responsible for notifying the MACC of the beneficiary's death or discharge from the NF by completing FD-383 (Appendix Form #6). The MACC will be responsible for notifying the Social Security Administration of the beneficiary's change in status.

(b) (No change.)

### SUBCHAPTER 3. BENEFICIARY REQUIREMENTS

### 10:53A-3.1 Eligibility for covered hospice services

(a) (No change.)

(b) In order to receive hospice services, an applicant must be eligible for Medicaid/NJ FamilyCare FFS either in the community or in an institution. Additionally, an applicant is eligible for hospice services in the community if he or she would be eligible for Medicaid if he or she were institutionalized. Eligibility rules are found at N.J.A.C. 10:71, 10:72, and 10:78, incorporated herein by reference. Applicants eligible only for the Medically Needy component of the New Jersey Medicaid program are not eligible for hospice services under the Medicaid State Plan benefit.

1. (No change.)

2. Applicants not already eligible for Medicaid/NJ FamilyCare FFS but who express interest in hospice services should be referred to the county \*[board of social services]\* **\*welfare agency\*** for a determination of eligibility. Applicants already residing in a nursing facility should be referred to the county \*[board of social services]\* **\*welfare agency\*** in which the facility is located. Applicants in the community or waiting for placement in a nursing home should be referred to the county \*[board of social services]\* **\*welfare agency\*** in their county of residence.

3. (No change.)

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

10:53A-3.2 Application procedure for medical and financial eligibility for hospice services

(a) The application procedure for completion of the medical criteria for receiving hospice services is as follows:

1. – 2. (No change.)

3. For those cases in which the disability determination for Medicaid eligibility is within the jurisdiction of the Disability Review Section, Division of Medical Assistance and Health Services, the determination of disability for the first six months of hospice services will be based solely on the physician's certification of terminal illness. (See also N.J.A.C. 10:71-3.11 through 3.13).

i. To ensure the continuity of hospice services after six months, the agency responsible for the eligibility determination (that is, the county \*[board of social services (CBOSS)]\* **\*welfare agency (CWA)\***), shall inform the Disability Review Section of the beneficiary's eligibility for hospice services based upon the physician's certification of terminal illness and the determination of financial eligibility.

ii. (No change.)

(b) The application procedure for financial eligibility is as follows:

1. After medical eligibility has been determined, all applicants (whether previously eligible for Medicaid/NJ FamilyCare FFS or not) should be referred to the \*[CBOSS]\*

**\*CWA\***, **\*[DYFS]\* \*DCP&P,\*** or the MACC, as applicable, for hospice financial eligibility processing. If the applicant's Medicaid/NJ FamilyCare FFS eligibility status has not been established, is not known, or is uncertain, the hospice agency shall contact the MACC to determine where to refer the potential applicant.

2. – 6. (No change.)

7. All other applicants for room and board services, including those who would lose SSI because of monthly income shall be referred to the **\*[CBOSS]\* \*CWA\***. For individuals determined eligible, see (b)2 above for processing responsibilities.

(c) Rules for retroactive Medicaid/NJ FamilyCare FFS eligibility in N.J.A.C. 10:49, Administration, apply to those beneficiaries eligible for Medicaid/NJ FamilyCare FFS prior to their Medicaid/NJ FamilyCare FFS application for hospice. In addition, the following retroactive eligibility rule applies:

1. No retroactive eligibility payment will be authorized for hospice services prior to the date the Election of Hospice Benefit Statement, FD-378 is signed. Retroactive eligibility for hospice services may be established for up to three months prior to Medicaid eligibility provided the Election of Benefit Statement, FD-378 had been signed. Such cases shall be referred to the following addresses for determination of retroactive eligibility:

i. – ii. (No change.)

iii. For children in foster care; the Division of **\*[Youth and Family Services]\***

**\*Child Protection and Permanency (DCP&P)\*** district office.

2. (No change.)

(d) – (g) (No change.)

#### 10:53A-3.3 Benefit periods

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

(d) Revocation of election of hospice services shall be as follows:

1. - 2. (No change.)

3. A new Election of Hospice Benefits Statement, FD-378 is required to be filed following a break or revocation of hospice service.

i.-ii. (No change.)

iii. The hospice shall immediately notify the agency that determined hospice eligibility (either \*[CBOSS]\* **\*CWA\***, \*[DYFS]\* **\*DCP&P\***, or the MACC) of the revocation of hospice, verbally if possible, and also by filling out and submitting the Hospice Eligibility Form, FD-383 (5/01) to the eligibility source (\*[CBOSS]\* **\*CWA\***, MACC or \*[DYFS]\* **\*DCP&P\***, as applicable) so that the beneficiary's hospice eligibility may be terminated. The hospice shall also fill out the Termination of Hospice Benefits, FD-382 (Form #5 in the Appendix, incorporated herein by reference) and retain this form in the beneficiary's medical record.

