

**Full text** of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:76.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:76-1.2 Definitions

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

...  
**“National Plan and Provider Enumerations System (NPPES)”** means the system that assigns a provider a National Provider Identifier (NPI) number, maintains and updates information about health care providers with NPIs, and disseminates the NPI Registry and NPPES downloadable file. The NPI Registry is an online query system that allows users to search for a health care provider’s information.

**“National Provider Identifier (NPI)”** means a unique 10-digit identification number issued to health care providers by the Centers for Medicare and Medicaid Services (CMS).

...  
**“Taxonomy code”** means a code that describes the provider or organization’s type, classification, and the area of specialization.

10:76-1.3 Provider participation criteria

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

**(g) In order to participate in the New Jersey Medicaid/NJ FamilyCare Program, a PACT services provider shall:**

- 1. Have a valid National Provider Identifier (NPI) number obtained from the National Plan and Provider Enumeration System (NPPES);**
- 2. Have a valid taxonomy code obtained from the NPPES; and**
- 3. Remain a provider in good standing by successfully completing provider revalidation, when requested by DMAHS.**

SUBCHAPTER 2. PROGRAM OPERATIONS

10:76-2.1 PACT services

(a) (No change.)

(b) PACT services shall include mental health services and related supportive services, and shall be provided directly by one or more of the PACT team members. Such services shall include, but are not limited to, the following:

1. (No change.)

2. Individual [and] **and/or** group interventions for substance abuse **when the need exists** (see N.J.A.C. 10:37J-2.5(h));

3.-5. (No change.)

(c) (No change.)

(d) Examples of services provided by a PACT team shall include, but are not limited to:

1.-4. (No change.)

5. Provision of support to the beneficiary’s family and other members of the [consumer’s] **beneficiary’s** social network to deal with the mental illness; and

6. (No change.)

(e) (No change.)

10:76-2.5 Prior authorization

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

(c) For the provision of Partial Care/Partial Hospitalization (PC/PH) services to an eligible beneficiary enrolled in PACT, the provider shall obtain prior authorization as follows:

1.-2. (No change.)

3. The DMAHS Office of Customer Service will review the request and advise the Statewide PACT Coordinator of the approval or denial of the request.

i.-ii. (No change.)

iii. The providers will be notified by [Molina Medicaid Systems] **the Medicaid/NJ FamilyCare fiscal agent** that services have been

authorized. Such authorization should be received before providing services.

(d) (No change.)

SUBCHAPTER 3. PROCEDURE CODES FOR REIMBURSEMENT

10:76-3.1 Introduction

(a) (No change.)

(b) HCPCS [was developed as a three-level] **is a two-level** coding system:

1.-2. (No change.)

(c) (No change.)

APPENDIX

FISCAL AGENT BILLING SUPPLEMENT

AGENCY NOTE: The Fiscal Agent Billing Supplement is appended as a part of this chapter but is not reproduced in the New Jersey Administrative Code. The Fiscal Agent Billing Supplement can be downloaded free of charge from: [www.njmmis.com](http://www.njmmis.com). When revisions are made to the Fiscal Agent Billing Supplement, a revised version will be posted on the njmmis website and copies will be filed with the Office of Administrative Law.

If you do not have access to the Internet and require a copy of the Fiscal Agent Billing Supplement, write to:

[Molina Medicaid Systems] **Gainwell Technologies**  
 PO Box 4801  
 Trenton, New Jersey 08650-4801  
 or contact:  
 Office of Administrative Law  
 Quakerbridge Plaza, Bldg. 9  
 PO Box 049  
 Trenton, New Jersey 08625-0049

**(a)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Rehabilitative Services for Children**

**Proposed Re Adoption with Amendments: N.J.A.C. 10:77**

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

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

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

Agency Control Number: 22-P-03.

Proposal Number: PRN 2023-009.

Submit comments by March 18, 2023, to:

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The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 10:77, the Rehabilitative Services for Children chapter, was scheduled to expire on December 7, 2022. As the Department of Human Services (Department) submitted this notice of proposal to the Office Of Administrative Law prior to that date, the expiration date was extended 180 days to June 5, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The Rehabilitative Services for Children chapter contains the policy, procedure codes, and reimbursement amounts for rehabilitative services provided to eligible Medicaid/NJ FamilyCare fee-for-service beneficiaries. Rehabilitative services for children include environmental lead inspection and hazard assessment services and mental health rehabilitation services. The Department is proposing to readopt the chapter with amendments.

A substantive proposed amendment will require providers to obtain a Federally required National Provider Identifier (NPI) number and valid taxonomy code for their provider type. Providers were notified of the Federal requirement to obtain an NPI and taxonomy code through a Division of Medical Assistance and Health Services (DMAHS) Newsletter Volume 16, Number 18, in December 2006. The proposed amendment updates the rule to memorialize this change.

Additional proposed substantive amendments require employees of agencies to provide proof of applicable current clinical licensure and driver's licenses and that all agencies shall adopt a policy requiring that any changes to an employee's driving or clinical license status be reported by the employee to the provider immediately. Providers were notified of these requirements through a DMAHS Newsletter Volume 32, Number 24, in September 2022. The proposed amendments update the rule to memorialize this change.

Technical amendments intended to update contact information; correct grammar, spelling, and punctuation; improve the organization of the chapter; correct codification errors and/or cross-references; eliminate unnecessary, duplicative, and/or superseded text; and clarify existing program rules are also included in this proposed rulemaking.

#### Summary of Subchapter Provisions

The chapter contains seven subchapters and one appendix as described below.

N.J.A.C. 10:77-1 contains general provisions relating to rehabilitative services, including introductory general provisions and general definitions.

N.J.A.C. 10:77-2 contains definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to environmental lead intervention services.

N.J.A.C. 10:77-3 contains definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to mental health rehabilitation services for children provided in psychiatric community residences and similar facilities.

N.J.A.C. 10:77-4 contains the definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to behavioral assistance services.

N.J.A.C. 10:77-5 contains the definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to intensive in-community mental health rehabilitation services.

N.J.A.C. 10:77-6 contains the definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to mobile response and stabilization management services.

N.J.A.C. 10:77-7 contains information related to the Centers for Medicare and Medicaid Services' Healthcare Common Procedure Coding System (HCPCS).

N.J.A.C. 10:77 Appendix contains information related to obtaining a copy of the Fiscal Agent Billing Supplement.

#### Summary of General Changes

Throughout the chapter, the terms "Medicaid or NJ FamilyCare" and "Medicaid and NJ FamilyCare" are being replaced with the term "Medicaid/NJ FamilyCare" to reflect the current nomenclature used by the Department.

Throughout the chapter, all references to the "Department of Health and Senior Services" or "DHSS" are being replaced with references to the "Department of Health" or "DOH" to reflect the correct name of the department.

Throughout the chapter, all references to the "Division of Mental Health Services" or "DMHS" are being revised to read "Division of Mental Health and Addiction Services" or "DMHAS" to reflect the correct name of the Division.

Throughout the chapter, all references to the "Joint Committee on Accreditation of Healthcare Organizations" or "(JCAHO)" are being replaced with references to the "Joint Commission" to reflect the correct name of the agency.

Throughout the chapter, the name of the fiscal agent is being changed from "Unisys" or "Molina Medicaid Solutions" to the current name of the fiscal agent, which is "Gainwell Technologies."

#### Summary of Specific Changes

At N.J.A.C. 10:77-1.1(b), proposed amendments replace the term "NJ FamilyCare" with the Federal name of the program, "State Children's Health Insurance Program (SCHIP)" in the first sentence of the subsection and add a sentence stating that in New Jersey, the SCHIP program is known as NJ FamilyCare.

