

§3
T&E and Note
§5
Note

P.L. 2021, CHAPTER 344, *approved January 10, 2022*
Senate, No. 3455 (*First Reprint*)

1 **AN ACT** concerning medical and support services provided to
2 certain working individuals with disabilities and amending
3 ¹**【Title 30 of the Revised Statutes】** P.L.1968, c.410 and
4 P.L.1987, c.350¹ .

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

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

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

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

15 b. "Commissioner" means the Commissioner of Human
16 Services.

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

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

22 e. "Division" means the Division of Medical Assistance and
23 Health Services.

24 f. "Medicaid" means the New Jersey Medical Assistance and
25 Health Services Program.

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

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

35 i. "Qualified applicant" means a person who is a resident of
36 this State, and either a citizen of the United States or an eligible
37 alien, and is determined to need medical care and services as
38 provided under P.L.1968, c.413, with respect to whom the period

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted March 9, 2021.

1 for which eligibility to be a recipient is determined shall be the
2 maximum period permitted under federal law, and who:

3 (1) Is a dependent child or parent or caretaker relative of a
4 dependent child who would be, except for resources, eligible for the
5 aid to families with dependent children program under the State
6 Plan for Title IV-A of the federal Social Security Act as of July 16,
7 1996;

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

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

14 (4) Would be eligible to receive Supplemental Security Income
15 under Title XVI of the federal Social Security Act or, without
16 regard to resources, would be eligible for the aid to families with
17 dependent children program under the State Plan for Title IV-A of
18 the federal Social Security Act as of July 16, 1996, except for
19 failure to meet an eligibility condition or requirement imposed
20 under such State program which is prohibited under Title XIX of
21 the federal Social Security Act such as a durational residency
22 requirement, relative responsibility, consent to imposition of a lien;

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

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

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

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

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

44 (i) Pregnant women;

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

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

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

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

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

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

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

16 (i) For one person households, the resource standard shall be
17 200% of the resource standard for recipients of Supplemental
18 Security Income pursuant to 42 U.S.C. s.1382(1)(B);

19 (ii) For two person households, the resource standard shall be
20 200% of the resource standard for recipients of Supplemental
21 Security Income pursuant to 42 U.S.C. s.1382(2)(B);

22 (iii) For households of three or more persons, the resource
23 standard in subparagraph (c)(ii) above shall be increased by
24 \$100.00 for each additional person; and

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

29 (d) Individuals whose income exceeds those established in
30 subparagraph (b) of paragraph (8) of this subsection may become
31 medically needy by incurring medical expenses as defined in 42
32 C.F.R.435.831(c) which will reduce their income to the applicable
33 medically needy income established in subparagraph (b) of
34 paragraph (8) of this subsection.

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

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

39 (i) County welfare agencies and other entities designated by the
40 commissioner are responsible for determining and certifying the
41 eligibility of pregnant women and dependent children. The division
42 shall reimburse county welfare agencies for 100% of the reasonable
43 costs of administration which are not reimbursed by the federal
44 government for the first 12 months of this program's operation.
45 Thereafter, 75% of the administrative costs incurred by county
46 welfare agencies which are not reimbursed by the federal
47 government shall be reimbursed by the division;

1 (ii) The division is responsible for certifying the eligibility of
2 individuals who are 65 years of age and older and individuals who
3 are blind or disabled. The division may enter into contracts with
4 county welfare agencies to determine certain aspects of eligibility.
5 In such instances the division shall provide county welfare agencies
6 with all information the division may have available on the
7 individual.

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

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

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

24 (b) Is a member of a family whose income does not exceed
25 133% of the poverty level and who meets the federal Medicaid
26 eligibility requirements set forth in section 9401 of Pub.L.99-509
27 (42 U.S.C. s.1396a);

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

32 (11) Is an individual 65 years of age and older, or an individual
33 who is blind or disabled pursuant to section 301 of Pub.L.92-603
34 (42 U.S.C. s.1382c), whose income does not exceed 100% of the
35 poverty level, adjusted for family size, and whose resources do not
36 exceed 100% of the resource standard used to determine medically
37 needy eligibility pursuant to paragraph (8) of this subsection;

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

44 (13) Is a pregnant woman or is a child who is under one year of
45 age and is a member of a family whose income does not exceed
46 185% of the poverty level and who meets the federal Medicaid
47 eligibility requirements set forth in section 9401 of Pub.L.99-509
48 (42 U.S.C. s.1396a), except that a pregnant woman who is

1 determined to be a qualified applicant shall, notwithstanding any
2 change in the income of the family of which she is a member,
3 continue to be deemed a qualified applicant until the end of the 60-
4 day period beginning on the last day of her pregnancy;

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

6 (15) (a) Is a specified low-income Medicare beneficiary
7 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning
8 January 1, 1993 do not exceed 200% of the resource standard used
9 to determine eligibility under the Supplemental Security Income
10 program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income
11 beginning January 1, 1993 does not exceed 110% of the poverty
12 level, and beginning January 1, 1995 does not exceed 120% of the
13 poverty level.

