

The Department is developing rulemaking to revise, update, and reorganize existing N.J.A.C. 8:26, and anticipates filing this rulemaking with the Office of Administrative Law for processing in the ordinary course. However, this rulemaking could not be proposed prior to the expiration of existing N.J.A.C. 8:26. The Commissioner, in consultation with the Public Health Council, has reviewed N.J.A.C. 8:26 and has determined that, pending the finalization of the anticipated rulemaking described above, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which the Department originally promulgated it, as amended and supplemented over time, and should be readopted.

Therefore, pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 8:26 is readopted and shall continue in effect for a seven-year period.

(a)

**PUBLIC HEALTH SERVICES BRANCH
DIVISION OF ENVIRONMENTAL,
EPIDEMIOLOGICAL, AND OCCUPATIONAL
HEALTH**

**CONSUMER, ENVIRONMENTAL, AND
OCCUPATIONAL HEALTH SERVICE**

**Notice of Readoption
Standards for Indoor Environment Certification and
for Licensure of Indoor Environmental
Consultants**

Readoption: N.J.A.C. 8:50

Authority: N.J.S.A. 52:27D-130.4 and 130.5; and P.L. 2007, c. 1.

Authorized By: Cathleen D. Bennett, Commissioner, Department of Health.

Effective Date: August 5, 2016.

New Expiration Date: August 5, 2023.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Commissioner (Commissioner) of the Department of Health (Department) hereby readopts N.J.A.C. 8:50, Standards for Indoor Environment Certification and for Licensure of Indoor Environmental Consultants, which was to expire on September 8, 2016.

N.J.A.C. 8:50 implements the rulemaking obligations of the Department pursuant to P.L. 2007, c. 1 (Act). The Act at § 1, codified at N.J.S.A. 52:27D-130.4, requires the Department to establish safety and health standards for the interior of buildings to be used as child care centers or educational facilities as defined by the Act. Specifically, the Act requires the Department to: (1) establish procedures for the evaluation and assessment of child care centers and schools; (2) establish standards for maximum contaminant levels for the interior of buildings to be used as child care centers and educational facilities; and (3) upon demonstration that these procedures and standards have been met, the issuance of a certification that there are no contaminants present within the building that exceed the established maximum contaminant levels. See N.J.S.A. 52:27D-130.4. In establishing these maximum contaminant levels, the Department must account for the differences in rate of absorption, metabolism, and excretion of compounds between adults, children, and infants. *Id.*

In accordance with the Act, the Department adopted existing N.J.A.C. 8:50 in 2009. Subchapter 1 contains general provisions, which include the purpose and scope of the chapter, establishes definitions of terms used therein, and identifies publications incorporated therein by reference. Subchapter 2 establishes procedures for licensure of indoor environmental consultants. Subchapter 3 establishes procedures and requirements for the conduct of indoor environmental health assessments of buildings and leased spaces to be used as child care centers and/or educational facilities. Subchapter 4 establishes procedures by which the Department establishes maximum contaminant levels and issues certificates of safe building interior. Subchapter 5 establishes enforcement and compliance standards, limited to the specific sections

of the Act that confer jurisdictional authority upon the Department, inasmuch as the Act confers authority on several other agencies, in addition to the Department, to enforce different parts of the Act.

The Department is developing rulemaking to revise, update, and reorganize existing N.J.A.C. 8:50, and anticipates filing this rulemaking with the Office of Administrative Law for processing in the ordinary course. However, this rulemaking could not be proposed prior to the expiration of existing N.J.A.C. 8:50. The Commissioner has reviewed N.J.A.C. 8:50 and has determined that, pending the finalization of the anticipated rulemaking described above, the existing chapter remains necessary, proper, reasonable, efficient, understandable and responsive to the purposes for which the Department originally promulgated it, and should be readopted.

Therefore, pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 8:50 is readopted and shall continue in effect for a seven-year period.

HUMAN SERVICES

(b)

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH
SERVICES**

**Adult Mental Health Rehabilitation Services
Provided In/By Community Residence Programs
Readoption with Amendments: N.J.A.C. 10:77A**

Proposed: August 1, 2016, at 48 N.J.R. 1487(a).