At N.J.A.C. 10:77-1.2, proposed amendments correct contact information in the definition of "Joint Commission." The proposed amendments also add definitions for the following terms: "National Plan and Provider Enumerations System (NPPES)," "National Provider Identifier (NPI)," and "Taxonomy code."

The heading at N.J.A.C. 10:77-2.2 is being amended to "Environmental lead intervention service definitions" to be consistent with the heading of the chapter.

Throughout the chapter, the term "lead inspection" is being amended to read "lead inspection or hazard assessment" to be consistent with the term "Environmental lead inspection service or hazard assessment," defined at N.J.A.C. 10:77-2.2, indicating that a lead inspection and hazard assessment are provided concurrently.

At N.J.A.C. 10:77-2.2, proposed amendments revise the following definitions, so that they are consistent with the definitions of the same terms used by the Department of Health, and cross-references to the Department of Health rules are being corrected or added as needed: "certified lead inspector/risk assessor," "environmental intervention," "environmental lead inspection service or hazard assessment," "lead hazard," and "screening." Additionally, the definition of the term "local health department" is proposed to be deleted and replaced with the definition of the term "local board or local board of health." Throughout N.J.A.C. 10:77-2, all references to the "local health department" or "LHD" are being changed to read "local board of health" or "local board" to be consistent with this change.

Throughout N.J.A.C. 10:77-2, all references to any variation of the term "inspection," "assessment," or "inspection/assessment" are being changed to the comprehensive and inclusive term of "environmental lead inspection service or hazard assessment," to more accurately indicate the service and to be consistent with the term, as defined at N.J.A.C. 10:77-2.2.

Proposed N.J.A.C. 10:77-2.3(a)3ii sets forth, for potential providers, how to obtain a provider application.

Proposed new N.J.A.C. 10:77-2.3(a)6 requires a provider to have a valid NPI, valid taxonomy code, and complete a provider revalidation, when requested.

At N.J.A.C. 10:77-2.4(a)2, a reference to the "Environmental Investigation and Abatement Report Form (LP-1)" is being deleted as this form is no longer used.

N.J.A.C. 10:77-2.4(b), which discusses requirements for the service to be eligible for reimbursement, is proposed for deletion. The language is essentially the same as the language at N.J.A.C. 10:77-2.5(b), Basis for reimbursement, which is being amended as described below, so the duplicative language is not needed.

Recodified N.J.A.C. 10:77-2.4(b) is proposed for amendment to change the term "initial inspection" to "initial environmental lead inspection service or hazard assessment," as described above.

At N.J.A.C. 10:77-2.5(b), a proposed amendment states that in order for the service to be reimbursable, the local board of health must meet the requirements listed at N.J.A.C. 10:77-2.5(b)1, 2, and 3.

At N.J.A.C. 10:77-2.5(b)1, the proposed amendment requires that the service be provided by a local board of health and performed by a lead

inspector/risk assessor who has met the requirements of the DOH. This is not a new requirement; this requirement was previously codified at N.J.A.C. 10:77-2.4(b)1.

At N.J.A.C. 10:77-2.5(b)2, proposed amendments clarify that the service is being done to identify the source or sources of the lead contamination. This is not a new requirement; this requirement was previously codified at N.J.A.C. 10:77-2.4(b)2.

Existing N.J.A.C. 10:77-2.5(b)3 is proposed for deletion because the language is repeated at N.J.A.C. 10:77-2.5(c).

Proposed new N.J.A.C. 10:77-2.5(c)1, the language that was previously codified at N.J.A.C. 10:77-2.4(b)3, it is relocated and the term “inspection/assessment” is being changed to “environmental lead inspection service or hazard inspection” to be consistent with the term, as it is defined at N.J.A.C. 10:77-2.2.

At N.J.A.C. 10:77-2.5(c)1, the name of the Medicaid/NJ FamilyCare identification card is being amended to read “Health Benefits Identification (HBID) Card” to reflect the correct name of the card.

At N.J.A.C. 10:77-2.6(a), proposed amendments clarify that all local boards of health are required to maintain records of the specific services provided and are also required to maintain any other records detailed at N.J.A.C. 8:51.

Existing N.J.A.C. 10:77-2.6(b) is proposed for deletion, as the “Environmental Investigation and Report Form (LP-1)” is no longer used.

Throughout N.J.A.C. 10:77-3, proposed amendments change references to N.J.A.C. 10:127, Manual of Standards for Residential Child Care Facilities, to N.J.A.C. 3A:55, Manual of Requirements for Residential Childcare Facilities, to reflect the recodification of these rules, effective January 3, 2017. See 49 N.J.R. 98(a).

Throughout N.J.A.C. 10:77-3, proposed amendments change references to N.J.A.C. 10:37B, Psychiatric Community Residences for Youth, and references to N.J.A.C. 10:128, Manual of Requirements for Children’s Group Homes, to N.J.A.C. 3A:56, Manual of Requirements for Children’s Group Homes. N.J.A.C. 10:37B was repealed and the rules for these facilities were merged into N.J.A.C. 10:128. See 41 N.J.R. 4170(a); 42 N.J.R. 1200(b). Subsequent to that rulemaking, N.J.A.C. 10:128 was recodified as N.J.A.C. 3A:56. See 49 N.J.R. 98(a).

At N.J.A.C. 10:77-3.2, the definition for “contract pricing” is proposed to be amended to indicate that the Division of Mental Health and Addiction Services is part of the Department of Human Services, and the Division of Children’s System of Care is part of the Department of Children and Families. Additionally, the definition for “psychiatric community residences for youth” is proposed to be amended to indicate that the Department of Children and Families license the facilities, pursuant to N.J.A.C. 3A:56.

At N.J.A.C. 10:77-3.3(a)1, the reference to facilities being enrolled by the Department of Human Services in accordance with N.J.A.C. 10:37B is proposed for deletion because these facilities are all enrolled pursuant to N.J.A.C. 3A:55 or 3A:56, which are Department of Children and Families’ rules.

Proposed new N.J.A.C. 10:77-3.3(a)5, requires a provider to have a valid NPI, valid taxonomy code, and complete a provider revalidation, when requested.

At N.J.A.C. 10:77-4.3(b)5iv, the reference to N.J.A.C. 13:34-22 is proposed for deletion. N.J.A.C. 13:34, Board of Marriage and Family Therapy Examiners, was readopted effective March 22, 2004. As a part of the readoption, N.J.A.C. 13:34-22 was repealed. See: 35 N.J.R. 5228(a); 36 N.J.R. 1943(a).

Proposed new N.J.A.C. 10:77-4.3(k) requires a provider to have a valid NPI, valid taxonomy code, and complete a provider revalidation, when requested.

At N.J.A.C. 10:77-4.6(h)4, a proposed amendment specifies that the rules regarding residential childcare centers are at N.J.A.C. 10:77-3. An additional amendment corrects the term “contract systems administrator” to “contract system administrator.”

At N.J.A.C. 10:77-4.9(d), a proposed amendment changes “group practices” to “group practice” for grammatical correctness.

Proposed new N.J.A.C. 10:77-4.9(h) requires providers to adopt a policy that all employees shall be required to report any change in professional or driving license status to the provider immediately.

N.J.A.C. 10:77-4.11(d)1 is proposed to be revised for grammatical correctness without changing the intent of the rule, which is that a person who is driving a vehicle cannot bill for the provision of behavioral services.

At N.J.A.C. 10:77-4.12(c), a proposed amendment changes a reference to “DCBHS” to “DCF.”

