

# ASSEMBLY, No. 4466

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2022

**Sponsored by:**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Revises procedures for processing incomplete Medicaid applications; exempts asset transfers of up to \$500 per month during look back period for determining eligibility for long-term care services.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning Medicaid and amending and supplementing  
2 P.L.1968, c.413.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read  
8 as follows:

9 3. Definitions. As used in P.L.1968, c.413 (C.30:4D-1 et seq.),  
10 and unless the context otherwise requires:

11 a. "Applicant" means any person who has made application for  
12 purposes of becoming a "qualified applicant."

13 b. "Commissioner" means the Commissioner of Human  
14 Services.

15 c. "Department" means the Department of Human Services,  
16 which is herein designated as the single State agency to administer  
17 the provisions of this act.

18 d. "Director" means the Director of the Division of Medical  
19 Assistance and Health Services.

20 e. "Division" means the Division of Medical Assistance and  
21 Health Services.

22 f. "Medicaid" means the New Jersey Medical Assistance and  
23 Health Services Program.

24 g. "Medical assistance" means payments on behalf of recipients  
25 to providers for medical care and services authorized under  
26 P.L.1968, c.413.

27 h. "Provider" means any person, public or private institution,  
28 agency, or business concern approved by the division lawfully  
29 providing medical care, services, goods, and supplies authorized  
30 under P.L.1968, c.413, holding, where applicable, a current valid  
31 license to provide such services or to dispense such goods or  
32 supplies.

33 i. "Qualified applicant" means a person who is a resident of  
34 this State, and either a citizen of the United States or an eligible  
35 alien, and is determined to need medical care and services as  
36 provided under P.L.1968, c.413, with respect to whom the period  
37 for which eligibility to be a recipient is determined shall be the  
38 maximum period permitted under federal law, and who:

39 (1) Is a dependent child or parent or caretaker relative of a  
40 dependent child who would be, except for resources, eligible for the  
41 aid to families with dependent children program under the State  
42 Plan for Title IV-A of the federal Social Security Act as of July 16,  
43 1996;

44 (2) Is a recipient of Supplemental Security Income for the Aged,  
45 Blind and Disabled under Title XVI of the Social Security Act;

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (3) Is an "ineligible spouse" of a recipient of Supplemental  
2 Security Income for the Aged, Blind and Disabled under Title XVI  
3 of the Social Security Act, as defined by the federal Social Security  
4 Administration;

5 (4) Would be eligible to receive Supplemental Security Income  
6 under Title XVI of the federal Social Security Act or, without  
7 regard to resources, would be eligible for the aid to families with  
8 dependent children program under the State Plan for Title IV-A of  
9 the federal Social Security Act as of July 16, 1996, except for  
10 failure to meet an eligibility condition or requirement imposed  
11 under such State program which is prohibited under Title XIX of  
12 the federal Social Security Act such as a durational residency  
13 requirement, relative responsibility, consent to imposition of a lien;

14 (5) (Deleted by amendment, P.L.2000, c.71).

15 (6) Is an individual under 21 years of age who, without regard to  
16 resources, would be, except for dependent child requirements,  
17 eligible for the aid to families with dependent children program  
18 under the State Plan for Title IV-A of the federal Social Security  
19 Act as of July 16, 1996, or groups of such individuals, including but  
20 not limited to, children in resource family placement under  
21 supervision of the Division of Child Protection and Permanency in  
22 the Department of Children and Families whose maintenance is  
23 being paid in whole or in part from public funds, children placed in  
24 a resource family home or institution by a private adoption agency  
25 in New Jersey or children in intermediate care facilities, including  
26 developmental centers for the developmentally disabled, or in  
27 psychiatric hospitals;

28 (7) Would be eligible for the Supplemental Security Income  
29 program, but is not receiving such assistance and applies for  
30 medical assistance only;

31 (8) Is determined to be medically needy and meets all the  
32 eligibility requirements described below:

