

Subchapter 14 states who shall attend the hearing and it states that an independent medical assessment may be ordered by the administrative law judge.

Subchapter 18 states that the initial decision must be issued 21 days from the date of hearing and must be in writing. Any exceptions must be submitted in writing and received by the Division of Medical Assistance and Health Services no later than seven days from the date of mailing of the initial decision. Cross-exceptions and replies are not permitted.

Throughout the chapter, technical and grammatical corrections are made to conform to current New Jersey Administrative Code standards. Further changes update “Medicaid and Medically Needy” benefits or programs to “Medicaid/NJ FamilyCare” benefits or programs. At N.J.A.C. 1:10B-1.1(a), a cross-reference to N.J.A.C. 10:6 is deleted as N.J.A.C. 10:6 expired on November 29, 2017. At N.J.A.C. 1:10B-2.1, the definitions are reorganized to be in alphabetical order. At N.J.A.C. 1:10B-5.1 and 9.1(b), a change is made to the Code of Federal Regulations cross-reference to add 42 CFR 435.923, which contains the Federal language pertaining to authorized representatives.

In accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

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

SUBCHAPTER 1. HEARING APPLICABILITY

1:10B-1.1 Applicability

(a) The rules in this chapter shall apply to matters transmitted [pursuant to N.J.A.C. 10:6] to the Office of Administrative Law by the Division of Medical Assistance and Health Services involving applicants for or recipients of [Medicaid and Medically Needy] **Medicaid/NJ FamilyCare** benefits or services.

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

SUBCHAPTER 2. DEFINITIONS

1:10B-2.1 Definitions

[For purposes of this chapter, the following definitions apply.] **The following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.**

“Applicant” means any person who has made an application to become qualified to receive [Medicaid or Medically Needy] **Medicaid/NJ FamilyCare** benefits.

“Recipient” means a New Jersey resident who has been determined to meet the applicable eligibility criteria for either the Medicaid or Medically Needy Programs and is determined to need medical care and services authorized under the New Jersey Medical Assistance and Health Services Act.]

“Provider” means any person, public or private institution, agency, or business concern approved by the Division of Medical Assistance and Health Services that is lawfully providing medical care, services, goods and supplies, and holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

“Recipient” means a New Jersey resident who has been determined to meet the applicable eligibility criteria for the Medicaid/NJ FamilyCare Program and is determined to need medical care and services authorized under the New Jersey Medical Assistance and Health Services Act.

SUBCHAPTER 5. REPRESENTATION

1:10B-5.1 Representation

An applicant/recipient may appear at a proceeding without representation or may be represented by an attorney or by a relative, friend, or other spokesperson pursuant to the procedures set forth [in] **at** N.J.A.C. 1:1-5.4. See: 42 [C.F.R.] **CFR** 431.206(b)(3) **and** **42 CFR** **435.923**.

SUBCHAPTER 9. CLERK’S NOTICE; SCHEDULING OF HEARING

1:10B-9.1 Clerk’s notice

(a) (No change.)

(b) The notice **pursuant to (a) above** shall indicate that the applicant/recipient may represent [himself/herself] **him- or herself** or use legal counsel, a relative, a friend, or other spokesperson as per the Federal Fair Hearing Regulations at 42 [C.F.R.] **CFR** 431.206(b)(3) **and** **42 CFR** **435.923**.

(c) The notice shall establish the hearing location, time, and date.

1:10B-9.2 Scheduling of hearing

(a) The hearing shall be conducted at a reasonable time, date, and place.

(b) Upon presentation of acceptable information regarding an applicant’s/recipient’s illness or infirmity [which] **that** would prevent his or her appearance at a hearing location, the hearing shall be scheduled at the applicant’s/recipient’s current residence.

SUBCHAPTER 10. DISCOVERY

1:10B-10.1 Discovery

(a) The county welfare agency or the Division of Medical Assistance and Health Services shall provide the applicant/recipient, or his or her authorized representative, an opportunity to review the entire case file and all documents and records to be used in the hearing. The review shall occur at a reasonable time before the hearing, as well as during the hearing.

(b) (No change.)

SUBCHAPTER 14. CONDUCT OF CASES

1:10B-14.2 Independent medical assessment

For good cause, the administrative law judge may order an independent medical assessment if the hearing involves medical issues such as those concerning a diagnosis, an examining physician’s report, or a medical review team decision. Such medical assessment shall be at the expense of the county welfare agency or of the Division of Medical Assistance and Health Services and shall be part of the record.

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice of Readoption Rules for Agency Rulemaking Readoption: N.J.A.C. 1:30

Authority: N.J.S.A. 52:14B-4, 52:14B-7, and 52:14F-5.f, h, and i.

Authorized By: Hon. Ellen S. Bass, Acting Director, Office of Administrative Law.

Effective Date: February 21, 2020.

New Expiration Date: February 21, 2027.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Rules for Agency Rulemaking at N.J.A.C. 1:30 are readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on June 14, 2020. The Office of Administrative Law has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The rules at N.J.A.C. 1:30 implement and clarify the administrative rulemaking process set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Subchapter 1 contains general provisions, including, but not limited to, definitions and rules on citation forms, document access, and document submission deadlines. Subchapter 2, Rulemaking Generally, addresses clarity of rules; incorporation by reference; single subject for each section; authorization for rule activity; effect of statement for proposed rule; official copy of proposed, adopted,

and promulgated rule; administrative corrections and changes; appendices; organizational rules and rules of practice; and the requirement of all agencies to post rulemakings on their Internet website. Subchapter 3 reflects the rulemaking calendar requirements under N.J.S.A. 52:14B-3(4). Subchapter 4 contains the requirements of the petition for rulemaking process. Subchapter 5, Proposal Procedure, sets forth the content required in a notice of proposed rule, as well as requirements for publication and distribution, opportunity to be heard, and public hearings on the notice. The subchapter also contains provisions on informal public input prior to formal rulemaking, the notice of pre-proposal process, the rulemaking record, and the process for negotiating a rule. Subchapter 6 sets forth requirements for the content of a notice of adoption and when such notice may be filed. The subchapter further includes provisions on the variance permitted between a proposed and adopted rule, including the process for public comment on contemplated substantial changes to a proposed rule; the expiration date of adopted rules, including the readoption process through rulemaking and through notice; the emergency rulemaking and concurrent proposal processes; the effective date for an adopted rule; and the timely filing of a notice of adoption.