At N.J.A.C. 10:77-5.3(b)5iv, the reference to N.J.A.C. 13:34-22 is proposed for deletion. N.J.A.C. 13:34, Board of Marriage and Family Therapy Examiners, was readopted effective March 22, 2004. As a part of the readoption, N.J.A.C. 13:34-22 was repealed. See: 35 N.J.R. 5228(a); 36 N.J.R. 1943(a).

Proposed new N.J.A.C. 10:77-5.3(n) requires a provider to have a valid NPI, valid taxonomy code, and complete a provider revalidation, when requested.

Proposed new N.J.A.C. 10:77-5.9(g) requires providers to adopt a policy that all employees shall be required to report any change in professional or driving license status to the provider immediately.

N.J.A.C. 10:77-5.11(d)1 is proposed to be revised for grammatical correctness without changing the intent of the rule, which is that a person who is driving a vehicle cannot bill for the provision of behavioral services.

At N.J.A.C. 10:77-5.12(c), a reference to Division of Child Protection and Permanency is being removed.

At N.J.A.C. 10:77-5.14(b)2, a proposed amendment requires that a provider of Intensive In-Community services forward updated information regarding a licensed clinical staff member to DHS and DCF within 10 days of receipt of the updated information in addition to maintaining documentation of the change. Updated information shall include, but not be limited to, additional continuing education units obtained, change of name and/or address, any action against licensure, and any criminal charges. This requirement is consistent with the requirements for providers of Behavioral Assistance services (see N.J.A.C. 10:77-4.14(b)2) and providers of Mobile Response services (see N.J.A.C. 10:77-6.12(b)2).

Proposed new N.J.A.C. 10:77-6.3(h) requires a provider to have a valid NPI, valid taxonomy code, and complete a provider revalidation, when requested.

Proposed new N.J.A.C. 10:77-6.12(e) requires providers to adopt a policy that all employees shall be required to report any change in professional or driving license status to the provider immediately.

At N.J.A.C. 10:77-7.2(c), proposed amendments codify an increase in the reimbursement amounts for the HCPCS code H2014, with indicated modifiers, for individual and group behavioral assistance services. The increased reimbursement amounts are as follows:

HCPCS Code	Current Amount	Increased Amount
H2014 TJ	\$9.75/unit	\$18.19/unit
H2014 TJ UN	\$5.62/unit per child	\$11.10/unit per child
H2014 TJ UP	\$4.25/unit per child	\$30.83/unit per child

At N.J.A.C. 10:77-7.2(d), proposed amendments to codify an increase in the reimbursement amounts for the HCPCS codes S9485 and H0032, with indicated modifiers, for mobile response services. The increased reimbursement amounts are as follows:

HCPCS Code	Current Amount	Increased Amount
S9485 TJ	\$1,307/unit	\$1,320/unit
H0032 TJ	\$8.32/unit	\$8.40/unit

At N.J.A.C. 10:77-7.2(e), proposed amendments to codify an increase in the reimbursement amounts for the HCPCS codes H0036, with indicated modifiers, for specified individual and group intensive in community services. Additional amendments add HCPCS H0036, with indicated modifiers, to allow for billing for group intensive in community services provided by, at a minimum, a master’s level direct care provider. The increase in reimbursement amounts for the existing codes are as follows:

HCPCS Code	Current Amount	Proposed Amount
H0036 TJ U2	\$21.25/unit (\$85.00/hour)	\$28.74/unit (\$114.96/hour)
H0036 TJ U2	\$28.25/unit (\$113.00/hour)	\$30.83/unit (\$123.32/hour)
H0036 U1 UN	\$19.00/unit per child	\$20.17/unit per child
H0036 U1 UP	\$15.91/unit per child	\$17.45/unit per child

N.J.A.C. 10:77 Appendix contains the fiscal agent billing supplement information.

The Department has determined that the comment period for this notice of proposal will be at least 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

**Social Impact**

During State Fiscal Year 2022, approximately 71,979 beneficiaries received services covered pursuant to this chapter. This includes Medicaid/NJ FamilyCare beneficiaries, as well as those children receiving mental health rehabilitation services under the auspices of the Department of Children and Families’ Children’s System of Care.

N.J.A.C. 10:77, Rehabilitative Services for Children, assures that eligible Medicaid/NJ FamilyCare beneficiaries will continue to have access to the covered rehabilitative services. With the services, the negative impacts of lead poisoning and mental illness are diminished significantly for these children and their families.

The State and the providers of the various services regulated by this chapter will benefit because the rules readopted with amendments will allow the Department to continue these programs, ensuring continuation of services to beneficiaries and continued reimbursement to providers. Without these services, the long-term effects on the beneficiaries would likely require additional and potentially more costly programming and services. If the services available pursuant to this chapter were not available, additional expenses would be incurred for the long-term care medical and mental health needs of the children who receive environmental lead inspection and hazard assessment services and/or mental health rehabilitative services, both of which help the children achieve and maintain improved physical and mental health.

**Economic Impact**

During State Fiscal Year 2022, approximately 71,979 beneficiaries received services covered pursuant to this chapter at a cost of \$399,009,839 (State and Federal share combined). These figures include costs for providing services to Medicaid/NJ FamilyCare eligible beneficiaries, as well as those children who are not eligible for Medicaid/NJ FamilyCare, but who receive mental health rehabilitation services pursuant to the auspices of the Children’s System of Care within the Department of Children and Families.

The proposed amendments are not changing the scope of the services and the Department does not anticipate a significant change in the utilization of these services; therefore, there is no economic impact expected other than the funding already included in the Department’s operating budget. The budget already included the proposed increases indicated in the reimbursement for specified mental health rehabilitative services to reflect the current rates.

There is no negative economic impact on the beneficiaries who receive these services because they are not required to pay for the services other than any premiums or copayments previously established for specific NJ FamilyCare plans and this rulemaking does not change that.

**Federal Standards Statement**

Sections 1902(a)(10) and 1905(a)(13) of the Social Security Act (the Act), 42 U.S.C. §§ 1396a(a)(10) and 1396d(a)(13), respectively, allow a state Medicaid program to offer other diagnostic, screening, prevention, and rehabilitation services, including any services recommended by a physician or other licensed practitioner of the healing arts 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 level of functioning.

Title XXI of the Social Security Act contains broad guidelines to allow a state to provide coverage of a variety of health services under a state-

operated children’s health insurance program (known in New Jersey as NJ FamilyCare) for targeted, low-income children and expects the state to adopt regulations in order to assure the quality of services. Section 2101 of the Act (42 U.S.C. § 1397aa) provides funds to a state to administer the program in an effective and efficient manner. Sections 2103 and 2110 of the Social Security Act (42 U.S.C. §§ 1397cc and 1397jj, respectively) define the scope of coverage to be provided and provides definitions of allowable services, including rehabilitative and mental health services.

The Federal regulations at 42 CFR 440.130 define rehabilitative services as any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice pursuant to state law, for maximum reduction of physical or mental disability and restoration of a patient to his or her best possible functional level.

Federal regulations at 45 CFR 162.402 through 162.414 require the use of standard unique health identifiers for healthcare providers.

The Department has reviewed the Federal statutory and regulatory requirements and has determined the rules proposed for readoption with amendments do not exceed Federal standards. Therefore, a Federal standards analysis is not required.

**Jobs Impact**

The rules proposed for readoption with amendments are not changing the scope of the services and the Department does not anticipate a significant change in the utilization of these services. Therefore, the Department does not anticipate that the rules proposed for readoption with amendments will result in the creation or loss of jobs in the State of New Jersey.