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

37 (c) An individual seeking nursing facility services or home or
38 community-based services and who has a community spouse shall
39 be required to expend those resources which are not protected for
40 the needs of the community spouse in accordance with section
41 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))
42 on the costs of long-term care, burial arrangements, and any other
43 expense deemed appropriate and authorized by the commissioner.
44 An individual shall be ineligible for Medicaid services in a nursing
45 facility or for home or community-based services under section
46 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if
47 the individual expends funds in violation of this subparagraph. The
48 period of ineligibility shall be the number of months resulting from

1 dividing the uncompensated value of transferred resources and
2 income by the average monthly private payment rate for nursing
3 facility services in the State as determined by the commissioner.
4 The period of ineligibility shall begin with the month that the
5 individual would otherwise be eligible for Medicaid coverage for
6 nursing facility services or home or community-based services.

7 This subparagraph shall be operative only if all necessary
8 approvals are received from the federal government including, but
9 not limited to, approval of necessary State plan amendments and
10 approval of any waivers;

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

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

21 (b) if a parent or specified caretaker relative, beginning
22 September 1, 2005 does not exceed 100% of the poverty level,
23 beginning September 1, 2006 does not exceed 115% of the poverty
24 level and beginning September 1, 2007 does not exceed 133% of
25 the poverty level, plus such earned income disregards as shall be
26 determined according to a methodology to be established by
27 regulation of the commissioner;

28 The commissioner may increase the income eligibility limits for
29 children and parents and specified caretaker relatives, as funding
30 permits;

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

39 (18) Is a person **【between the ages of】** 16 years of age or older
40 **and 【65】** who is permanently disabled and working, and**【**:

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

43 (b)**【** who pays the premium contribution and other cost sharing
44 as established by the commissioner based solely on the applicant's
45 earned and unearned income, subject to the limits and conditions of
46 federal law**【**; and

1 (c) whose assets, resources and unearned income do not exceed
2 limitations as established by the commissioner**1**.

3 A qualified applicant pursuant to this paragraph shall: (a) not be
4 subject to any eligibility requirements regarding the earned or
5 unearned income of the applicant or the applicant's spouse; and (b)
6 remain eligible for medical care and services as provided under
7 P.L.1968, c.413 for up to a period of one year if, through no fault of
8 the applicant, a job loss occurs;

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

10 (a) has been screened for breast or cervical cancer under the
11 federal Centers for Disease Control and Prevention breast and
12 cervical cancer early detection program;

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

15 (c) has an income that does not exceed the income standard
16 established by the commissioner pursuant to federal guidelines;

17 (d) meets all other Medicaid eligibility requirements; and

18 (e) in accordance with Pub.L.106-354, is determined by a
19 qualified entity to be presumptively eligible for medical assistance
20 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established
21 by the commissioner pursuant to section 1920B of the federal Social
22 Security Act (42 U.S.C. s.1396r-1b);

23 (20) Subject to federal approval under Title XIX of the federal
24 Social Security Act, is a single adult or couple, without dependent
25 children, whose income in 2006 does not exceed 50% of the poverty
26 level, in 2007 does not exceed 75% of the poverty level and in 2008
27 and each year thereafter does not exceed 100% of the poverty level;
28 except that a person who is a recipient of Work First New Jersey
29 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107
30 et seq.), shall not be a qualified applicant; or

31 (21) is an individual who:

32 (a) has an income that does not exceed the highest income
33 eligibility level for pregnant women established under the State
34 plan under Title XIX or Title XXI of the federal Social Security
35 Act;

36 (b) is not pregnant; and

37 (c) is eligible to receive family planning services provided
38 under the Medicaid program pursuant to subsection k. of section 6
39 of P.L.1968, c.413 (C.30:4D-6) and in accordance with 42 U.S.C.
40 s.1396a(ii).

41 j. "Recipient" means any qualified applicant receiving benefits
42 under this act.

43 k. "Resident" means a person who is living in the State
44 voluntarily with the intention of making his home here and not for a
45 temporary purpose. Temporary absences from the State, with
46 subsequent returns to the State or intent to return when the purposes
47 of the absences have been accomplished, do not interrupt continuity
48 of residence.

1 l. "State Medicaid Commission" means the Governor, the
2 Commissioner of Human Services, the President of the Senate and
3 the Speaker of the General Assembly, hereby constituted a
4 commission to approve and direct the means and method for the
5 payment of claims pursuant to P.L.1968, c.413.