ENVIRONMENTAL PROTECTION

(a)

**WATER RESOURCE MANAGEMENT
DIVISION OF WATER SUPPLY AND GEOSCIENCE
Notice of Administrative Correction
Safe Drinking Water Act Rules
Discretionary Changes to National Regulations
N.J.A.C. 7:10-5.2**

Take notice that the Office of Administrative Law (OAL) discovered an error in the rules of the Department of Environmental Protection (Department) at N.J.A.C. 7:10-5.2. On March 20, 2017, the Department proposed to delete then-existing N.J.A.C. 7:10-5.2(a)2 (inclusive of subparagraphs (a)2i and ii) and replace it with a reference to N.J.A.C. 7:10-5.8 (which was proposed as a new rule in that same rulemaking) (see 49 N.J.R. 504(a)). In the depicted rule text of the notice of proposal, the Department correctly indicated N.J.A.C. 7:10-5.2(a)2 (inclusive of the two subparagraphs, (a)2i and ii) as proposed for deletion. Although the Department made other changes upon adoption, the proposed deletion and replacement of N.J.A.C. 7:10-5.2(a)2 was effectuated without change from the notice of proposal (see 49 N.J.R. 3505(b)).

However, in incorporating the changes into the 11-06-17 Code Update, the new language of paragraph (a)2 was included, but subparagraphs (a)2i and ii (which were properly deleted as of November 6, 2017) still remained in the New Jersey Administrative Code. This error has persisted since that date and is being corrected by this notice of administrative correction.

This notice is published pursuant to N.J.A.C. 1:30-2.7, with the approval of the OAL and the Department.

Full text of the corrected rule follows (deletion indicated in brackets [thus]):

SUBCHAPTER 5. STATE PRIMARY DRINKING WATER REGULATIONS

7:10-5.2 Discretionary changes to National Regulations

(a) In accordance with the discretionary authority permitted by the National Regulations, for compliance with the State primary drinking water regulations, the following shall apply:

1. (No change.)
2. Subject to N.J.A.C. 7:10-5.8, the analytical, monitoring, treatment, and other requirements for total coliform shall be those established under the National Regulations.

[i. The Department will not reduce the microbiological sampling frequency to less than one sample per month for a public community water system serving 25 to 1000 persons; and

ii. The Department will not reduce the microbiological sampling frequency to less than one sample per quarter for a public noncommunity water system (transient or nontransient) using only ground water source(s) and serving 25 to 1000 persons.]

- 3.-13. (No change.)
- (b) (No change.)

(b)

**LAND USE MANAGEMENT
WATER RESOURCE MANAGEMENT
Notice of Administrative Correction
Flood Hazard Area Control Act Rules
General Provisions
N.J.A.C. 7:13-1.2**

Take notice that the Office of Administrative Law (OAL) discovered an error in the rules of the Department of Environmental Protection (Department) at N.J.A.C. 7:13-1.2. On June 20, 2016, the Department proposed, as part of a large rulemaking, to amend the then-existing definition of “FEMA 100-year flood elevation” at N.J.A.C. 7:13-1.2 (see 47 N.J.R. 1041(a)). As part of the amendments to N.J.A.C. 7:13-1.2, the Department proposed to delete the then-existing three definitions prior to “FEMA 100-year flood elevation,” to add a new definition following “FEMA 100-year flood elevation,” and to amend the definition of “FEMA 100-year flood elevation” to delete the final sentence and to add the word “preliminary” to the phrase “proposed flood elevation” (so the term would read “proposed preliminary flood elevation” upon adoption).

The Department adopted the rulemaking with numerous changes upon adoption, including changes to N.J.A.C. 7:13-1.2; however, the amendment to “FEMA 100-year flood elevation” was adopted without change (see 48 N.J.R. 1067(a)). Inadvertently, upon adoption the entire definition of “FEMA 100-year flood elevation” was deleted, even though such a change was never proposed or made upon adoption, the only changes to the definition are those discussed above. Further, the term “FEMA 100-year flood elevation,” and the definition therefor, is specifically cross-referenced in the definition of “FEMA flood mapping”; thereby further indicating there was no intent by the Department to delete the entire term. This error has persisted since the effective date of the notice of adoption and is being corrected by this notice of administrative correction.

This notice is published pursuant to N.J.A.C. 1:30-2.7, with the approval of the OAL and the Department.

Full text of the corrected rule follows (addition indicated in boldface **thus**):

SUBCHAPTER 1. GENERAL PROVISIONS

7:13-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions specifically applicable to N.J.A.C. 7:13-13, Mitigation, are set forth at N.J.A.C. 7:13-13.1.

... “FEMA” means the United States Federal Emergency Management Agency.

“FEMA 100-year flood elevation” means the 100-year water surface elevation at a given location, most recently released as an effective FEMA base flood elevation, or any more recent advisory or proposed (preliminary) flood elevation, if either elevation is higher than the effective base flood elevation.

“FEMA flood mapping” means information published or publicly released by FEMA regarding the frequency, location, and/or extent of flooding in a community, such as flood elevations, flood profiles, flow