

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),

N.J.A.C. 10:165 is readopted and shall continue in effect for a seven-year period.

## CORRECTIONS

### (a)

#### THE COMMISSIONER

#### Adult County Correctional Facilities

#### Readoption with Amendments: N.J.A.C. 10A:31

#### Adopted New Rules: N.J.A.C. 10A:31-1.9, 8.2A, 13.31, and 21.9

#### Adopted Repeals: N.J.A.C. 10A:31-1.8, 8.28, 10.13, 12.9, 19.10, and 20.9

Proposed: August 7, 2017, at 49 N.J.R. 2450(a).

Adopted: November 6, 2017, by Gary M. Lanigan, Commissioner, Department of Corrections.

Filed: November 8, 2017, as R.2017 d.228, **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. 10:5-3, 30:1B-6, 30:1B-10, 30:4-15.1, and 2C:1-1 et seq.

Effective Date: November 8, 2017, Readoption;  
December 4, 2017, Amendments, New Rules, and Repeals.

Expiration Date: November 8, 2024.

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

A summary of the timely submitted comments and the Department's response follows. The number(s) in parentheses embedded in each comment below identifies the commenter(s) listed. Comments were received from the following individuals:

1. Assemblyman Gordon M. Johnson
2. Howard Moskowitz, Esq.
3. Steve Ramshur
4. Janet Crowley
5. Allyson Jankunas
6. Dana Shilling
7. Carla Naranjo
8. Meryl Elliott
9. Eleni Beja
10. Kristen Beatty
11. Eytan Stern Weber
12. Alana Horowitz Friedman
13. Mary Ciuffitelli
14. Jerry Fried
15. Laura Keller
16. GERALYN ABINADER
17. Dennis Burkhardt
18. Matthew Smith
19. Cathy Berger

The comments related to the amendments proposed include several topics that are repeated by one or more commenters. The Department has grouped related comments into major topics as they appear below and provided responses to each of the topics.

1. COMMENT: Sixteen individuals requested a public hearing on the notice of proposal. (2, 3, 4, 5, 7 through 13, and 15 through 19)

RESPONSE: The requests were submitted approximately 58-59 days following publication of the notice of proposal in the New Jersey Register (NJR) and fail to meet the criteria set forth at N.J.A.C. 10A:1-1.6(e)2 to conduct a public hearing in terms of timeliness and demonstrating sufficient public interest. The criteria specifies sufficient public interest for a hearing is met when 100 or more individual written requests are submitted within 30 calendar days of the publication of the proposed rulemaking activity in the NJR. As the criteria has not been met the Department will not conduct a public hearing on this rule action.

2. COMMENT: One commenter submitted that there are no changes to the rules in the proposed readoption of N.J.A.C. 10A:31 concerning access to medications despite enactment of P.L. 2016, c. 70, that requires continuation of prescription medication for each person in custody (whether awaiting a hearing or serving a sentence). (1)

3. COMMENT: A number of commenters stated that the rules should contain the same requirements as the law and apply to all held at the facility. (1, 2, 3, 4, 5, 7 through 13, and 15 through 19)

RESPONSE TO COMMENTS 2 AND 3: P.L. 2016, c. 70 does not require that the Commissioner promulgate rules related to access to prescription medication. The administrative rules in N.J.A.C. 10A:31 provide a framework, or minimum criteria, for the administration of adult county correctional facilities as set forth at N.J.A.C. 10A:31-1.1(a)2 and 3 and 2.1(a) and (b). Written standard operating procedures for adult county correctional facilities are developed at the county level. The Department rules include minimum criteria related to access to prescription medications as set forth at:

- N.J.A.C. 10A:31-13.9(c)2, which lists some of the medical screening that should take place prior to placement in general population or a housing area;
- N.J.A.C. 10A:31-13.4(a), which includes medical services for chronic care;
- N.J.A.C. 10A:31-13.4(a)10 and 17, pertaining to pharmaceuticals; and
- N.J.A.C. 10A:31-13.27, pertaining to pharmaceutical management.

The Department feels that the rules cited above already set forth the necessary minimum criteria for the administration of prescription medications in adult county correctional facilities. The Department will add a reference to the law (P.L. 2016, c. 70 and other applicable statutes) at N.J.A.C. 10A:31-13.4(a), 13.9(c), and 13.27 for clarification and no new requirements need to be added to these rules.

4. COMMENT: A number of commenters stated that the proposed readoption of N.J.A.C. 10A:31 should establish an enforcement mechanism related to P.L. 2016, c. 70. (2, 3, 4, 7 through 13, and 15 through 19)

RESPONSE: Commenters are respectfully referred to the enforcement procedures set forth at N.J.A.C. 10A:31-2. No action will be taken in response to the comment, as the Department feels enforcement is adequately addressed in N.J.A.C. 10A:31.

5. COMMENT: Commenters stated that P.L. 2016, c. 70 provides for, at least in part, adequate medical care for inmates of county jails including immigrant detainees. (2, 3, 4, 7 through 13, and 15 through 19)

RESPONSE: P.L. 2016, c. 70 requires the continuation of prescription medication for each person in custody and does not address the much broader topic of medical care for inmates of county jails. The commenters are referred to N.J.A.C. 10A:31-13, Medical, Dental and Health Services rules pertaining to said services as provided in county correctional facilities.

6. COMMENT: One commenter submitted that there should be no changes concerning access to medications despite the enactment of P.L. 2016, c. 70. (5)

RESPONSE: The commenter seems to confuse whether there should, or should not, be changes to Department rules as the majority of remarks submitted by this commenter are similar to those submitted by commenters 2, 3, 4, 7 through 13, and 15 through 19, except this one remark is contrary to other commenters. In either case, the commenter is referred to the Response to Comments 2 and 3.

7. COMMENT: A commenter stated that regulations must be adopted on a priority basis to ensure that persons under detention continue to receive their prescribed medications. (6)

RESPONSE: The commenter is respectfully referred to the Response to Comment 2 and 3 and N.J.A.C. 10A:31-13, Medical, Dental, and Health Services, where medical services provided in adult county correctional facilities are set forth, as well as N.J.A.C. 10A:1-2.4 for the Department's rulemaking authority.

8. COMMENT: One commenter stated that this legislation would deny adequate medical care to inmates of county jails. (14)

RESPONSE: As a point of clarity this rule action is not legislation and it does not address or deny adequate medical care to any inmate. The commenter is referred to N.J.A.C. 10A:31-13, Medical, Dental and