33 (a) The following individuals are eligible for services, if they  
34 are determined to be medically needy:

35 (i) Pregnant women;

36 (ii) Dependent children under the age of 21;

37 (iii) Individuals who are 65 years of age and older; and

38 (iv) Individuals who are blind or disabled pursuant to either 42  
39 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

40 (b) The following income standard shall be used to determine  
41 medically needy eligibility:

42 (i) For one person and two person households, the income  
43 standard shall be the maximum allowable under federal law, but  
44 shall not exceed 133 1/3% of the State's payment level to two  
45 person households under the aid to families with dependent children  
46 program under the State Plan for Title IV-A of the federal Social  
47 Security Act in effect as of July 16, 1996; and

1 (ii) For households of three or more persons, the income  
2 standard shall be set at 133 1/3% of the State's payment level to  
3 similar size households under the aid to families with dependent  
4 children program under the State Plan for Title IV-A of the federal  
5 Social Security Act in effect as of July 16, 1996.

6 (c) The following resource standard shall be used to determine  
7 medically needy eligibility:

8 (i) For one person households, the resource standard shall be  
9 200% of the resource standard for recipients of Supplemental  
10 Security Income pursuant to 42 U.S.C. s.1382(1)(B);

11 (ii) For two person households, the resource standard shall be  
12 200% of the resource standard for recipients of Supplemental  
13 Security Income pursuant to 42 U.S.C. s.1382(2)(B);

14 (iii) For households of three or more persons, the resource  
15 standard in subparagraph (c)(ii) above shall be increased by  
16 \$100.00 for each additional person; and

17 (iv) The resource standards established in (i), (ii), and (iii) are  
18 subject to federal approval and the resource standard may be lower  
19 if required by the federal Department of Health and Human  
20 Services.

21 (d) Individuals whose income exceeds those established in  
22 subparagraph (b) of paragraph (8) of this subsection may become  
23 medically needy by incurring medical expenses as defined in 42  
24 C.F.R.435.831(c) which will reduce their income to the applicable  
25 medically needy income established in subparagraph (b) of  
26 paragraph (8) of this subsection.

27 (e) A six-month period shall be used to determine whether an  
28 individual is medically needy.

29 (f) Eligibility determinations for the medically needy program  
30 shall be administered as follows:

31 (i) County welfare agencies and other entities designated by the  
32 commissioner are responsible for determining and certifying the  
33 eligibility of pregnant women and dependent children. The division  
34 shall reimburse county welfare agencies for 100% of the reasonable  
35 costs of administration which are not reimbursed by the federal  
36 government for the first 12 months of this program's operation.  
37 Thereafter, 75% of the administrative costs incurred by county  
38 welfare agencies which are not reimbursed by the federal  
39 government shall be reimbursed by the division;

40 (ii) The division is responsible for certifying the eligibility of  
41 individuals who are 65 years of age and older and individuals who  
42 are blind or disabled. The division may enter into contracts with  
43 county welfare agencies to determine certain aspects of eligibility.  
44 In such instances the division shall provide county welfare agencies  
45 with all information the division may have available on the  
46 individual.

47 The division shall notify all eligible recipients of the  
48 Pharmaceutical Assistance to the Aged and Disabled program,

1 P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the  
2 medically needy program and the program's general requirements.  
3 The division shall take all reasonable administrative actions to  
4 ensure that Pharmaceutical Assistance to the Aged and Disabled  
5 recipients, who notify the division that they may be eligible for the  
6 program, have their applications processed expeditiously, at times  
7 and locations convenient to the recipients; and

8 (iii) The division is responsible for certifying incurred medical  
9 expenses for all eligible persons who attempt to qualify for the  
10 program pursuant to subparagraph (d) of paragraph (8) of this  
11 subsection;

12 (9) (a) Is a child who is at least one year of age and under 19  
13 years of age and, if older than six years of age but under 19 years of  
14 age, is uninsured; and

