

HUMAN SERVICES

(a)

DIVISION OF DISABILITY SERVICES

Personal Assistance Services Program

Readoption with Amendments: N.J.A.C. 10:140

Adopted Repeals: N.J.A.C. 10:140-6.2 and 7.3

Proposed: September 5, 2023, at 55 N.J.R. 1865(a).

Adopted: December 28, 2023, by Sarah Adelman, Commissioner,
Department of Human Services.

Filed: January 12, 2024, as R.2024 d.009, **without change**.

Authority: N.J.S.A. 30:4G-21.

Effective Dates: January 12, 2024, Readoption;

February 20, 2024, Amendments and Repeals.

Expiration Date: January 12, 2031.

Summary of Public Comment and Agency Response:

The Division of Disability Services did not receive any comments.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and repeals are not subject to any Federal requirements or standards. However, both the rules and program operations are in compliance with the Americans with Disabilities Act of 1990.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:140.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:140-1.4 Definitions

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

“Administrative hearing” means a hearing held by the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-9 et seq., and 52:14F-1 et seq., and N.J.A.C. 1:1-1.

...

“County program coordinator” means an individual employed by, or under contract with, the county designated agency who serves as the primary support for consumers and provides individual guidance and periodic monitoring of service activities to ensure the needs are being met pursuant to the Program.

...

“Direct services” means the provision of personal assistance services to consumers.

...

10:140-1.5 Target population and priority for services

(a) (No change.)

(b) Prioritization for service delivery shall be determined by the county designated agency in the following order of priority, for consumers who are:

1. Employed in a paid occupation.

i. (No change.)

2.-3. (No change.)

(c) (No change.)

(d) The following activities shall not be considered as qualifying program activity pursuant to the PASP:

1. (No change.)

2. Parenting or child rearing activities not covered at N.J.A.C. 10:140-1.4; and

3. (No change.)

SUBCHAPTER 2. ELIGIBILITY

10:140-2.1 Eligibility standards

(a) For the purposes of the Personal Assistance Services Program, an eligible applicant or consumer shall meet the following standards, except as noted at N.J.A.C. 10:140-2.2:

1. An eligible applicant or consumer shall be 18 years of age or older and shall have a permanent physical disability;

2.-8. (No change.)

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

(f) It is the responsibility of the consumer to maintain Program eligibility in good standing. A consumer shall be determined to be in good standing by doing the following:

1.-3. (No change.)

4. Notifying the county designated agency of any change(s) in Program activity as described at N.J.A.C. 10:140-1.1 and 1.5(a) and (b), including, but not limited to, acquiring new employment, loss of employment, withdrawal from, or completion of, a post-secondary educational or training program, new enrollment in a post-secondary educational or training program, participation in new volunteer activity, or withdrawal from, or termination of, participation in a volunteer activity. Consumers shall be required to submit documentation to support such change.

i. Consumers must notify their county designated agency Program coordinator of any significant change in Program activity immediately, but no longer than 15 business days. Notification may be performed verbally, in writing, or electronically (computer message).

Recodify existing iii.-v. as ii.-iv. (No change in text.)

5. (No change.)

10:140-2.2 Exceptions to eligibility standards

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

Recodify existing (e)-(f) as (d)-(e) (No change in text.)

SUBCHAPTER 3. SCREENING, SERVICES, AND APPEALS

10:140-3.1 Screening

(a) (No change.)

(b) The applicant shall be notified, in writing, within five working days after completion of the county screening as to the results of the applicant’s inquiry regarding participation in the Personal Assistance Services Program.

1. If the applicant is determined to be ineligible, the applicant shall be informed, in writing, of this determination and the right to appeal.

2. (No change.)

(c) (No change.)

10:140-3.2 Assessment

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

(c) Within 30 days of notification from the applicant of the completion of the application package, a member of the staff of the county designated agency shall perform a financial assessment to determine the ability of the person to pay for personal assistance services according to the sliding fee scale established pursuant to N.J.A.C. 10:140-4.3.

10:140-3.3 Individual personal assistance services plan and cash management plan

(a)-(d) (No change.)

(e) The consumer shall use no more than the monthly cash allowance authorized by the county designated agency pursuant to the approved cash management plan at (a) and (b) above. Cash allowance awarded to a consumer that remains unused after the end of the fiscal year shall not accrue to the future use or benefit of that consumer, except to provide additional or emergency service hours. Requests from program consumers to use unspent funds to purchase additional service hours shall not be subject to appeal.

(f)-(i) (No change.)

10:140-3.4 Disposition of application

(a) (No change.)

(b) If an applicant is determined eligible, in addition to (a) above, the notification shall include the following:

1.-2. (No change.)

3. If applicable, an estimate of the amount of money that the eligible consumer is required to pay toward personal assistance services.

(c) (No change.)

10:140-3.8 Transfer of services to another county

(a) (No change.)

(b) In order to effect a transfer of personal assistance services, the eligible consumer shall notify the county of origin and the destination county of his or her intention to move. Notification shall be, in writing, or, where appropriate, verbally or through alternative communication methods. It is the consumer's responsibility to provide a recent copy of their current cash management plan.