(e) (No change.)

(f) When a hospice beneficiary residing in a nursing facility revokes the hospice benefits and returns to the status of a patient of the NF, the hospice shall proceed as follows:

1. The Hospice Eligibility Form, FD-383 shall be completed and submitted to the eligibility determining agency after the beneficiary has signed the Revocation of Hospice Benefits, FD-381 form indicating he or she has revoked the Medicaid/NJ FamilyCare FFS hospice benefit.

i.-ii. (No change.)

iii. For children in foster care, the hospice shall submit the FD-383 to the Division of \*[Youth and Family Services]\* **\*Child Protection and Permanency\*** district office.

2. (No change.)

#### SUBCHAPTER 4. BASIS OF PAYMENT

##### 10:53A-4.1 Post-eligibility treatment of income

(a) (No change.)

(b) For a beneficiary who is residing in a nursing facility and receiving hospice under Medicaid/NJ FamilyCare FFS, payment to the hospice for room and board services shall be reduced by the beneficiary's available income. Available income is that amount, which remains after deducting certain amounts from the beneficiary's gross income, as determined in accordance with *[the]* N.J.A.C. 10:71.

1. Instructions for the use of the Statement of Available Income for Medicaid Payment PR-1 Form #10 in the Appendix, incorporated herein by reference, are as follows:

i. (No change.)

ii. The Statement of Available Income for Medicaid Payment PR-1 is completed by the *[CBOSS]* **CWA** on each non-SSI Medicaid/NJ FamilyCare FFS beneficiary that receives hospice services, who is a hospice beneficiary residing in the NF.

(1) - (5) (No change.)

(c) Regarding adjustments to the PR-1, the *[CBOSS]* **CWA** is required to report all changes of income on an amended PR-1 to the hospice.

1. (No change.)

2. The beneficiary and/or the family are required to report all changes of available income to the *[CBOSS]* **CWA**. Additionally, the hospice should report any changes in financial circumstances to the *[CBOSS]* **CWA**. For those changes which impact on available income, a new PR-1 form must be generated by the *[CBOSS]* **CWA**, indicating the month for which the change is effective.

3.-4. (No change.)

(d) The hospice shall receive the PR-1 completed by the \*[CBOSS]\* **\*CWA\*** according to the following instructions for when the available income is applied: For any full or part of a calendar month in hospice care status, all available income shown on the PR-1 form shall be applied to the cost of the care except as indicated in (d)1 through 4 below.

1. The instructions in this paragraph apply on admission from a nursing facility. For the beneficiary who is admitted to hospice care status from an NF during a given calendar month, the available income may have already been utilized by the NF to offset the cost of care in the same month of admission to hospice care status. Thus, no income is applicable to the hospice for the first calendar month. This applies only if it is a partial calendar month of hospice room and board services. No new PR-1 form is generated by the \*[CBOSS]\* **\*CWA\*** but a copy of the PR-1 form must be obtained from the NF and kept in the patient's record. The hospice must certify to this fact in the beneficiary's billing record, and in the "REMARKS" area of the claim form with the following statement:

"INCOME APPLIED TO THE NF COST OF CARE FOR

(ADD THE MONTH AND YEAR TO WHICH THE COST IS APPLIED)"

The fiscal agent shall deduct the PR-1 amount from the first claim submitted for a beneficiary by either an NF or hospice provider for any calendar month. For example, when the first claim received by the fiscal agent is submitted by a hospice for services provided in an NF, the PR-1 amount will be applied to the fullest extent possible. PR-1

amounts not exhausted by hospice claims for NF room and board services for a beneficiary for any given month will be applied to NF claims for the same beneficiary for the same calendar month and vice versa.

2. The instructions in this paragraph apply on admission from the community. For a hospice beneficiary admitted from the community, an exemption for verified living expenses is permitted in computing available income. An amended PR-1 form shall be generated from the \*[CBOSS]\* **\*CWA\*** indicating the adjusted amount to be deducted from the hospice per diem charge for that month. Under no circumstances must the requested exemption exceed the verified living expenses. (This deduction is not applicable for hospice beneficiaries who are returning to hospice care from the hospital.)

3. (No change.)