15 (b) Is a member of a family whose income does not exceed  
16 133% of the poverty level and who meets the federal Medicaid  
17 eligibility requirements set forth in section 9401 of Pub.L.99-509  
18 (42 U.S.C. s.1396a);

19 (10) Is a pregnant woman who is determined by a provider to be  
20 presumptively eligible for medical assistance based on criteria  
21 established by the commissioner, pursuant to section 9407 of  
22 Pub.L.99-509 (42 U.S.C. s.1396a(a));

23 (11) Is an individual 65 years of age and older, or an individual  
24 who is blind or disabled pursuant to section 301 of Pub.L.92-603  
25 (42 U.S.C. s.1382c), whose income does not exceed 100% of the  
26 poverty level, adjusted for family size, and whose resources do not  
27 exceed 100% of the resource standard used to determine medically  
28 needy eligibility pursuant to paragraph (8) of this subsection;

29 (12) Is a qualified disabled and working individual pursuant to  
30 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income  
31 does not exceed 200% of the poverty level and whose resources do  
32 not exceed 200% of the resource standard used to determine  
33 eligibility under the Supplemental Security Income Program,  
34 P.L.1973, c.256 (C.44:7-85 et seq.);

35 (13) Is a pregnant woman or is a child who is under one year of  
36 age and is a member of a family whose income does not exceed  
37 185% of the poverty level and who meets the federal Medicaid  
38 eligibility requirements set forth in section 9401 of Pub.L.99-509  
39 (42 U.S.C. s.1396a), except that a pregnant woman who is  
40 determined to be a qualified applicant shall, notwithstanding any  
41 change in the income of the family of which she is a member,  
42 continue to be deemed a qualified applicant until the end of the 60-  
43 day period beginning on the last day of her pregnancy;

44 (14) (Deleted by amendment, P.L.1997, c.272).

45 (15) (a) Is a specified low-income Medicare beneficiary  
46 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning  
47 January 1, 1993 do not exceed 200% of the resource standard used  
48 to determine eligibility under the Supplemental Security Income

1 program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income  
2 beginning January 1, 1993 does not exceed 110% of the poverty  
3 level, and beginning January 1, 1995 does not exceed 120% of the  
4 poverty level.

5 (b) An individual who has, **【within 36 months, or】** within 60  
6 months **【in the case of funds transferred into a trust,】** of applying to  
7 be a qualified applicant for Medicaid services in a nursing facility  
8 or a medical institution, or for home or community-based services  
9 under section 1915(c) of the federal Social Security Act (42 U.S.C.  
10 s.1396n(c)), disposed of resources or income for less than fair  
11 market value shall be ineligible for assistance for nursing facility  
12 services, an equivalent level of services in a medical institution, or  
13 home or community-based services under section 1915(c) of the  
14 federal Social Security Act (42 U.S.C. s.1396n(c)). The period of  
15 the ineligibility shall be the number of months resulting from  
16 dividing the uncompensated value of the transferred resources or  
17 income by the average monthly private payment rate for nursing  
18 facility services in the State as determined annually by the  
19 commissioner. In the case of multiple resource or income transfers,  
20 the resulting penalty periods shall be imposed sequentially.  
21 Application of this requirement shall be governed by 42 U.S.C.  
22 s.1396p(c). In accordance with federal law, this provision is  
23 effective for all transfers of resources or income made on or after  
24 August 11, 1993. Notwithstanding the provisions of this subsection  
25 to the contrary, the State eligibility requirements concerning  
26 resource or income transfers shall not be more restrictive than those  
27 enacted pursuant to 42 U.S.C. s.1396p(c). An individual shall not  
28 be subject to a period of ineligibility as a result of transfers that  
29 total \$500 or less in a calendar month.