**Agriculture Industry Impact**

As the rules proposed for readoption with amendments concern the provision of fee-for-service environmental lead inspection and hazard assessment services and mental health rehabilitative services, the Department anticipates that the rulemaking will have no impact on the agriculture industry in the State of New Jersey.

**Regulatory Flexibility Analysis**

The Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., defines a “small business” as any business resident in this State that employs fewer than 100 employees full time, is independently owned and operated, and is not dominant in its field. The local boards of health provide the environmental lead screening services and do not fit this definition, as they are part of local government. However, many of the mental health rehabilitation providers are considered small businesses pursuant to this definition; therefore, a regulatory flexibility analysis is required.

The rules proposed for readoption with amendments will continue to impose necessary reporting, recordkeeping, and compliance requirements. The Department believes that these requirements ensure that services are provided in a manner that is responsible to the community and the beneficiaries they serve.

The proposed amendments require the providers to obtain a National Provider Identifier (NPI) and Taxonomy Code from the National Plan and Provider Enumeration System. The use of these nationally recognized identifying numbers would not increase the administrative burden on the providers because all health care providers, all health plans, and health care clearinghouses must use NPIs in their administrative and financial transactions. As they were introduced as the national standard in 2004, the providers are already accustomed to using them on claims.

The Department has attempted to minimize any adverse economic impact on small businesses by requiring only that amount of recordkeeping, compliance, and reporting requirements necessary to ensure the safety of the beneficiaries and to protect the Medicaid/NJ FamilyCare programs from fraud. Providers are already required to maintain records to fully disclose the name of the beneficiary who received the service, date of service, and any additional information as may be required at N.J.A.C. 10:49 and N.J.S.A. 30:4D-1 et seq.

The requirements contained in the rules proposed for readoption with amendments must be equally applicable to all providers, regardless of business size, because all providers must utilize the same billing procedures. Providers cannot be excused from the requirements contained in this chapter because a uniform quality of care must be provided to all

beneficiaries, and because the Department must assure that all reimbursements made conform to New Jersey statute and to applicable Federal laws and regulations.

**Housing Affordability Impact Analysis**

As the rules proposed for readoption with amendments concern the provision of environmental lead inspection and hazard assessment and fee-for-service mental health rehabilitative services to eligible Medicaid/NJ FamilyCare beneficiaries, the Department anticipates that the proposed rulemaking will have no impact on the affordability of housing, nor will it have an impact on average costs associated with housing.

**Smart Growth Development Impact Analysis**

As the rules proposed for readoption with amendments concern the provision of fee-for-service environmental lead inspection and hazard assessment services and mental health rehabilitative services to eligible Medicaid/NJ FamilyCare beneficiaries, the rules proposed for readoption with amendments will have no impact on housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan and will have no impact on smart growth.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:77.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:77-1.1 Purpose and scope

(a) This chapter is concerned with the provision of, and reimbursement for, medically necessary [Medicaid-covered and NJ FamilyCare] **Medicaid/NJ FamilyCare** fee-for-service covered rehabilitative services, specifically, environmental lead [inspection/hazard] **inspection and hazard** assessment services and mental health rehabilitation services for children, youth, and young adults, in accordance with the New Jersey [Medicaid and NJ FamilyCare] **Medicaid/NJ FamilyCare** fee-for-service program rules, including those mental health rehabilitation services provided under the auspices of the Department of Children and Families' (DCF) Children's System of Care (CSOC).

(b) Medically necessary services shall meet all applicable State and Federal Medicaid and [NJ FamilyCare] **State Children's Health Insurance Program (SCHIP)** laws, and all applicable rules as specified in the appropriate provider services manual of the New Jersey Medicaid/NJ FamilyCare program. **The SCHIP program in New Jersey is known as NJ FamilyCare.**

(c) The chapter is divided into seven subchapters and an appendix, as follows:

1. (No change.)

2. N.J.A.C. 10:77-2 contains definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to the specific [Medicaid-covered and NJ FamilyCare-Plan A-covered] **Medicaid/NJ FamilyCare-Plan A-covered** rehabilitative service: environmental lead inspection service;

3.-5. (No change.)

6. N.J.A.C. 10:77-6 contains the definitions, provisions for provider participation, basis for reimbursement, policies and procedures, and recordkeeping requirements pertaining to the specific [Medicaid-covered and NJ FamilyCare-Plan A-covered] **Medicaid/NJ FamilyCare-Plan A-covered** mobile response and stabilization management services for children; available to children, youth, or young adults who are Medicaid/NJ FamilyCare beneficiaries or children, youth, or young adults who are ineligible for Medicaid/NJ FamilyCare but are receiving mental health rehabilitation services under DCF/CSOC.

7.-8. (No change.)

10:77-1.2 General definitions

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

...  
 "Joint [Committee on Accreditation of Healthcare Organizations (JCAHO)] **Commission**" means the organization that evaluates and accredits health care organizations and programs in the United States. Information about [JCAHO] **the Joint Commission** can be obtained from: Joint Committee on Accreditation of Healthcare Organizations, One Renaissance Blvd., Oakbrook Terrace, IL 60181; telephone (630) [792-5000] **792-5800**; and on the web at [[www.jcaho.org](http://www.jcaho.org)] **<https://www.jointcommission.org/>**.

"**National Plan and Provider Enumerations System (NPPES)**" means the system that assigns a provider a **National Provider Identifier (NPI) number, maintains and updates information about health care providers with NPIs, and disseminates the NPI Registry and NPPES downloadable file. The NPI Registry is an online query system that allows users to search for a health care provider's information.**

"**National Provider Identifier (NPI)**" means a unique 10-digit identification number issued to health care providers by the Centers for Medicare and Medicaid Services (CMS).

...  
 "**Taxonomy code**" means a code that describes the provider or organization's type, classification, and the area of specialization.

SUBCHAPTER 2. ENVIRONMENTAL LEAD INTERVENTION SERVICES

10:77-2.1 Scope of services

This subchapter describes the New Jersey [Medicaid and NJ FamilyCare-Plan A] **Medicaid/NJ FamilyCare** program's provisions specifically pertaining to environmental lead inspection/hazard assessment services.

10:77-2.2 Environmental lead [inspection] **intervention** service definitions

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

"Certified lead inspector/risk assessor" means one who is hired or **contracted** by the local **board of health** [department] and [certified by the State Department of Health and Senior Services in accordance with N.J.A.C. 8:62 to perform and conduct hazard assessments in order to find lead hazards] **who has completed a lead inspector/risk assessor training course approved by the New Jersey Department of Health and holds a valid inspector/risk assessor permit to perform inspections and conduct risk assessments as defined at N.J.A.C. 8:62-2.1.**

...  
 "Environmental intervention" means [the application of detection techniques and the performance of tests in order to assess the origins and extent of lead hazards in the child's primary residence] the same as that term is defined [pursuant to] **at N.J.A.C. 8:51-1.4.**

"Environmental lead inspection service or hazard assessment" means [an epidemiologic investigation] **conducting a comprehensive assessment of "hazard assessment," pursuant to N.J.A.C. 8:51-1.4,** by a certified lead inspector/risk assessor in order to identify lead hazards in the primary residence of a child who is a Medicaid/NJ FamilyCare beneficiary and who is determined to have an EBLL.

...  
 "Lead hazard" means any condition that allows access or exposure to lead, in any form, to the extent that adverse human health effects are possible (N.J.A.C. 8:51-[1.3]1.4)

"[Local health department]" (LHD) means the board of health of any region or municipality or the boards, bodies or officers in such region or municipality lawfully exercising any of the powers of a local board of health under the laws governing such region or municipality, and includes

any consolidated local board of health or county local board of health created and established pursuant to N.J.S.A. 26:1A-1.]