Adopted: October 18, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: December 20, 2016, as R.2017 d.016, **without change**.

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

Agency Control Number: 16-A-05.

Effective Dates: December 20, 2016, Readoption;
January 17, 2017, Amendments.

Expiration Date: December 20, 2023.

**Summary of Public Comment and Agency Response:
No comments were received.**

Federal Standards Statement

Sections 1902(a)(10) and 1905(a) of the Social Security Act, 42 U.S.C. §§ 1396a(a)(10) and 1396d(a), respectively, specify who may receive services through a Title XIX Medicaid program.

Section 1905(a)(13) of the Social Security Act, 42 U.S.C. § 1396d(a)(13), allows a state Medicaid program to offer diagnostic, screening, prevention, and rehabilitation services, including medical or remedial services recommended by a physician or other licensed practitioner within the scope of their practice under state law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level.

Federal regulations at 42 CFR 440.130 describe diagnostic, screening, preventive, and rehabilitative services, which include the nursing assessments and residential rehabilitation services addressed in this chapter.

The Department has reviewed the Federal statutory and regulatory requirements and has determined that the rules readopted with amendments 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. 10:77A.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:77A-1.2 Definitions

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

“Adult” means any individual who meets the Division of Mental Health and Addiction Services’ criteria for adult services, as defined in N.J.A.C. 10:37A.

“Community residences for mentally ill adults” as used in this chapter means any community residential program licensed by, and under contract with, the Division of Mental Health and Addiction Services (DMHAS) to provide services in accordance with N.J.A.C. 10:37A to mentally ill adults who require assistance to live independently in the community. “Community residences for mentally ill adults” does not include “supportive housing residences.”

“Mental health rehabilitation services” means services provided in/by a community residence program licensed by DMHAS, which include, but are not limited to, assessment and development of a comprehensive service plan and implementation of the service plan through individual services coordination, training in daily living skills and supportive counseling.

10:77A-1.3 Provider participation

(a) In order to participate in the Medicaid/NJ FamilyCare programs, all applicants shall be licensed by and under contract with the Division of Mental Health and Addiction Services (DMHAS) as a community residence for mentally ill adults in accordance with N.J.A.C. 10:37A.

(b) All providers shall complete and submit the following documents, and shall update the documents when the information contained therein changes, for example, when a new license is issued and/or when any information on the FD-20 changes:

1.-2. (No change.)

3. A copy of a current and valid license from the Division of Mental Health and Addiction Services; and

4. (No change.)

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

(e) The applicant will receive written notification of approval or disapproval of Medicaid/NJ FamilyCare provider status from the Division of Medical Assistance and Health Services (DMAHS). If approved, the applicant will be assigned a Medicaid/NJ FamilyCare Provider Number and will receive a copy of this chapter as part of the provider manual. Each provider agency shall be assigned a unique provider number for each county in which services are provided.

(f) DMHAS will certify to DMAHS, the level of care and the number of beds and separate sites for each agency.

(g) If an adult mental health rehabilitation services provider loses its license from DMHAS, the provider shall notify the DMAHS Provider Enrollment Unit, at the address in (c) above, within five business days of losing the license.

1. The adult mental health rehabilitation provider will be disenrolled as a Medicaid/NJ FamilyCare provider until such time as the license is restored. Once DMHAS restores the provider’s license, the provider, upon providing proof of the restoration of the license to the provider enrollment office noted above, will be reinstated as a Medicaid/NJ FamilyCare provider, as long as the requirements of N.J.A.C. 10:37A and this chapter are met and continue to be met. The effective date shall be the date of reinstatement as determined by DMHAS licensing standards.

2. (No change.)

10:77A-1.4 Beneficiary eligibility

(a) Medicaid/NJ FamilyCare beneficiaries shall be eligible for adult mental health rehabilitation (AMHR) services provided in/by community residence programs, if such services have been determined clinically necessary using the criteria established by the Division of Mental Health and Addiction Services (see N.J.A.C. 10:37), or as authorized by any contracted agent of the Department of Human Services, which authorizes clinical need for mental health services for adults.