30 (c) An individual seeking nursing facility services or home or  
31 community-based services and who has a community spouse shall  
32 be required to expend those resources which are not protected for  
33 the needs of the community spouse in accordance with section  
34 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))  
35 on the costs of long-term care, burial arrangements, and any other  
36 expense deemed appropriate and authorized by the commissioner.  
37 An individual shall be ineligible for Medicaid services in a nursing  
38 facility or for home or community-based services under section  
39 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if  
40 the individual expends funds in violation of this subparagraph. The  
41 period of ineligibility shall be the number of months resulting from  
42 dividing the uncompensated value of transferred resources and  
43 income by the average monthly private payment rate for nursing  
44 facility services in the State as determined by the commissioner.  
45 The period of ineligibility shall begin with the month that the  
46 individual would otherwise be eligible for Medicaid coverage for  
47 nursing facility services or home or community-based services.

1 This subparagraph shall be operative only if all necessary  
2 approvals are received from the federal government including, but  
3 not limited to, approval of necessary State plan amendments and  
4 approval of any waivers;

5 (16) Subject to federal approval under Title XIX of the federal  
6 Social Security Act, is a dependent child, parent or specified  
7 caretaker relative of a child who is a qualified applicant, who would  
8 be eligible, without regard to resources, for the aid to families with  
9 dependent children program under the State Plan for Title IV-A of  
10 the federal Social Security Act as of July 16, 1996, except for the  
11 income eligibility requirements of that program, and whose family  
12 earned income,

13 (a) if a dependent child, does not exceed 133% of the poverty  
14 level; and

15 (b) if a parent or specified caretaker relative, beginning  
16 September 1, 2005 does not exceed 100% of the poverty level,  
17 beginning September 1, 2006 does not exceed 115% of the poverty  
18 level and beginning September 1, 2007 does not exceed 133% of  
19 the poverty level, plus such earned income disregards as shall be  
20 determined according to a methodology to be established by  
21 regulation of the commissioner;

22 The commissioner may increase the income eligibility limits for  
23 children and parents and specified caretaker relatives, as funding  
24 permits;

25 (17) Is an individual from 18 through 20 years of age who is  
26 not a dependent child and would be eligible for medical assistance  
27 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to  
28 income or resources, who, on the individual's 18th birthday was in  
29 resource family care under the care and custody of the Division of  
30 Child Protection and Permanency in the Department of Children  
31 and Families and whose maintenance was being paid in whole or in  
32 part from public funds;

33 (18) Is a person between the ages of 16 and 65 who is  
34 permanently disabled and working, and:

35 (a) whose income is at or below 250% of the poverty level, plus  
36 other established disregards;

37 (b) who pays the premium contribution and other cost sharing as  
38 established by the commissioner, subject to the limits and  
39 conditions of federal law; and

40 (c) whose assets, resources and unearned income do not exceed  
41 limitations as established by the commissioner;

42 (19) Is an uninsured individual under 65 years of age who:

43 (a) has been screened for breast or cervical cancer under the  
44 federal Centers for Disease Control and Prevention breast and  
45 cervical cancer early detection program;

46 (b) requires treatment for breast or cervical cancer based upon  
47 criteria established by the commissioner;