**“Local board or local board of health” means any local board of health, as established pursuant to N.J.S.A. 26:1A-1, and as defined at N.J.A.C. 8:51-1.4 and 8:62-2.1.**

“Screening” means the taking of a blood sample from an asymptomatic child, and its analysis by a medical laboratory[, to determine if the child has EBL] **licensed in accordance with N.J.A.C. 8:44, to determine if the child has elevated blood lead level, as defined at N.J.A.C. 8:51A-1.4.**

#### 10:77-2.3 Provider participation requirements

(a) Requirements for a provider to participate in environmental lead inspection **or hazard assessment** services shall be as follows:

1. An applicant shall be a local **board of health** [department (LHD)];
2. Each [LHD] **local board of health** shall enroll and be approved by the New Jersey Medicaid/NJ FamilyCare programs specifically for reimbursement for this service, including [LHD’s] **local boards of health** previously approved as Medicaid/NJ FamilyCare independent clinic providers;

3. [An LHD] **A local board of health** not previously approved as a Medicaid/NJ FamilyCare independent clinic provider but wishing to enroll as a Medicaid/NJ FamilyCare-participating provider for environmental lead intervention services shall complete and submit a provider application packet pursuant to N.J.A.C. 10:49-3.2.

i. The completed application packet shall be submitted to:

[Molina Medicaid Solutions] **Gainwell Technologies**  
Provider Enrollment  
PO Box 4804

Trenton, New Jersey 08650;

**ii. A provider application can be requested by calling 1-800-776-6334 or downloaded at [www.njmmis.com](http://www.njmmis.com); and**

[ii.] **iii.** (No change in text.)

4. [An LHD] **A local board of health** previously approved as a Medicaid/NJ FamilyCare independent clinic provider or [an LHD] **a local board of health** previously issued a provider number but requiring reactivation of its provider number, wishing to perform environmental lead inspection **or hazard assessment** services needs only to submit a request on [LHD] **local board of health** letterhead to:

Division of Medical Assistance and Health Services

Office of Provider Enrollment

Mail Code #9

PO Box 712

Trenton, New Jersey 08625-0712;

5. Upon approval as a Medicaid/NJ FamilyCare provider, the [LHD] **local board of health** shall conform to applicable State and Federal laws, rules and regulations, including, but not limited to, N.J.A.C. 10:49 and this chapter[.]; **and**

**6. In order to participate in the New Jersey Medicaid/NJ FamilyCare Program, a local board of health provider shall:**

- i. Have a valid National Provider Identifier (NPI) number obtained from the National Plan and Provider Enumeration System (NPPES);**
- ii. Have a valid taxonomy code obtained from the NPPES; and**
- iii. Remain a provider in good standing by successfully completing provider revalidation, when requested by DMAHS.**

#### 10:77-2.4 Environmental lead intervention services

(a) All Medicaid/NJ FamilyCare-Plan A beneficiaries up to 72 months of age and older children who are considered as “high risk” for lead poisoning, shall be screened for such through venous or capillary blood tests.

1. Pursuant to N.J.A.C. 8:44-2.11, clinical laboratories are required to report to the New Jersey Department of Health [and Senior Services (DHSS)] (**DOH**) the results of all lead screenings;

2. The [DHSS] **DOH**, in turn, [through the “Environmental Investigation and Abatement Report Form” (LP-1),] will notify the appropriate [LHD] **local board of health** of the need to conduct an environmental [lead inspection/hazard assessment] **lead inspection service or hazard assessment** of the child’s primary residence;

3. The [LHD] **local board of health** shall have a certified lead inspector/risk assessor conduct an environmental lead [inspection/hazard]

inspection service or hazard assessment of the Medicaid/NJ FamilyCare-Plan A beneficiary’s primary residence in order to locate existing lead hazards.

[(b) To be reimbursable as a rehabilitative service, the LHD’s environmental lead inspection/hazard assessment shall meet the following requirements:

1. The rehabilitative service-environmental lead inspection/hazard assessment service shall be provided by the LHDs and performed by a Department of Health and Senior Services-certified lead inspectors/risk assessors;

2. The on-site environmental lead inspection/hazard assessment shall be of the child’s primary residence for the source(s) of lead contamination; and

3. The inspection/assessment shall include tests performed by the certified lead inspector/risk assessor designed to locate lead hazards.

i. Laboratory testing and analysis of substances such as water and paint shall not be included as reimbursable environmental lead inspection services.]

[(c) (b) When the initial **environmental lead inspection service or hazard assessment** of the child’s primary residence results in a recommendation for abatement, as defined at N.J.A.C. 8:51-[1.3]1.4, a reinspection to determine if the lead hazard has been eliminated may be reimbursed.

1.-2. (No change.)

#### 10:77-2.5 Basis for reimbursement

(a) The reimbursement for rehabilitative service-environmental lead inspection **or hazard assessment** service shall be based on the provider’s usual and customary charge or the maximum fee allowance [as contained in] **at N.J.A.C. 10:77-7.2(a)**, whichever is less.

(b) [The] **To be reimbursable as a rehabilitative service, the local board of health’s environmental lead inspection or hazard assessment** service shall meet the following conditions:

1. The service shall be **provided by the local boards of health and** performed by a **DOH** certified lead inspector/risk assessor;

2. The service shall be provided in the primary residences of Medicaid/NJ FamilyCare-Plan A beneficiaries who are children identified as having EBLs. **The purpose of the environmental lead inspection or hazard inspection is to identify the source(s) of lead contamination; and**

[3. The child(ren) shall have been referred by the New Jersey State Department of Health and Senior Services (DHSS).]

**3. The environmental lead inspection or hazard inspection shall include tests performed by the certified lead inspector/risk assessor designed to locate lead hazards.**

**i. Laboratory testing and analysis of substances, such as water and paint, shall not be included as reimbursable environmental lead inspection or hazard assessment services.**

(c) Only claims for Medicaid/NJ FamilyCare-Plan A-eligible individuals referred through the Department of Health [and Senior Services] to the [LHDs] **local boards of health** can be considered for reimbursement by the Medicaid/NJ FamilyCare program.

1. The provider shall request the beneficiary’s Medicaid/NJ FamilyCare-Plan A [Eligibility] **Health Benefits Identification (HBID)** Card and verify Medicaid/NJ FamilyCare-Plan A eligibility for the date of service before submitting a claim to the Medicaid/NJ FamilyCare program. For additional information regarding verification of beneficiary eligibility, refer to N.J.A.C. 10:49-2.11.

(d) A claim for environmental lead inspection shall be submitted on a CMS 1500 claim form to [Unisys] **Gainwell Technologies**, the Medicaid/NJ FamilyCare fiscal agent at the following address:

[Unisys] **Gainwell Technologies**

PO Box 4808

Trenton, New Jersey 08650-4808

1. (No change.)

2. Upon receipt of the CMS 1500 claim form, the Medicaid/NJ FamilyCare fiscal agent will process the claim and reimburse the [LHD] **local board of health** the Federal share (50 percent for Medicaid and 65 percent for certain NJ FamilyCare-Plan A beneficiaries) of the amount approved by Medicaid/NJ FamilyCare (N.J.A.C. 10:77-7), the remaining

cost of this mandated service, as specified [in] at N.J.A.C. 8:51, [being] **shall be** the responsibility of the [LHD] **local board of health**.

10:77-2.6 Recordkeeping

(a) All [LHDs] **local boards of health** shall keep such legible records as are necessary to fully disclose the [kind and extent of] **specific** services provided[.]; as well as the necessity for such services[.]; and the place, date, and time the services were provided; **and all documentation required pursuant to N.J.A.C. 8:51**.