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

SUBCHAPTER 2. PROGRAM OPERATIONS

10:77A-2.2 Levels of care

(a) Level A+ means community mental health rehabilitation services available in the community residence, or in a community setting, 24 hours per day, delivered by the provider.

(b) Level A means community mental health rehabilitation services available in the community residence or in a community setting at least 12 hours per day, but less than 24 hours per day, delivered by the provider.

(c) Level B means community mental health rehabilitation services available in the community residence, or in a community setting, at least four hours per day, but less than 12 hours per day, delivered by the provider.

(d) Level C means community mental health rehabilitation services provided in the community residence or in a community setting a minimum of one hour per week, but less than four hours per day, delivered by the provider.

(e) (No change.)

10:77A-2.3 Nursing assessments

(a)-(e) (No change.)

(f) All beneficiaries determined to need community mental health rehabilitation services shall be placed in the least restrictive and most effective level of care that will meet their needs.

(g) (No change.)

10:77A-2.4 Staff training

(a) All providers shall comply with the general training requirements prescribed by the Division of Mental Health and Addiction Services (DMHAS) at N.J.A.C. 10:37D-2.14.

(b) In addition to the general training requirements at N.J.A.C. 10:37D-2.14, each provider shall develop, update, and administer a comprehensive, competency-based training program for individuals providing adult mental health residential services. Competency-based training programs involve measurable skill development and demonstrated, documented evidence of employee skill attainment. Training in CPR and First Aid shall be provided by an American Heart Association (AHA) or Red Cross certified trainer, which, upon successful completion of the training, issues a certificate to the employee confirming that competency was achieved. The DMHAS will be responsible for monitoring the provider’s training programs. The following topics, at a minimum, shall be included in the training curriculum:

1.-2. (No change.)

3. Medication/clinical issues, including:

i. (No change.)

ii. Classes of medication, therapeutic objectives, side effects, and interactions, including documentation and reporting of side effects to appropriate medical professional;

iii. (No change.)

iv. Clinical communication, including how to report symptoms when encountering problematic medical/clinical situations and pertinent information to share with medical providers during emergencies;

4.-7. (No change.)

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

10:77A-2.5 Basis of reimbursement

(a)-(f) (No change.)

(g) If a beneficiary is required to remain in a residence while awaiting transfer to a more appropriate facility (see N.J.A.C. 10:77A-2.3), the provider shall request reimbursement at the lesser of:

1.-2. (No change.)

SUBCHAPTER 3. HEALTHCARE COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:77A-3.1 Introduction

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

(d) Alphabetic and numeric symbols under “IND” and “MOD”: These symbols, when listed under the “IND” and “MOD” columns, are elements of the HCPCS coding system used as qualifiers or indicators

(“IND” column) and as modifiers (“MOD” column). They assist the provider in determining the appropriate procedure codes to be used, the area to be covered, the minimum requirements needed, and any additional parameters required for reimbursement purposes.

1. Providers shall consider these symbols and letters when billing because the symbols/letters reflect requirements, in addition to the narrative that accompanies the CPT/HCPCS procedure code, for which the provider is liable. These additional requirements shall be fulfilled before reimbursement is requested.

i. (No change.)

(e) The general and specific requirements of the New Jersey Medicaid/NJ FamilyCare programs that pertain to HCPCS follow:

1.-6. (No change.)

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

**NJ FamilyCare-Children’s Programs Manual
Readoption with Amendments: N.J.A.C. 10:79**

Proposed: August 1, 2016, at 48 N.J.R. 1490(a).
Adopted: November 2, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.
Filed: December 13, 2016, as R.2017 d.011, **without change**.
Authority: N.J.S.A. 30:4D-1 et seq., and 30:4J-8 et seq.
Agency Control Number: 16-A-04.

Effective Dates: December 13, 2016, Readoption;
January 17, 2017, Amendments.
Expiration Date: December 13, 2023.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The Federal standards contained in the Social Security Act (Act) allow a state, at its option, to provide health care coverage for uninsured children under age 19. The law extends to the states a degree of leeway in the manner in which coverage is provided to these children.

