

HUMAN SERVICES

CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND COMMISSION

Catastrophic Illness in Children Relief Fund Program

Proposed Readoption with Amendments: N.J.A.C. 10:155

Authorized By: Catastrophic Illness in Children Relief Fund Commission, Claudia L. Marchese, Esq., Executive Director.

Authority: N.J.S.A. 26:2-148 et seq., specifically 26:2-159.

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

Proposal Number: PRN 2017-023.

Submit written comments by April 22, 2017, to:

Claudia L. Marchese, Esq., Executive Director
Catastrophic Illness in Children Relief Fund Commission
Department of Human Services
PO Box 728
Trenton, NJ 08625-0728
E-mail: Claudia.marchese@dhs.state.nj.us

The agency proposal follows:

Summary

N.J.A.C. 10:155 was scheduled to expire on January 5, 2017. As the Catastrophic Illness in Children Relief Fund Commission (“CICRFC” or “Commission”) submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to July 4, 2017, pursuant to N.J.S.A. 52:14B-

5.1.c(2). In accordance with the sunset provision of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the Commission has evaluated its rules at N.J.A.C. 10:155 and has determined that they are necessary, reasonable, and proper for the purpose for which they were originally promulgated with the exception of the proposed amendments. The Commission has determined that the rules should be readopted with technical amendments. As the CICRFC has provided a 60-day comment period on this notice of proposal; this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Commission recently completed its annual review of the rules. The chapter remains relevant and effective, however, updates are necessary to remove outdated language, clarify specific provisions, and add references to the Commission's online application.

The chapter contains 20 sections described immediately below.

N.J.A.C. 10:155-1.1, Purpose and scope, states that the purpose of the chapter is to implement the provisions of the statute and describes the actions for implementation, including determining criteria for eligibility, a method for making payments to families and providers, and specifying procedures to be used.

N.J.A.C. 10:155-1.2, Definitions, contains definitions for relevant terms contained in the chapter. Proposed amendments to this section revise the definition of "catastrophic illness" to add "other State or Federal agency programs" to the list of sources that cover child's medical expenses prior to applying to the CICRF. This emphasizes that the Commission is the final source of payment after any other available source. Also, a cross-reference to N.J.A.C. 10:155-1.14 is proposed for deletion. The definition of

“eligibility standard” is proposed for amendment to replace the phrase “greater than” with “equal to” in order to clarify that a family is eligible for assistance from the fund when their uncovered medical expenses for their child are 10 percent of their household income for the service year. It is not required that the child’s uncovered medical expenses exceed 10 percent of the household income for the family to be eligible for assistance. The definition of “Executive Director” is proposed for amendment to delete the reference to the Department of Personnel and replace it with the Civil Service Commission to bring the chapter up to date with the current organization of the State government. The definition of “local agency” is proposed for amendment to name the Special Child Health Services Office to clarify the agency in the Department of Health with which the Commission works closely.

N.J.A.C. 10:155-1.3, General requirements, specifies the requirements to be eligible for assistance, including the income to expense ratio used for the eligibility threshold determination and residency requirements.

N.J.A.C. 10:155-1.4, Initial application process, describes the process for submitting an application for assistance. An amendment is proposed to add language that applications also may be submitted online through the Commission’s website. The amendment updates the rule to state the current practice.

N.J.A.C. 10:155-1.5, State Office and Commission review process, describes the process by which the applications are reviewed. An amendment is proposed to clarify that the Commission receives applications from families in both paper and electronic formats through the website.

N.J.A.C. 10:155-1.6, Eligibility standard, explains the income to expense ratio used to determine eligibility.

N.J.A.C. 10:155-1.7, Limits on Fund disbursements, lists each of the specific caps on payments of particular expenses. An amendment is proposed to remove the words “a lease or” to clarify the section and eliminate redundancy.

N.J.A.C. 10:155-1.8, Sliding payment schedule, explains the procedure to be used to distribute the available monies to applicants if there are not adequate funds available.

N.J.A.C. 10:155-1.9, Allocation distribution plan, allows for negotiation with vendors and family input to determine priority of payments made.

N.J.A.C. 10:155-1.10, Local agency responsibilities, describes the duties and responsibilities of the local agencies working with the Fund in each county.

N.J.A.C. 10:155-1.11, State Office responsibilities, lists the specific responsibilities of the State Office staff. An amendment is proposed to N.J.A.C. 10:155-1.11(a), to reflect the amendment to the definition of “eligibility standards” (as discussed above) and eliminate redundancy, as the “eligibility standard” had previously been defined in the N.J.A.C. 10:155-1.2.

N.J.A.C. 10:155-1.12, Commission responsibilities, lists the responsibilities of the Commission members.

N.J.A.C. 10:155-1.13, Time period for measuring expenses and income, explains the time period used to measure expenses and income for eligibility determination. An amendment is proposed to clarify language. In the third sentence the word “may” replaces the word “shall.”