[(b) The minimum recordkeeping requirements for LHDs performing environmental lead inspections shall be a completed copy of the “Environmental Investigation and Report Form” (LP-1).

1. A copy of the completed form (LP-1) for each Medicaid/NJ FamilyCare-Plan A beneficiary shall be sent quarterly to the following address:

- Office of Preventive Health/EPSDT
- Division of Medical Assistance and Health Services
- PO Box 712, Mail Code #15
- Trenton, NJ 08625-0712
- [(c)] **(b)** (No change in text.)

SUBCHAPTER 3. RESIDENTIAL MENTAL HEALTH REHABILITATION SERVICES

10:77-3.2 Definitions

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

“Children’s group homes” means facilities licensed by the Department of Children and Families and that meet the requirements [of] at N.J.A.C. [10:127] **3A:56**, and provide mental health rehabilitation services.

“Contract pricing” means each facility shall have an individual rate based on the rate in the contract negotiated by either the Division of Mental Health and Addiction Services **within the Department of Human Services** or the Division of [Child Protection and Permanency] **Children’s System of Care within the Department of Children and Families**.

...  
 “Psychiatric community residences for youth” means facilities licensed by the Department of [Human Services] **Children and Families** in accordance with N.J.A.C. [10:37B] **3A:56** that provide mental health rehabilitation services.

...  
 “Residential child care facilities” means facilities licensed by the Department of Children and Families in accordance with N.J.A.C. [10:128] **3A:56** that provide mental health rehabilitation services.

...

10:77-3.3 Provider participation requirements

(a) Requirements for participation as a mental health rehabilitation provider shall be as follows:

1. An applicant shall be licensed [by the Department of Human Services in accordance with N.J.A.C. 10:37B, or] by the Department of Children and Families in accordance with N.J.A.C. [10:127 or 10:128] **3A:55 or 3A:56** and shall provide mental health rehabilitation services.

2. A psychiatric community residence for youth or any other provider that is not enrolled as a provider of mental health personal care services [by the Department of Human Services in accordance with N.J.A.C. 10:37B, or] by the Department of Children and Families in accordance with N.J.A.C. [10:127 or 10:128] **3A:55 or 3A:56**, shall enroll as a mental health rehabilitation provider.

3.-4. (No change.)

**5. In order to participate in the New Jersey Medicaid/NJ FamilyCare Program, a provider shall:**

- i. Have a valid National Provider Identifier (NPI) number obtained from the National Plan and Provider Enumeration System (NPPES);**
- ii. Have a valid taxonomy code obtained from the NPPES; and**
- iii. Remain a provider in good standing by successfully completing provider revalidation, when requested by DMAHS.**

10:77-3.5 Mental health rehabilitation services for youth

(a) Mental health rehabilitation services for youth shall include the psychiatric and psychological services, including emotional and/or behavioral treatment, drug and alcohol dependency treatment, psychiatric treatment, psychotherapy, and related nursing services, provided by the mental health rehabilitation provider.

1. All services shall meet the requirements specific to provider type as defined [in N.J.A.C. 10:37B, Psychiatric Community Residences for Youth, N.J.A.C. 10:127, Residential Child Care Facilities, and N.J.A.C. 10:128, Children’s Group Homes] **at N.J.A.C. 3A:55, Manual of Requirements for Residential Childcare Facilities, and 3A:56, Manual of Requirements for Children’s Group Homes**.

2.-4. (No change.)

10:77-3.7 Temporary absences from the facility

(a) Temporary absence for the purpose of therapeutic or hospital leave shall be approved by the child, youth, or young adult’s treatment team and included in the plan of care developed by the facility in accordance with [N.J.A.C. 10:37B, Psychiatric Community Residences for Youth, N.J.A.C. 10:127, Children’s Group Homes, or N.J.A.C. 10:128, Residential Child Care Facilities] **N.J.A.C. 3A:55, Manual of Requirements for Residential Childcare Facilities, and 3A:56, Manual of Requirements for Children’s Group Homes**, this chapter, and any applicable rules of the Department of Children and Families.

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

10:77-3.10 Collaboration with mobile response agencies

(a) As part of an individual crisis stabilization plan (see N.J.A.C. 10:77-6) a mobile response agency may contact a [non-JCAHO] **non-Joint Commission** accredited psychiatric community residence for youth, group home, or residential childcare facility to place a child, youth, or young adult receiving mobile response and/or stabilization management services for a period of up to seven days.

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

SUBCHAPTER 4. BEHAVIORAL ASSISTANCE SERVICES

10:77-4.3 Provider participation

(a) Providers of behavioral assistance services shall be providers that are licensed in New Jersey to provide medical/mental health services, a medical/mental health practice, or other service provider that includes the appropriate licensed practitioners who can provide, or supervise the provision of, services. Examples of provider agencies include, but are not limited to, acute care or psychiatric hospitals, [Joint Committee on Accreditation of Healthcare Organizations (JCAHO)-accredited] **Joint Commission-accredited** residential treatment centers, licensed group homes, or child care residential providers, psychiatric community residences for youth, home health agencies, mental health clinics, or any other licensed clinic, Federally Qualified Health Centers, or other entities licensed by a New Jersey government agency to provide physical or mental/behavioral health services in New Jersey.

(b) Individual group practices or other individual service provider entities rendering behavioral assistance services shall employ at least one of the following licensed practitioners who can provide the services directly or supervise the provision of services:

1.-4. (No change.)

5. A professional licensed in accordance with the Board of Marriage and Family Therapy Examiners (N.J.A.C. 13:34) including, but not limited to:

i.-iii. (No change.)

iv. A Rehabilitation Counselor (N.J.A.C. 13:34-21 [or 22]).

(c)-(j) (No change.)

**(k) In order to participate in the New Jersey Medicaid/NJ FamilyCare Program, a provider shall:**

**1. Have a valid National Provider Identifier (NPI) number obtained from the National Plan and Provider Enumeration System (NPPES);**

**2. Have a valid taxonomy code obtained from the NPPES; and**

**3. Remain a provider in good standing by successfully completing provider revalidation, when requested by DMAHS.**

## 10:77-4.6 Program description

(a)-(g) (No change.)

(h) Behavioral assistance services shall be delivered in community-based, clinically appropriate settings that are convenient to the child or youth and his or her family. These services shall not be provided in an office setting, hospital, or [JCAHO-accredited] **Joint Commission-accredited** residential treatment center.

1.-2. (No change.)

3. Behavioral assistance services shall not be provided to a child, youth, or young adult who is in a [Joint Committee on Accreditation of Healthcare Organization (JCAHO)-accredited] **Joint Commission-accredited** residential treatment center (see N.J.A.C. 10:75).

i. Behavioral assistance services shall only be rendered to a child, youth, or young adult who resides in a [JCAHO-accredited] **Joint Commission-accredited** residential treatment center while the child is on an approved therapeutic leave from the facility. Behavioral assistance services shall not be provided on-site in a [JCAHO-accredited] **Joint Commission-accredited** residential treatment center.

4. Behavioral assistance services should not, and are not normally, provided to children, youth, or young adults in other residential mental health rehabilitation facilities, including, but not limited to, group homes, psychiatric community residences for youth, and residential child care centers (see N.J.A.C. 10:77-3) if the residential reimbursement includes these services. However, there may be exceptional circumstances in which these services are clinically required to help support the facility to admit the child into their program. These services are intended to be short-term and shall be clinically justified by the provider or the care management entity and prior authorized by the contracted system[s] administrator.

i. (No change.)

