

**HUMAN SERVICES**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**Administration Manual**

**Managed Healthcare Services for Medicaid and NJ FamilyCare Beneficiaries**

**Proposed Amendments: N.J.A.C. 10:49-5.7 and 10:74-3.6 and 3.8**

Authorized By: Jennifer Velez, 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: 12-P-05.

Proposal Number: PRN 2013-057.

Submit comments by June 3, 2013 to:

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The agency proposal follows:

**Summary**

The Department of Human Services (Department) is proposing amendments to its Administration Manual chapter (N.J.A.C. 10:49) and its Managed Care chapter (N.J.A.C. 10:74) in order to conform the text of the rules to the requirements of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), P.L. 111-3, which effectively requires coverage of dental services necessary to prevent disease, promote oral health, restore oral structures to health, and function and treat emergency conditions, for individuals under age 19 who are covered under NJ FamilyCare Plan D. See 42 U.S.C. §§ 1397cc(c)(5)(A) and 1397jj(c)(1). The existing text of the NJ FamilyCare Plan D rules only provides for coverage of preventive dental services for children under age 12. The specific amendments are described immediately below.

At N.J.A.C. 10:49-5.7, which describes services available and unavailable to beneficiaries eligible for NJ FamilyCare-Plan D and Plan D for adults, proposed amendments at paragraph (a)3 would revise existing language generally authorizing certain preventive dental services for children under 12 years of age to instead authorize dental services for individuals under 19 years of age that are necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions. Additional proposed amendments at N.J.A.C. 10:49-5.7(c)2vii would make similar revisions by cross-reference to the proposed amended text in paragraph (a)3.

At N.J.A.C. 10:74-3.6, which describes Plan D services to be provided by managed care organizations, proposed amendments at paragraph (a)14 would delete existing language describing preventive services available to children and provisions extending orthodontic services for individuals over 12, but under 19, and add new text

which states that dental services shall be provided by the contractor for individuals under the age of 19 years that are necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

At N.J.A.C. 10:74-3.8, which describes benefits not provided for NJ FamilyCare-Plan D enrollees, proposed amendments at paragraph (a)7 would make revisions similar to those proposed at N.J.A.C. 10:74-3.6(a)14, by adding a cross-reference to that proposed amended text.

As the Department has provided at least a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The expanded coverage provided under the proposed amendments will continue to have a positive social impact on those beneficiaries who have received additional needed services as a result.

### **Economic Impact**

The expanded coverage provided under the proposed amendments will continue to have a positive economic impact on those beneficiaries who have received additional needed services as a result. The proposed amendments will also continue to have a positive economic impact on providers who are paid for those services.

### **Federal Standards Statement**

Title XXI of the Social Security Act allows states the option of establishing a State Children's Health Insurance Program for targeted low-income children. New Jersey elected this option through implementation of the NJ FamilyCare Children's program. P.L. 111-3, at 42 U.S.C. § 1397cc(c)(5)(A), requires Children's Health Insurance Program coverage of dental services that are necessary to prevent disease, promote oral health, restore oral structures to health and function, and treat emergency conditions. 42 U.S.C. § 1397jj(c)(1) makes the covered dental services applicable to individuals under age 19.

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

### **Jobs Impact**

The Department does not anticipate that the proposed amendments will result in the creation or loss of jobs in the State of New Jersey.

### **Agriculture Industry Impact**

No impact on the agriculture industry in the State of New Jersey is expected to occur as a result of the proposed amendments.

### **Regulatory Flexibility Statement**

The proposed amendments increase coverage for dental services for some NJ FamilyCare Part D beneficiaries and do not impose any additional reporting,

recordkeeping, or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

### **Housing Affordability Impact Analysis**

Since the proposed amendments concern the provision of dental services to NJ FamilyCare Part D beneficiaries, the Department anticipates that the proposed amendments will have no impact on the development of affordable housing in New Jersey and there is no likelihood that the proposed amendments would evoke a change in the average costs associated with housing.

### **Smart Growth Development Impact Analysis**

Since the proposed amendments concern the provision of dental services to NJ FamilyCare Part D beneficiaries, the Department anticipates that there is no likelihood that the proposed amendments would evoke a change in housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

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

## **CHAPTER 49**

### **ADMINISTRATION MANUAL**

## SUBCHAPTER 5. SERVICES COVERED BY MEDICAID AND THE NJ FAMILYCARE PROGRAMS

10:49-5.7 Services available and unavailable to beneficiaries eligible for NJ FamilyCare-Plan D and Plan D for adults

(a) Except as indicated at N.J.A.C. 10:79-2.5, which concerns services for newborns enrolling into NJ FamilyCare-Plan C and D, the services listed below are available to beneficiaries eligible for NJ FamilyCare-Plan D and Plan D for Adults, when medically necessary and provided through the network of an HMO selected by the NJ FamilyCare-Plan D beneficiary.

1. - 2. (No change.)

3. [Preventive dental] **Dental** services for [children] **individuals** under the age of [12] **19** years **that are necessary to prevent disease, promote oral health, and restore oral structures to health and function, including the treatment of emergency conditions**[, including oral examinations, oral prophylaxis and topical application of fluorides and sealants];

4. - 26. (No change.)

(b) (No change.)

(c) Services not covered under Plan D are as follows:

1. (No change.)

2. Services not covered include, but are not limited to:

i. - vi. (No change.)

vii. Dental services except for [preventive dentistry for children under age 12] **those available under (a)3 above;**

viii – xxxviii. (No change.)

(d) (No change.)

## CHAPTER 74

### MANAGED HEALTH CARE SERVICES FOR MEDICAID AND NJ FAMILYCARE BENEFICIARIES

#### SUBCHAPTER 3. BENEFITS

10:74-3.6 Managed care organization (MCO) services for NJ FamilyCare-Plan D enrollees

(a) The MCO shall provide all services required by the current managed care contract, including, but not limited to, the services listed in (a)1 through 22 below, and at N.J.A.C. 10:49-5, for all NJ FamilyCare-Plan D enrollees with the exception of those services identified as fee-for-service under N.J.A.C. 10:74-3.7 or excluded under N.J.A.C. 10:74-3.8:

1. - 13.(No change.)

14. Dental services for [children] **individuals** under the age of 19 years[, which shall be limited to preventive dental services, and which shall include oral examinations, x-rays, oral prophylaxis and topical application of fluorides and sealants, except that:

i. Comprehensive orthodontia treatment services shall be provided, through completion of required services, for any enrollee under the age of 19 years whose orthodontia services were initiated while enrolled with the MCO as a Medicaid, NJ FamilyCare-Plans A, B, or C enrollee;

ii. The MCO shall not be responsible for orthodontia services to a Plan D enrollee under the age of 19 years that were initiated while that individual was enrolled with another MCO;

iii. The Plan D enrollee shall continue enrollment in the MCO where services were initiated until those services are completed or until the member loses Medicaid/NJ FamilyCare eligibility; and

iv. Initiation of active treatment for orthodontia services begins with the placement of the orthodontic appliances (banding). If banding has not occurred, the services shall not qualify for continuation of care] **that are necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions;**

15. - 23. (No change.)

#### 10:74-3.8 Benefits not provided for NJ FamilyCare-Plan D enrollees

(a) The following services shall not be covered for NJ FamilyCare-Plan D participants either by the MCO or the Department:

1. - 6. (No change.)

7. Dental services, except [that preventive dentistry for children under the age of 19 shall be provided] **for those described at N.J.A.C. 10:74-3.6(a)14;**

8. - 32. (No change.)