4. The instructions for completing the PR-1 form when the beneficiary has been discharged or has died, are as follows:

i. (No change.)

ii. For the hospice beneficiary who is discharged to the community, the amount of available income may be reduced by an amount to cover anticipated living expenses. However, this must be reflected on the PR-1 form by the \*[CBOSS]\* **\*CWA\***. When the PR-1 form does not reflect the reduction, contact the \*[CBOSS]\* **\*CWA\*** to effect the change.

iii. – iv. (No change.)

v. For the hospice beneficiary who is admitted to nursing facility care (in the same or in a different NF) after being discharged from the hospice, the hospice

shall notify the NF of the amount of the patient's available income that was applied to the hospice's room and board bill in the discharge month, so that the NF may accurately reflect the balance amount of the NF admission month billing. The following is directed to the hospice for informational purposes only: The nursing facility will also complete an LTC-2 form and attach a copy of the CMS 1500 claim (copy only to \*[CBOSS]\* **CWA**) to notify the \*[CBOSS]\* **CWA**, MACC, and the Department of Health \*[and Senior Services,] Long-Term Care Field Office of the admission of the hospice patient from hospice care to NF care. The amount of the patient's available income that was applied to the hospice room and board care should be calculated on the CMS 1500 claim form so that a new PR-1 form can be issued for the month of admission to the NF.

#### 10:53A-4.2 Basis of payment--hospice providers

(a) – (b) (No change.)

(c) In addition to the per diem rates listed in (a) above, the following rates may be reimbursed according to the special circumstances listed below:

1. The room and board rate is reimbursed on a per diem basis for hospice services provided to Medicaid/NJ FamilyCare FFS hospice beneficiaries at the specific Medicaid participating NF where the hospice beneficiary is residing. This rate may be reimbursed

to the hospice in addition to the rate for routine home care or continuous home care. (Note: The Medicaid/NJ FamilyCare FFS hospice beneficiary residing in a NF is not a beneficiary of the nursing facility (NF) but a hospice beneficiary.)

i. The room and board rate is calculated at 95 percent of the approved Medicaid NF per diem rate (institutionally specific) effective at the time services are provided, and excluding retroactive rate adjustments, retroactive add-ons and special program rates for private and county nursing facilities. The "approved Medicaid NF per diem rate effective at the time services are provided," means the rate that was effective for the date of service, and shall not include any subsequent retroactive rate adjustments made between the date of service and the date of claim submission. After the NF's room and board rate is calculated, the patient's total available income shall be deducted to determine the rate billed to the Medicaid program. The NF contracts with the hospice to accept the beneficiary based on actual room and board components provided to the beneficiary by the NF. The provider number and name of the nursing facility where the beneficiary resides and with whom the hospice contracts must be placed in the "REMARKS" area of the CMS 1500 claim.

(1) The calculated rate used by the hospice as the per diem room and board rate may be obtained from:

Department of Health \*[and Senior Services]\*

Division of Senior Benefits and Utilization

Office of Nursing Facility Rate Setting and Reimbursement

PO Box 715

Trenton, New Jersey 08625

ii. (No change.)

(d) - (j) (No change.)

10:53A-4.5 Submitting claims for payment

(a) (No change.)

(b) Documents needed specifically for the administration of the Hospice Care Program are Forms #1 through #10 located in the Appendix at the end of this chapter and may be obtained by writing to the following address:

\*[Division of Medical Assistance and Health Services

General Services

Attention: Forms

PO Box 712, Mail Code #50

Trenton, New Jersey 08625-0712

(Fax: 609-584-4383)]\*

**\*Molina Medicaid Solutions**

**Provider Enrollment**

**PO Box 4804**

**Trenton, New Jersey 08650-4804**

or forms can be downloaded from Molina's website at: <https://www.njmmis.com>.\*

APPENDIX B

FISCAL AGENT BILLING SUPPLEMENT

AGENCY NOTE: The Fiscal Agent Billing Supplement is appended as a part of this chapter but is not reproduced in the New Jersey Administrative Code. The Fiscal Agent Billing Supplement can be downloaded free of charge from: [www.njmmis.com](http://www.njmmis.com). When revisions are made to the Fiscal Agent Billing Supplement, a revised version will be posted on [www.njmmis.com](http://www.njmmis.com) and copies will be filed with the Office of Administrative Law. If you do not have access to the internet and require a copy of the Fiscal Agent Billing Supplement, write to:

\*[Unisys Corporation]\* **\*Molina Medicaid Solutions\***

PO Box 4801

Trenton, New Jersey

08650-4801

or contact:

Office of Administrative Law

Quakerbridge Plaza, Building 9

PO Box 049

Trenton, New Jersey

08625-0049