## 10:77-4.9 Staffing requirements

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

(d) The agency, group practice[s], or other service provider entity must ensure that the evaluation of identified behavior(s) [which] **that** includes recommendations for specific interventions with definable outcomes and strategies is provided in accordance with the requirements [of] **at** N.J.A.C. 10:77-4.7.

(e)-(g) (No change.)

**(h) Agencies, group practices, and other service providers providing behavioral assistance services shall adopt a policy requiring that any changes to an employee's driving or clinical license status be reported by the employee to the provider immediately.**

## 10:77-4.11 Reimbursement

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

(d) A unit of service shall be defined as 15 consecutive minutes of face-to-face services provided to an individual. Non-consecutive shorter time periods may not be added together to total 15 minutes.

1. Time spent providing behavioral assistance services to a beneficiary while being transported shall be included in the units of service if a staff member [other than] **is not** the driver, [provided] **but provides** the therapeutic service while in the vehicle.

2.-4. (No change.)

(e)-(h) (No change.)

## 10:77-4.12 Required records for each beneficiary

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

(c) Providers shall maintain any information required by the Department of Human Services, Children and Families, the designee of either Department, the contracted system administrator, or the care management organization for services rendered to a child receiving [CSOC] **DCF** services, including, but not limited to, the outcome measures listed [in] **at** N.J.A.C. 10:77-4.10.

(d)-(g) (No change.)

## SUBCHAPTER 5. INTENSIVE IN-COMMUNITY MENTAL HEALTH REHABILITATION SERVICES

## 10:77-5.3 Provider participation requirements

(a) Providers of intensive in-community mental health rehabilitation services shall be providers that are licensed in New Jersey to provide

medical/mental health services or a medical/mental health practice or other agency that includes the appropriate licensed practitioners who can provide, or supervise the provision of, services. Examples of appropriate provider agencies, include, but are not limited to:

1. (No change.)

2. [Joint Committee on Accreditation of Healthcare Organization (JCAHO)-accredited] **Joint Commission-accredited** residential treatment centers (see N.J.A.C. 10:77-5.6(f));

3.-8. (No change.)

(b) Provider entities rendering intensive in-community mental health rehabilitation services shall employ at least one of the following practitioners licensed in accordance with the following specified rules:

1.-4. (No change.)

5. A professional licensed in accordance with the Board of Marriage and Family Therapy Examiners (N.J.A.C. 13:34) including, but not limited to:

i.-iii. (No change.)

iv. A rehabilitation counselor (N.J.A.C. 13:34-21 [or 22]).

(c)-(m) (No change.)

**(n) In order to participate in the New Jersey Medicaid/NJ FamilyCare Program, a provider shall:**

**1. Have a valid National Provider Identifier (NPI) number obtained from the National Plan and Provider Enumeration System (NPPES);**

**2. Have a valid taxonomy code obtained from the NPPES; and**

**3. Remain a provider in good standing by successfully completing a provider revalidation, when requested by DMAHS.**

## 10:77-5.6 General program description

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

(f) Intensive in-community mental health rehabilitation services shall be delivered in community-based, clinically appropriate settings that are convenient to the child or youth and his or her family. Intensive in-community mental health rehabilitation services shall be available on a 24-hour basis, seven days per week. These outreach services shall not be provided in an office setting, hospital, or [Joint Committee on Accreditation of Healthcare Organizations (JCAHO)-accredited] **Joint Commission-accredited** residential treatment center, nor should they supplant existing services.

1.-2. (No change.)

3. Intensive in-community mental health rehabilitation services cannot be provided to a child, youth, or young adult who is in a [JCAHO-accredited] **Joint Commission-accredited** residential treatment center (see N.J.A.C. 10:75).

i. Intensive in-community mental health rehabilitation services can be rendered to a child, youth, or young adult who resides in a [JCAHO-accredited] **Joint Commission-accredited** residential treatment center only while the child is on an approved therapeutic leave from the facility; services cannot be provided on-site.

4. (No change.)

(g) (No change.)

## 10:77-5.9 Staff requirements

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

**(g) Agencies, group practices, and other service providers providing behavioral assistance services shall adopt a policy requiring that any changes to an employee's driving or clinical license status be reported by the employee to the provider immediately.**

## 10:77-5.11 Reimbursement

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

(d) A unit of service shall be defined as 15 minutes of face-to-face therapeutic services provided to an individual. Non-consecutive shorter time periods may not be added together to total 15 minutes.

1. Time spent providing intensive in-community services to a beneficiary while being transported shall be included in the units of service if a staff member [other than] **is not** the driver [provided] **but provides** the therapeutic service while in the vehicle. Travel time to and from the location of beneficiary contact shall not be included in the units of service.

2. (No change.)



(e)-(i) (No change.)

10:77-5.12 Recordkeeping; beneficiary information

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

(c) Providers shall make the records described [in] at (a) and (b) above available to the Department of Human Services, the Division of Medical Assistance and Health Services, the Division of Mental Health and Addiction Services, the Department of Children and Families, the Children’s System of Care, [the Division of Child Protection and Permanency,] the contracted system administrator, or other authorized State agents, as requested.

(d)-(f) (No change.)

10:77-5.14 General provider recordkeeping requirements

(a) (No change.)

(b) For licensed clinical staff members of the agency, the following information shall be maintained:

1. (No change.)

2. Updates or changes regarding all information required [in] at (b)1 above. **All such updates shall be forwarded to DHS and DCF by the provider within 10 days of receipt of the updated information. Updated information shall include, but not be limited to, additional continuing education units obtained, change of name and/or address, any action against licensure, and any criminal charges.**

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

SUBCHAPTER 6. MOBILE RESPONSE AND STABILIZATION MANAGEMENT SERVICES

10:77-6.3 Provider participation requirements

(a)-(g) (No change.)

**(h) In order to participate in the New Jersey Medicaid/NJ Family Care Program, a provider shall:**

**1. Have a valid National Provider Identifier (NPI) number obtained from the National Plan and Provider Enumeration System (NPPES);**

**2. Have a valid taxonomy code obtained from the NPPES; and**

**3. Remain a provider in good standing by successfully completing provider revalidation, when requested by DMAHS.**

10:77-6.7 Mobile crisis response services; program description and agency responsibilities

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

(c) Mobile response services shall be available 24 hours a day, seven days a week, and shall be rendered by a mobile response team wherever the need presents, including, but not limited to, the child’s home, other living arrangement, or other location in the community.

1. Mobile response services shall not be eligible for reimbursement if provided in an acute care hospital, a [JCAHO accredited] **Joint Commission-accredited** inpatient psychiatric hospital, or other [JCAHO accredited] **Joint Commission-accredited** residential facility, although an initial referral to a mobile response agency may be made prior to the child’s discharge from the facility.

i. If the mobile response agency receives a referral for a child in an acute care hospital, a [JCAHO accredited] **Joint Commission-accredited** inpatient psychiatric hospital, or other [JCAHO accredited] **Joint Commission-accredited** residential facility, the 72-hour timetable shall begin upon referral. The first date of service on the claim shall be the date the child is discharged from the facility, with the last date indicating the end of the 72-hour period of service. Providers will receive reimbursement for one unit of service, which may cover less than 72 hours of service provided to the child outside the residential facility.

2. (No change.)

(d) (No change.)