6 m. "Third party" means any person, institution, corporation,
7 insurance company, group health plan as defined in section 607(1)
8 of the federal "Employee Retirement and Income Security Act of
9 1974," 29 U.S.C. s.1167(1), service benefit plan, health
10 maintenance organization, or other prepaid health plan, or public,
11 private or governmental entity who is or may be liable in contract,
12 tort, or otherwise by law or equity to pay all or part of the medical
13 cost of injury, disease or disability of an applicant for or recipient
14 of medical assistance payable under P.L.1968, c.413.

15 n. "Governmental peer grouping system" means a separate
16 class of skilled nursing and intermediate care facilities administered
17 by the State or county governments, established for the purpose of
18 screening their reported costs and setting reimbursement rates under
19 the Medicaid program that are reasonable and adequate to meet the
20 costs that must be incurred by efficiently and economically operated
21 State or county skilled nursing and intermediate care facilities.

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

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

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

33 (1) an alien present in the United States prior to August 22,
34 1996, who is:

35 (a) a lawful permanent resident;

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

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

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

43 (e) an alien who has been granted parole for less than one year
44 by the U.S. Citizenship and Immigration Services pursuant to
45 section 212(d)(5) of the federal "Immigration and Nationality Act"
46 (8 U.S.C. s.1182(d)(5));

1 (f) an alien granted conditional entry pursuant to section
2 203(a)(7) of the federal "Immigration and Nationality Act" (8
3 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

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

7 (2) An alien who entered the United States on or after August
8 22, 1996, who is:

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

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

13 (3) A legal alien who is a victim of domestic violence in
14 accordance with criteria specified for eligibility for public benefits
15 as provided in Title V of the federal "Illegal Immigration Reform
16 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

17 (cf: P.L.2018, c.1, s.1)

18

19 2. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to
20 read as follows:

21 4. A person is eligible for the personal assistance services
22 program if:

23 a. The person has a permanent physical disability;

24 b. The person is 18 **through 70** years of age or older;

25 c. The person is a resident of this State;

26 d. The person is in need of personal assistance services
27 pursuant to a written plan of service;

28 e. The person is capable of managing and supervising their
29 personal assistance services;

30 f. A relative or other informal caregiver is not available to
31 provide the services that the person needs;

32 g. The person lives or plans to live in a private house or
33 apartment, rooming or boarding house, group home, educational
34 facility or residential health care facility; and the personal
35 assistance services that the person shall receive are supplemental to,
36 and not duplicative of, services provided to the person in the
37 rooming or boarding house, group home, educational facility or
38 residential health care facility pursuant to licensure requirements.

39 A person who resides, or is a patient, in a nursing, assisted living,
40 or intermediate care facility, special hospital or other inpatient
41 medical setting is not eligible for the personal assistance services
42 program;

43 h. The attending physician of the person who shall receive the
44 personal assistance services has confirmed in writing that the
45 person has a permanent physical disability, requires no assistance in
46 the coordination of therapeutic regimes, and that the personal
47 assistance services will be appropriate to meet the person's needs;
48 and

1 i. The person receives no more than 40 hours of personal
2 assistance services from this program or any other program per
3 week. The commissioner shall develop rules for individual
4 exceptions to this requirement.

5 j. The commissioner shall develop rules for individual
6 exceptions to the age criteria.
7 (cf: P.L.2009, c.160, s.3)
8

9 3. The Commissioner of Human Services shall apply for such
10 State plan amendments or waivers as may be necessary to
11 implement the provisions of this act and to continue to secure
12 federal financial participation for the New Jersey Medicaid
13 program ¹. In applying for State plan amendments or waivers, the
14 commissioner shall seek authorization under the “Balanced Budget
15 Act of 1997,” Pub.L.105-33, as may be necessary to ensure the
16 provisions of this act are authorized under the “Ticket to Work and
17 Work Incentives Improvement Act of 1999,” Pub.L.106-170, to the
18 extent necessary to enable individuals age 65 and older who are no
19 longer eligible for benefits under the “Ticket to Work and Work
20 Incentives Improvement Act” to have the opportunity to buy into
21 Medicaid under the NJ WorkAbility Program¹ .
22

23 4. The Commissioner of Human ¹~~Services~~ Services¹ ,
24 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
25 (C.52:14B-1 et seq.) shall adopt such rules and regulations ¹as are¹
26 necessary to implement the provisions of this act.
27

28 5. This act shall take effect immediately, but shall remain
29 inoperative until the Commissioner of Human Services receives any
30 federal approvals following the submission of ¹applications for¹
31 State plan amendments or waivers ¹~~[,]~~¹ pursuant to section 3 ¹of
32 this act¹ .
33
34
35

36
37 _____
38 Revises eligibility requirements for NJ Workability Program and
Personal Assistance Services Program.