**HUMAN SERVICES**

**DIVISION OF AGING SERVICES**

**Pediatric Medical Day Care Services**

**Readoption with Amendments: N.J.A.C. 10:166**

**Adopted Repeal and New Rules: N.J.A.C. 10:166 Appendices A and B**

Proposed: December 19, 2016, at 48 N.J.R. 2751(a).

Adopted: March 15, 2017, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: April 12, 2017, as R.2017 d.090, **without change**.

Authority: N.J.S.A. 30:4D-6b(12), 6b(17), 7, 7a, 7b, 7c and 12; Reorganization Plan No. 001-1996; 42 U.S.C. § 1396a; and 42 CFR 440.90.

Effective Dates: April 12, 2017, Readoption;

 May 15, 2017, Amendments, Repeals, and New Rules.

Expiration Date: April 12, 2024.

**Summary** of Public Comments and Agency Responses:

 Comments were received from Theresa Edelstein, MPH, LNHA, on behalf of the New Jersey Hospital Association’s (NJHA) seven member pediatric medical day care centers (PMDC).

**N.J.A.C. 10:166-6**

COMMENT: NJHA understands that the cost report and audited financial statement requirements are being retained because there may be a time in the future when this data could be used for establishing rates. Further, we understand that the Division of Medical Assistance and Health Services does not intend to enforce this requirement at this time. NJHA believes it would be important for the Division of Aging Services to formally communicate its intent to not enforce the requirements and to state that it will provide adequate advance notice should the Division of Aging Services determine that cost reports and audited financial statements would be collected in the future. The Division of Aging Services has provided this type of communication to the nursing homes with respect to their cost reporting requirements.

RESPONSE: The Division of Aging Services (DoAS) agrees that although a PMDC per diem rate has been established in the State fiscal year appropriations acts and that Medicaid PMDC services have been provided through managed care since 2011, there may come a time when cost reports and financial statements are needed to establish a rate. Therefore, the financial statement, cost report, and rate-setting provisions of N.J.A.C. 10:166 are being retained. However, the DoAS agrees to provide adequate notice on an annual basis to the PMDC facilities that these requirements are being waived, and to provide notice if cost reports and financial statements are required.

**Appendix A**

COMMENT: In past years, NJHA has requested of the Department of Health permission to combine N.J.A.C. 10:166 Appendix A with the history and physical (H&P) that the child’s primary care physician provides to the PMDC, since much of the information is duplicative. It is challenging, at best, for PMDC providers to obtain documentation from clinics and primary care physician practices. Asking physicians to provide duplicative information is not well-received, and is, in fact unnecessary. Physicians supply PMDC providers with an H&P when they are seeking admission into the PMDC program for their patient. We understand the need for the information contained in N.J.A.C. 10:166 Appendix A. NJHA is asking for the Department’s flexibility, so that PMDC providers could ensure that the H&P contains all the required fields from N.J.A.C. 10:166 Appendix A, rather than having both an H&P and N.J.A.C. 10:166 Appendix A completed separately.

RESPONSE: The DoAS thanks the NJHA for its comments. The primary health form at N.J.A.C. 10:166 Appendix A provides additional necessary information regarding the beneficiary that is not standard information included in the H&P. For example, the primary health form contains information on the beneficiary’s treatment plan, school information, private duty nursing needs, early intervention, special transportation needs, specific nursing care needs, and the behavioral component. This information is necessary and is reviewed during the assessment process. Therefore, the DoAS will not make any changes on adoption. However, the DoAS will permit PMDC providers that submit the primary health care form to attach the H&P and reference it as providing the health information history, diagnosis, medications, and treatment procedure/plan required by numbers one through four under “Health Information” at pages one through two of N.J.A.C. 10:166 Appendix A. However, PMDC providers are required to submit an otherwise fully completed primary health care form, N.J.A.C. 10:166 Appendix A.

**Federal Standards Statement**

The New Jersey Medicaid State Plan refers to PMDC as "Medical day care" and identifies it as an independent clinic service. Independent clinic services are governed by 42 U.S.C. § 1396d(a)(9) and 42 CFR 440.90. Pursuant to 42 CFR 440.90, "clinic services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished by a facility that is not part of a hospital, but is organized and operated to provide medical care to outpatients. The adopted amendments, new rules, and repeals would meet but not exceed the Federal standards for independent clinic services at 42 U.S.C. § 1396d(a)(9) and 42 CFR 440.90. 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. 10:16](https://www.lexis.com/research/buttonTFLink?_m=c4ebc6ca567be5a1a05aafbce6fc8e65&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b35%20N.J.R.%204416%28a%29%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=24&_butInline=1&_butinfo=NJ%20ADMIN%208%3a83C&_fmtstr=FULL&docnum=4&_startdoc=1&wchp=dGLzVzz-zSkAA&_md5=6ab6f8ba8b3d3389e2959832af7519f1)6.

**Full text** of the adopted amendments and new rules follows:

TEXT