- 1 (c) has an income that does not exceed the income standard  
2 established by the commissioner pursuant to federal guidelines;
- 3 (d) meets all other Medicaid eligibility requirements; and
- 4 (e) in accordance with Pub.L.106-354, is determined by a  
5 qualified entity to be presumptively eligible for medical assistance  
6 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established  
7 by the commissioner pursuant to section 1920B of the federal Social  
8 Security Act (42 U.S.C. s.1396r-1b);
- 9 (20) Subject to federal approval under Title XIX of the federal  
10 Social Security Act, is a single adult or couple, without dependent  
11 children, whose income in 2006 does not exceed 50% of the poverty  
12 level, in 2007 does not exceed 75% of the poverty level and in 2008  
13 and each year thereafter does not exceed 100% of the poverty level;  
14 except that a person who is a recipient of Work First New Jersey  
15 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-  
16 107 et seq.), shall not be a qualified applicant; or
- 17 (21) is an individual who:
- 18 (a) has an income that does not exceed the highest income  
19 eligibility level for pregnant women established under the State  
20 plan under Title XIX or Title XXI of the federal Social Security  
21 Act;
- 22 (b) is not pregnant; and
- 23 (c) is eligible to receive family planning services provided  
24 under the Medicaid program pursuant to subsection k. of section 6  
25 of P.L.1968, c.413 (C.30:4D-6) and in accordance with 42 U.S.C.  
26 s.1396a(ii).
- 27 j. "Recipient" means any qualified applicant receiving benefits  
28 under this act.
- 29 k. "Resident" means a person who is living in the State  
30 voluntarily with the intention of making his home here and not for a  
31 temporary purpose. Temporary absences from the State, with  
32 subsequent returns to the State or intent to return when the purposes  
33 of the absences have been accomplished, do not interrupt continuity  
34 of residence.
- 35 l. "State Medicaid Commission" means the Governor, the  
36 Commissioner of Human Services, the President of the Senate and  
37 the Speaker of the General Assembly, hereby constituted a  
38 commission to approve and direct the means and method for the  
39 payment of claims pursuant to P.L.1968, c.413.
- 40 m. "Third party" means any person, institution, corporation,  
41 insurance company, group health plan as defined in section 607(1)  
42 of the federal "Employee Retirement and Income Security Act of  
43 1974," 29 U.S.C. s.1167(1), service benefit plan, health  
44 maintenance organization, or other prepaid health plan, or public,  
45 private or governmental entity who is or may be liable in contract,  
46 tort, or otherwise by law or equity to pay all or part of the medical  
47 cost of injury, disease or disability of an applicant for or recipient  
48 of medical assistance payable under P.L.1968, c.413.

1 n. "Governmental peer grouping system" means a separate  
2 class of skilled nursing and intermediate care facilities administered  
3 by the State or county governments, established for the purpose of  
4 screening their reported costs and setting reimbursement rates under  
5 the Medicaid program that are reasonable and adequate to meet the  
6 costs that must be incurred by efficiently and economically operated  
7 State or county skilled nursing and intermediate care facilities.

8 o. "Comprehensive maternity or pediatric care provider" means  
9 any person or public or private health care facility that is a provider  
10 and that is approved by the commissioner to provide comprehensive  
11 maternity care or comprehensive pediatric care as defined in  
12 subsection b. (18) and (19) of section 6 of P.L.1968, c.413  
13 (C.30:4D-6).

14 p. "Poverty level" means the official poverty level based on  
15 family size established and adjusted under Section 673(2) of  
16 Subtitle B, the "Community Services Block Grant Act," of  
17 Pub.L.97-35 (42 U.S.C. s.9902(2)).

18 q. "Eligible alien" means one of the following:

19 (1) an alien present in the United States prior to August 22,  
20 1996, who is:

21 (a) a lawful permanent resident;

22 (b) a refugee pursuant to section 207 of the federal "Immigration  
23 and Nationality Act" (8 U.S.C. s.1157);

24 (c) an asylee pursuant to section 208 of the federal  
25 "Immigration and Nationality Act" (8 U.S.C. s.1158);

26 (d) an alien who has had deportation withheld pursuant to  
27 section 243(h) of the federal "Immigration and Nationality Act" (8  
28 U.S.C. s.1253 (h));

29 (e) an alien who has been granted parole for less than one year  
30 by the U.S. Citizenship and Immigration Services pursuant to  
31 section 212(d)(5) of the federal "Immigration and Nationality Act"  
32 (8 U.S.C. s.1182(d)(5));

33 (f) an alien granted conditional entry pursuant to section  
34 203(a)(7) of the federal "Immigration and Nationality Act" (8  
35 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

36 (g) an alien who is honorably discharged from or on active duty  
37 in the United States armed forces and the alien's spouse and  
38 unmarried dependent child.