N.J.A.C. 10:155-1.14, Eligible health services, lists the types of health expenses that are eligible for payment. Amendments are proposed to update language to reflect current practice and better define categories of eligible health expenses. An amendment is proposed to N.J.A.C. 10:155-1.14(a) to reflect the amendment to the definition of “eligibility standards” (as discussed above) and eliminate redundancy as the “eligibility standard” had previously been defined in N.J.A.C. 10:155-1.2.

Paragraph (a)4 is proposed for amendment to eliminate unnecessary language pertaining to “highly specialized care.” The phrase “addiction disorders” is deleted and replaced with “substance use disorders” to better reflect the current language used in the DSM V. An amendment to paragraph (a)5 is proposed to eliminate redundant language. In addition, an amendment to paragraph (a)13 is proposed to clarify the language and eliminate redundancy. Finally, an amendment to paragraph (a)16 is proposed to delete references to “telephone calls” to reflect current billing practices, as telephone calls are no longer billed individually.

N.J.A.C. 10:155-1.15, Ineligible health services, specifies health-related expenses that are not eligible for payment by the Fund.

N.J.A.C. 10:155-1.16, Administration of payments, describes the process for making payments to families and providers and explains the source of monies collected for the Fund.

N.J.A.C. 10:155-1.17, Appeal process, describes the process for filing an appeal of Commission decisions, including the timeframe and address for filing a written appeal.

N.J.A.C. 10:155-1.18, Special cases, describes special circumstances that may be reviewed by the Commission to waive either the family responsibility or caps on

expenses. An amendment is proposed to change “cap” to “caps” to more accurately reflect that there are several caps on expenses which the Commission may waive in cases of a special hardship.

N.J.A.C. 10:155-1.19, Confidentiality of information, requires that all information received from applicants must be kept confidential.

N.J.A.C. 10:155-1.20, Recovery of Commission expenses, allows for the Fund to be reimbursed for expenses paid to families that are subsequently recovered pursuant to a settlement or judgment in a legal action.

Social Impact

The Commission has provided a significant benefit to New Jersey families for the past 27 years by assisting them with their children’s uncovered medical expenses, to help as many New Jersey families as possible and encourage more families in need to apply. The rules proposed for readoption with amendments will help to continue the Commission’s work to assist New Jersey families of all income levels to pay their children’s medically related expenses. The proposed amendments are clarified and are updated to reflect current practices.

The proposed amendments include the fact that families have the option of applying for assistance by submitting an electronic application through the Commission’s website. This increases convenience and efficiency for the applicant families. The electronic application is given an immediate receipt date so families may have their application in line for processing sooner than if they had mailed the paper application. By amending its rules, the Commission communicates to the public that it is committed to serving New Jersey residents in need, in the most effective manner.

Economic Impact

Commission awards are infused back into the health care system and/or reimbursed to families for the health and related expenses that they have struggled to pay. This assistance allows families to carry on with their current responsibilities, easing their worries about previously incurred medical expenses. In its history, the Commission has approved more than \$169 million for more than 8,059 families who were eligible for financial assistance.

In an effort to provide fiscal solvency for future years, the Commission recognizes the need to keep the caps on expenses in place. The caps include \$15,000 one-time vehicle purchase allowance, \$25,000 annual home modification cap, \$3,000 annual speech therapy cap (unless therapy is for feeding/swallowing, in which case the cap is waived); \$6,000 annual applied behavioral analysis cap for children with a diagnosis on the Autistic Spectrum; and \$100,000 annual cap on the entire application. The Commission staff has had success in negotiating discounts, which are accepted as payment in full when expenses exceed the \$100,000 cap. The rules proposed for readoption with amendments clarify that the Commission may waive any of the caps in special cases if there is a family hardship. The caps ensure that the Commission maintains fiscal responsibility for managing its resources.

Federal Standards Statement

A Federal standards analysis is not required because the requirements of this rulemaking are dictated by State statutes and are not subject to Federal requirements or standards.

Jobs Impact

No impact on jobs lost or gained in the State of New Jersey is expected as a result of the rules proposed for readoption with amendments.

Agriculture Industry Impact

No impact on the agriculture industry in the State of New Jersey is expected as a result of the rules proposed for readoption with amendments.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do not impose reporting, recordkeeping, or compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Since the rules proposed for readoption with amendments apply only to families served by the Commission, they do not impact small businesses or private industry, in general.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on the affordability of housing because the scope of the rules governing the CICRFC pertains to the Fund, which is entirely unrelated to housing, and the rules proposed for readoption with amendments are extremely unlikely to evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

There is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules proposed for readoption with amendments govern the CICRFC Program.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:155.

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

SUBCHAPTER 1. CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND
PROGRAM

10:155-1.2 Definitions

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

...