10:77-6.12 General provider recordkeeping requirements

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

**(e) Mobile response agencies shall adopt a policy requiring that any changes to an employee’s driving or clinical license status be reported by the employee to the provider immediately.**

SUBCHAPTER 7. CENTERS FOR MEDICARE & MEDICAID SERVICES’ HEALTHCARE COMMON PROCEDURE CODING SYSTEM (HCPCS)

10:77-7.2 HCPCS procedure code numbers and maximum fee allowance schedule

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

(c) Behavioral Assistance Services Codes:

HCPCS				Maximum Fee Allowance
<u>IND</u>	<u>Code</u>	<u>MOD</u>	<u>Procedure Code Definition</u>	<u>Allowance</u>
P	H2014	TJ	Individual behavioral assistance services. (15-minute unit of service)	[\$9.75] <b>\$18.19/unit</b> [(39.00 per hour)]
P	H2014	TJ UN	Group behavioral assistance services. Services are limited to those provided directly to, or in support of, two children/youth or young adults. (15-minute unit of service)	[\$5.62/unit] <b>\$11.10/unit</b> per child
P	H2014	TJ UP	Group behavioral assistance services. Services are limited to those provided directly to or in support of three children/youth or young adults. (15-minute unit of service)	[\$4.25/unit] <b>\$30.83/unit</b> per child

(d) Mobile response and stabilization management services codes:

HCPCS				Maximum Fee Allowance
<u>IND</u>	<u>Code</u>	<u>MOD</u>	<u>Procedure Code Definition</u>	<u>Allowance</u>
P	S9485	TJ	Mobile Response—Initial (one unit of service per episode, not to exceed 72 hours, spanning up to four days)	[\$1,307] <b>\$1,320</b> per unit of service
P	H0032	TJ	Mobile Response—Care Coordination and Stabilization Plan (15 minute units of service, not to exceed a total of 64 units or 16 hours, up to eight weeks as authorized weekly)	[\$8.32] <b>\$8.40</b> per unit of service

(e) Intensive in-community mental health rehabilitation services:

HCPCS				Maximum Fee Allowance
<u>IND</u>	<u>Code</u>	<u>MOD 1 &amp; 2</u>	<u>Procedure Code Definition</u>	<u>Allowance</u>
P	H0036	TJ U2	Professional service level (intensive in-community services delivered by, at a minimum, a master’s level direct care provider) Individual, [15 minute units] <b>15-minute unit</b> of service	[\$21.25] <b>\$28.74</b> per unit of service. ([\$85.00] <b>\$114.96</b> per hour)
P	H0036	TJ U1	Clinical level services(intensive in-community services delivered by a licensed behavioral health care practitioner) Individual, [15 minute units] <b>15-minute unit</b> of service	[\$28.25] <b>\$30.83</b> per unit of service ([\$113.00] <b>\$123.32</b> per hour)

	HCPCS MOD		Procedure Code Definition	Maximum Fee Allowance
	IND Code	1 & 2		
P	H0036	U1 UN	Clinical level services (intensive in-community services delivered by a licensed behavioral healthcare practitioner) Group services provided directly to, or in support of, two children, youth or young adults, 15-minute unit[s] of service.	[\$19.00] <b>\$20.17/unit</b> per child
P	H0036	U2 UN	<b>Professional service level (intensive in-community services delivered by, at a minimum, a master's level direct care provider) Group services provided directly to, or in support of, two children, youth, or young adults, 15-minute unit of service</b>	<b>\$18.45/unit</b> <b>per child</b>
P	H0036	U1 UP	Clinical level services (intensive in-community services delivered by a licensed behavioral healthcare practitioner) Group services provided directly to, or in support of, three children, youth, or young adults, [15 minute units] 15-minute unit of service.	[\$15.91/unit] <b>\$17.45/unit</b> per child
P	H0036	U2 UP	<b>Professional service level (intensive in-community services delivered by, at a minimum, a master's level direct care provider) Group services provided directly to, or in support of, three children, youth, or young adults, 15-minute unit of services</b>	<b>\$15.02/unit</b> <b>per child</b>

## LABOR AND WORKFORCE DEVELOPMENT

(a)

### DIVISION OF WAGE AND HOUR COMPLIANCE

#### Opportunity to Compete Act Rules

#### Proposed Readoption with Amendments: N.J.A.C. 12:68

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20 and 34:1A-3.e.

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

Proposal Number: PRN 2023-007.

Submit written comments by March 18, 2023, to:

David Fish, Executive Director  
Office of Legal and Regulatory Services  
PO Box 110, 13th Floor  
Trenton, New Jersey 08625-0110  
Fax: (609) 292-8246  
Email: [david.fish@dol.nj.gov](mailto:david.fish@dol.nj.gov).

The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 12:68, Opportunity to Compete Act Rules, was scheduled to expire on December 7, 2022. As the Department of Labor and Workforce Development (Department) filed this notice of re-adoption prior to that date, the expiration date is extended 180 days to June 5, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(1). The chapter implements N.J.S.A. 34:6B-11 through 19 (the Act), which: (1) prohibits an employer from requiring that an applicant for employment complete any employment application during the initial employment application process that makes any inquiries regarding an applicant's criminal record; (2) prohibits an employer from making any oral or written inquiry during the initial employment application process regarding an applicant's criminal record; and (3) prohibits an employer from knowingly or purposefully publishing or causing to be published, any advertisement that solicits applicants for employment where that advertisement explicitly provides that the employer will not consider any applicant who has been arrested or convicted of one or more crimes or offenses. The Department has reviewed the rules at N.J.A.C. 12:68 and, with the exception of two technical amendments at N.J.A.C. 12:68-1.1 and 1.2 that would update a cross-reference to P.L. 2014, c. 32, with N.J.S.A. 34:6B-11 through 19; and an amendment at N.J.A.C. 12:68-1.2 to implement changes to the Act resulting from P.L. 2017, c. 243, which includes an expunged criminal record within "criminal record," the Department has determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. Accordingly, the Department proposes that N.J.A.C. 12:68 be readopted, with the amendments described below.

A summary of the subchapters of N.J.A.C. 12:68 follows:

N.J.A.C. 12:68-1.1 sets forth the purpose and scope of the chapter.

N.J.A.C. 12:68-1.2 includes definitions of words and terms used throughout the chapter.

N.J.A.C. 12:68-1.3 addresses what constitutes a violation of the Act.

N.J.A.C. 12:68-1.4 addresses exemptions from the Act.

N.J.A.C. 12:68-1.5 concerns the assessment of administrative penalties when there has been a violation of the Act.

N.J.A.C. 12:68-1.6 addresses the appeal process available to an employer against whom an administrative penalty has been levied for violation of the Act.

As indicated above, P.L. 2017, c. 243, includes an expunged criminal record as a "criminal record." Therefore, the Department is proposing that the following sentence be added to the definition of the term "criminal record" at N.J.A.C. 12:68-1.2: "The term, 'criminal record,' shall include an expunged criminal record."

#### APPENDIX

#### FISCAL AGENT BILLING SUPPLEMENT

AGENCY NOTE: The Fiscal Agent Billing Supplement is appended as a part of this chapter but is not reproduced in the New Jersey Administrative Code. The Fiscal Agent Billing Supplement can be downloaded free of charge from: [www.njmmis.com](http://www.njmmis.com). When revisions are made to the Fiscal Agent Billing Supplement, a revised version will be posted on the njmmis website and copies will be filed with the Office of Administrative Law.

If you do not have access to the Internet and require a copy of the Fiscal Agent Billing Supplement, write to:

[Molina Medicaid Solutions] **Gainwell Technologies**  
PO Box 4801  
Trenton, New Jersey 08650-4801  
or contact:  
Office of Administrative Law  
Quakerbridge Plaza, Bldg. 9  
PO Box 049  
Trenton, New Jersey 08625-004