39 (2) An alien who entered the United States on or after August  
40 22, 1996, who is:

41 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of  
42 this subsection; or

43 (b) an alien as described in paragraph (1)(a), (e) or (f) of this  
44 subsection who entered the United States at least five years ago.

45 (3) A legal alien who is a victim of domestic violence in  
46 accordance with criteria specified for eligibility for public benefits  
47 as provided in Title V of the federal "Illegal Immigration Reform

1 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).  
2 (cf: P.L.2021, c.344, s.1)

3

4 2. (New section) a. If an application to be a qualified  
5 applicant for Medicaid services is deemed to be incomplete based  
6 on incomplete or missing information, the county welfare agency  
7 processing the application shall:

8 (1) notify the applicant that the application has been deemed  
9 incomplete;

10 (2) identify the specific information that is incomplete or  
11 missing;

12 (3) inform the applicant that the incomplete or missing  
13 information may be provided at any time; and

14 (4) inform the applicant that the application will be reviewed  
15 upon receipt of all incomplete or missing information identified in  
16 paragraph (3) of this subsection.

17 b. A county welfare agency that has deemed an application  
18 incomplete pursuant to subsection a. of this section shall review the  
19 application upon receipt of all information the agency identified as  
20 incomplete or missing pursuant to paragraph (3) of subsection a. of  
21 this section.

22

23 3. The Commissioner of Human Services shall apply for such  
24 State plan amendments as may be necessary to implement the  
25 provisions of this act and to secure federal financial participation  
26 for State expenditures under the federal Medicaid program.

27

28 4. The Commissioner of Human Services shall adopt rules and  
29 regulations pursuant to the "Administrative Procedure Act"  
30 P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of  
31 this act.

32

33 5. This act shall take effect on the first day of the fourth month  
34 next following the date of enactment, but the Commissioner of  
35 Human Services may take such anticipatory administrative action in  
36 advance thereof as shall be necessary for the implementation of this  
37 act.

38

39

40 STATEMENT

41

42 This bill permits individuals to transfer up to \$500 in assets per  
43 calendar month during the 60 month look back period prior to  
44 receiving Medicaid coverage for long-term care services without  
45 being subject to a period of ineligibility.

46 State and federal law requires a look-back period of 60 months  
47 from the date of an individual's application for Medicaid long-term  
48 care benefits to determine whether the individual has transferred

1 financial resources to other individuals. (The bill also revises the  
2 State statute to conform with federal law extending the 60 month  
3 look-back period to all asset transfers.) Unauthorized resources  
4 transfers may result in a penalty period during which the individual  
5 may not receive Medicaid coverage of long-term care services.

6 Federal law permits states to exclude certain transfers made for  
7 less than fair consideration, which are called “*de minimis* gifts,” on  
8 the assumption that gifts or transfers under a certain amount of  
9 money would not be presumed to be made in contemplation of  
10 future Medicaid eligibility. New Jersey does not currently have a  
11 clear standard regarding such transfers, effectively leaving  
12 decisions about whether certain gifts will result in a penalty to the  
13 county welfare agencies. The lack of a clear standard also results in  
14 applicants resorting to the fair hearing process to resolve disputes,  
15 which may be costly for both the applicant and the State.

16 The bill also provides that, if a county welfare agency deems a  
17 Medicaid application incomplete on the basis of incomplete or  
18 missing information, the agency will be required to provide the  
19 applicant with notice that the application was deemed incomplete,  
20 identify the information that is incomplete or missing, and inform  
21 the applicant that this information can be provided at any time and  
22 that the application will be reviewed when the incomplete or  
23 missing information is provided. The bill expressly requires the  
24 agency to review an application deemed incomplete upon receipt of  
25 all information identified as incomplete or missing.