“Catastrophic illness” means any illness or condition for which the incurred medical expenses **are** not covered by any other source, [which allows funds to provide for the medically related needs of a child, as defined in N.J.A.C. 10:155-1.14,] including, but not limited to, **other State or Federal agency programs**, insurance contracts, trusts, proceeds from fundraising, or settlements relative to the medical condition of a child[, exceed] **that is equal to** 10 percent of the first \$100,000 of annual income of a family plus 15 percent of the excess income over \$100,000.

...

“Eligibility standard” means that dollar amount [greater than] **equal to** 10 percent of the first \$100,000 of annual income of a family plus 15 percent of the excess income over \$100,000.

“Executive director” means the professional employed by the Commission, in accordance with [NJ Department of Personnel’s] **New Jersey Civil Service Commission** procedures, to administer the Fund on a day-to-day basis on behalf of the Commission.

...

“Local agency” means the [agency] **Special Child Health Services Office** responsible for assisting families in the application process, forwarding applications to the State Office, and making appropriate referrals to other [state] **State** programs and benefits.

...

[“Threshold” means the point at which a child’s out-of-pocket medical expenses exceed 10 percent of the first \$100,000 of annual income of a family plus 15 percent of the excess income over \$100,000. After the child’s medical expenses reach this threshold, a child has passed the initial screen for eligibility for assistance from the Fund.]

10:155-1.4 Initial application process

Applications may be submitted on a year-round basis to the local agency. The name, address, and phone number for the local agencies shall be available from the State Office. The local agency shall forward written applications on forms provided by the State Office. **Applications also may be submitted online through the State website: www.njcatastrophicfund.org.**

10:155-1.5 State Office and Commission review process

(a) Upon receipt of the **paper** application from the local agency, **or the web application from the family**, the State Office shall consider the providers’ and vendors’ charges submitted.

(b)–(d) (No change.)

10:155-1.7 Limits on Fund disbursements

(a) (No change.)

(b) A one-time vehicle allowance will be capped at \$15,000 for the purchase of [a lease or] a specialized vehicle. The allowance does not include modifications, which can be considered separately. The one-time vehicle allowance of \$15,000 shall be included in the total disbursement cap, in the year the vehicle allowance was disbursed.

(c)–(e) (No change.)

10:155-1.11 State Office responsibilities

(a) The State Office shall:

1. Screen applications to determine whether a child’s eligible medical expenses [exceed 10 percent of the first \$100,000 of annual income of a family plus 15 percent of the excess income over \$100,000;] **meet the eligibility standard.**

2.-6. (No change.)

7. Oversee payments to providers, vendors, and, in some cases, [to] families; and

8. (No change.)

10:155-1.13 Time period for measuring expenses and income

In screening a child/family for eligibility for the Fund, expenses and income shall be measured by any prior consecutive 12-month time period. The income will be reported for the same prior consecutive 12-month time period back to January 1988. Applications [shall] **may** be accepted any time throughout the year.

10:155-1.14 Eligible health services

(a) Categories of incurred expenses, which are related to the medical care of a child with an illness or condition eligible for consideration in assessing whether a family has reached its eligibility [threshold of exceeding 10 percent of the first \$100,000 of annual income of a family plus exceeding 15 percent of the excess income over \$100,000] **standard** include, but are not limited to, the following:

1. (No change.)

2. Specialized pediatric ambulatory care, including physician-authorized rehabilitative therapies (for example, speech, occupational, and physical), physician-authorized care for treatment of [addiction] **substance use** disorders and [mental] **behavioral** health care, dental care, eye care, **and** chiropractic care;

3. Care in an acute hospital in New Jersey (treatment for acute and chronic conditions and treatment of [addiction] **substance use** disorders and [mental] **behavioral** health conditions);

4. Care in acute hospitals in other states (treatment for acute and chronic conditions[,] and treatment of [addiction disorders and mental] **behavioral** health conditions, [as well as highly specialized care such as organ transplants] **including substance use disorders**);

5. Physicians and nursing services, **including immunization services**, in all settings[, including primary care (preventive care) and immunization services (for example, office, hospital)];

6.-12. (No change.)

13. Purchase of a specialized [leased or specialized], modified vehicle and any subsequent modifications that are related to the medical condition of the child at the time the expenses were incurred;

14.-15. (No change.)

16. Family transportation and travel-related expenses including, but not limited to, mileage allowance, tolls, parking receipts, **and** temporary shelter costs [and telephone calls] related to **the** medical condition.

(b) (No change.)

10:155-1.18 Special cases

(a) Special cases shall be referred to the Commission for its review and consideration.

Special cases shall include, but are not limited to, the following:

1. (No change.)

2. For special hardship cases that come before the Commission during a batch cycle, after the standard disbursement guidelines have been applied to each case in the batch and sufficient monies remain in the Fund, consideration shall be given to waiving the standard disbursement guidelines (that is, the family responsibility and the caps as outlined in N.J.A.C. 10:155-1.2 and 1.7).