10:140-3.11 Hearings and appeals

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

(f) If the applicant or eligible consumer objects to the final decision made in accordance with (e) above, an appeal may be sought pursuant to the New Jersey Court Rules.

SUBCHAPTER 4. INDIVIDUAL BUDGETS AND FEES

10:140-4.3 Consumer cost share obligation fees and requirements

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

(c) The Consumer Cost Share Obligation Table (set forth in the table at (j) below) indicates income ranges and associated percentages of the total cost of the service to be paid by a consumer whose income falls within those ranges and shall be applied to eligible consumers. For the purposes of assessing consumer fees pursuant to the Consumer Cost Share Obligation Table set forth at (j) below, the county designated agency shall calculate family size and the consumer's individual annual gross income pursuant to the FPL at 350 percent.

(d) (No change.)

(e) Each consumer shall provide verification of annual gross income for determination of applicable cost share obligation fees upon application to the Personal Assistance Services Program and every 12 months thereafter. The determination of the cost share obligation fees shall be made by the county designated agency and redetermined every 12 months at a minimum.

1. Acceptable verification includes, but is not limited to, pay stubs, W-2 forms or copies of the actual 1040 form filed with the Internal Revenue Service, business records, pension statements, and/or correspondence from employers or agencies (for example, Social Security Administration, State employment agencies).

2. (No change.)

(f)-(j) (No change.)

SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

10:140-6.1 Training requirements

(a) Newly eligible consumers for the Personal Assistance Services Program shall complete one mandatory training course entitled Orientation to PASP to be offered by the designated training agency, under contract with the Division. Consumers who have been previously trained may attend a refresher course as they deem it to be necessary.

1. (No change.)

(b) (No change.)

(c) Training as set forth at (a) above shall be mandatory and no waivers of the requirement shall be considered. Consumers who fail to complete the required course shall have their personal assistance services suspended and/or terminated, pursuant to N.J.A.C. 10:140-3.9.

(d)-(h) (No change.)

10:140-6.2 (Reserved)

SUBCHAPTER 7. COMPLIANCE WITH LAWS

10:140-7.1 Requirements of fiscal intermediary service organization

(a) (No change.)

(b) At the consumer's discretion, they may choose to have the fiscal intermediary service organization conduct a background check on a

prospective employee. The cost of the background check shall be reflected on the CMP and be deducted from the consumer's cash allotment.

(c) (No change.)

10:140-7.2 Duties of county designated agency

(a) Under the direction of the designated State agency, the county designated agency serves in the role of a coordinator providing primary front-line support and guidance to consumers, and shall perform the following duties:

1.-18. (No change.)

10:140-7.3 (Reserved)

(a)

COMMISSIONER'S OFFICE

Notice of Readoption

Pediatric Medical Day Care Services

Readoption and Recodification with Technical

Changes: N.J.A.C. 10:166 as 10:60A

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

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

Effective Dates: January 24, 2024, Readoption; February 20, 2024, Recodification and Technical Changes.

New Expiration Date: January 24, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:166 were scheduled to expire on April 12, 2024. This chapter sets forth the rules of the Department of Human Services (Department) regarding Pediatric Medical Day Care (PMDC) Services. PMDC provides medically necessary services in an ambulatory care setting to children who reside in the community and who, because they are technology-dependent and/or have medically complex needs, require the continuous rather than part-time or intermittent care of a registered professional nurse in a developmentally appropriate environment and whose needs cannot be met in a regular day care or pre-school program for handicapped persons. PMDC is a service for primarily technology-dependent and medically fragile children that provides alternatives to private-duty nursing, prolonged hospitalization, and institutional long-term care.

The chapter is comprised of six subchapters, which are summarized below.

Subchapter 1, General Provisions, provides the purpose and scope of the chapter, as well as the definitions of the words and terms that are used throughout the chapter.

Subchapter 2, Provider Participation in Medicaid and Provider Sanctions and Remedies, provides the provider participation standards, the Department's evaluation and quality assurance requirements regarding the services provided by Pediatric Medical Daycares, non-compliance sanctions and remedies, as well as PMDC facilities' options for a fair hearing or informed dispute resolution when seeking to contest decisions made by the Department.

Subchapter 3, Procedures for Determining Clinical Eligibility for PMDC, addresses functional assessments of Medicaid/NJ Family Care beneficiaries, as well as clinical eligibility for Medicaid/NJ FamilyCare beneficiaries receiving private-duty nursing and beneficiaries being released from neonatal intensive care units. The subchapter also provides procedures for referrals to and authorizations of PMDC and fair hearing procedures for Medicaid/NJ FamilyCare beneficiaries who are denied PMDC services.

Subchapter 4, Basis of Payment, provides the reimbursement rates and billing codes for PMDC services.

Subchapter 5, PMDC Services, addresses the units of service a PMDC beneficiary will receive, as well as the staffing ratio requirements, and provides that the beneficiary must receive the services included in the interdisciplinary plan of care in accordance with the written orders of the PMDC beneficiary's primary care provider.