Sections 2101 through 2103 and 2110 of the Act (42 U.S.C. §§ 1397aa, 1397bb, 1397cc and 1397jj); Section 1902(a)(10)(A)(ii) of the Act (42 U.S.C. § 1396a(a)(10)(A)(ii)); and Section 1905 of the Act (42 U.S.C. § 1396(d)) have been reviewed by the Division in regard to the rules proposed for readoption.

In addition, Section 2102 of the Act, 42 U.S.C. § 1397bb(b)(1)(A), specifies requirements regarding the eligibility of certain children for the NJ FamilyCare-Children’s Program, including gathering information regarding access to, or coverage under, other health coverage programs as a condition of eligibility. The provisions in this chapter regarding other health insurance coverage do not exceed the Federal standards.

42 CFR Part 457 contains the regulatory requirements regarding the implementation of the above described provisions of the Act.

The Department has reviewed the Federal statutory and regulatory requirements and has determined that the rules readopted with amendments 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. 10:79.

Full text of the adopted amendments follows:

SUBCHAPTER 1. INTRODUCTION

10:79-1.2 Definitions

Words and terms used in this chapter shall have the meanings specified below, unless specifically defined otherwise in this chapter, or the context clearly indicates otherwise.

“County welfare agency (CWA)” means that agency of county government, which 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), and NJ FamilyCare and Medicaid. 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.

“Managed Care Organization” (MCO) shall have the same meaning as that contained in the definitions section at N.J.A.C. 10:74-1.4, as amended and supplemented.

SUBCHAPTER 2. CASE PROCESSING

10:79-2.3 Application processing

(a) The Statewide eligibility determination agency or CWA shall screen all mail-in and walk-in applications against the existing Medicaid eligibility file. Applications that involve family members who are already enrolled in the Medicaid program shall be forwarded to the applicable eligibility determination agency for inclusion in the existing case, as appropriate. The eligibility determination agencies are required to refer any child found not eligible for Medicaid or any child losing eligibility for Medicaid or NJ FamilyCare-Children’s Program-Plan A to the NJ FamilyCare-Children’s Program-Plan B, C, and D program. The CWA should process all applications mailed or forwarded to them or all walk-ins for NJ FamilyCare-Children’s Program-Plan A if the child’s family income appears to meet the income standards. NJ FamilyCare-Plan A cases that are enrolled in a managed care organization (MCO) that are under the jurisdiction of the CWA and who would qualify for NJ FamilyCare-Plan B solely due to an increase of household income can be retained at the CWA.

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

(f) For any application for NJ FamilyCare-Children’s Program benefits under the provisions of this chapter, the eligibility determination agency must accomplish disposition of the application as soon as all factors of eligibility are met and verified but not later than 30 days from the date of application, or from the date of the inquiry form PA-1C, if applicable. Exceptions to the timeliness standard appear in (f)2 below.

1.-4. (No change.)

(g) (No change.)

10:79-2.4 Application processing for the unborn NJ FamilyCare-Children’s Program-Plan C and Plan D

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

(c) At the time of the application, the pregnant woman should select the unborn child’s MCO coverage, and provide the appropriate premium.

(d) The pregnant woman shall notify both the eligibility determination agency and the selected MCO of the birth of the child within 10 calendar days of the birth. Failure to report the birth, select the MCO, if not already selected, and pay the premium, if not yet paid, within 10 calendar days of the birth shall negate the original application, and the applicant for the newborn shall have to refile a new application with verification of eligibility reprocessed before eligibility can occur for the newborn. In the instance where a new application must be processed, the eligibility rules in this subchapter through N.J.A.C. 10:79-4 are effective.

10:79-2.5 Date of initial eligibility

(a) (No change.)

(b) Eligibility under Plan B, C, or D is established with the first date of enrollment with an MCO and payment of applicable premiums (see N.J.A.C. 10:79-6.7).

1. Exception: For newborns, as indicated in N.J.A.C. 10:79-2.4, there is eligibility for fee-for-service Plan C and Plan D services from the date of birth until enrollment of the child into the MCO, if all the requirements of N.J.A.C. 10:79-2.4 are met.