

TITLE 10

DEPARTMENT OF HUMAN SERVICES

CHAPTER 1

ORGANIZATIONAL RULES; RULES OF PRACTICE;  
PETITION FOR RULEMAKING

Authority

N.J.S.A. 30:1-12, 52:14B-3 and 52:14B-4.

Source and Effective Date

R.2001 d.348, effective October 1, 2001.  
See: 33 N.J.R. 2428(a), 33 N.J.R. 3445(a).

Chapter Expiration Date

Chapter 1, Organizational Rules; Rules of Practice; Petition for Rulemaking, expires on October 1, 2006.

In accordance with N.J.S.A. 52:14B-5.1c, Subchapter 2, Public Notice and Public Comments Regarding Department Rules; Rulemaking Calendars; Subchapter 3, Additional Opportunity to be Heard Upon Showing of Sufficient Public Interest; and Subchapter 4, Petitions for Rulemaking Regarding Department Rulemaking, expires on March 30, 2007. See: 38 N.J.R. 3406(a).

Chapter Historical Note

Chapter 1, Department of Human Services Organization and Public Notice, was adopted as R.1983 d.165, effective May 6, 1983, with Subchapter 2, Public Comments and Petitions regarding Department Rules, adopted pursuant to N.J.S.A. 30:1-12 and 52:14B-4(b), 4(f). See: 15 N.J.R. 924(c).

Pursuant to Executive Order No. 66(1978), Chapter 1, Department of Human Services Organization and Public Notice, expired on May 6, 1988.

Chapter 1, Department of Human Services Administration, was adopted as new rules by R.1988 d.504, effective November 7, 1988. See: 20 N.J.R. 1050(a), 20 N.J.R. 2773(a).

Chapter 1, Department of Human Services Administration, containing only Subchapter 2, Public Comments and Petitions regarding Department Rules, was recodified as N.J.A.C. 10:1A by R.1993 d.271, effective June 7, 1993. See: 25 N.J.R. 1042(a), 25 N.J.R. 2557(a).

Chapter 1, Organizational Rules; Rules of Practice; Petition for Rulemaking, was adopted as new rules by R.2001 d.348, effective October 1, 2001. See: Source and Effective Date.

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SUBCHAPTER 1. DEPARTMENT MISSION AND ORGANIZATION

10:1-1.1 Department mission

The New Jersey Department of Human Services is dedicated to providing high quality services and resources to protect, assist and empower: children at risk; economically disadvantaged individuals and families; and people with disabilities. The Department emphasizes “people first” in the delivery of services. The Department strives to ensure a seamless array of services through partnerships and collaboration with communities Statewide. The Department is driven by the needs of individuals and families, partnering with others to assure the delivery of a seamless array of supports and services, to make a positive impact on the life of each person touched by our efforts.

Repeal and New Rule, R.2003 d.67, effective January 10, 2003. See: 35 N.J.R. 873(b).

10:1-1.2 Department overview and organization

(a) The Department, in concert with the State’s human services nonprofit community, serves the citizens of New Jersey as the largest department in State government.

(b) The Department oversees a number of major facilities—psychiatric hospitals operated by the Division of Mental Health Services, and developmental centers operated by the Division of Developmental Disabilities. Additionally, residential centers are operated by the Division of Youth and Family Services, and regional school campuses are operated by the Department’s Office of Education. The Kohn Rehabilitation Center is operated by the Commission for the Blind and Visually Impaired.

(c) The Department provides the majority of its community services through purchase of service contracts with private, nonprofit community agencies.

(d) The Department Central Headquarters includes the offices of the Deputy Commissioner for Family and Protective Services, the Deputy Commissioner for Divisions Serving People with Disabilities, the Chief of Staff, the Director of Planning and Special Initiatives, the Director for Legal, Policy and Legislative Affairs, and the Director of Public Affairs. All have direct reporting relationships to the Commissioner.

1. The Deputy Commissioner for Divisions Providing Protective Services is responsible for the management of policies, operations, and the budgets for the Division of Family Development (DFD), the Division of Medical Assistance and Health Services (DMAHS), the Division of Youth and Family Services (DYFS), the Office of Prevention of Mental Retardation and Developmental Disabilities, the Office of Child Abuse Prevention and the Office of Facilities Support.

2. The Deputy Commissioner for Divisions Serving People with Disabilities oversees the Division of Developmental Disabilities (DDD), the Division of Disability Services (DDS), the Division of the Deaf and Hard of Hearing (DDHH), the Division of Mental Health Services (DMHS), the Commission for the Blind and Visually Impaired (CBVI), and the Office of Catastrophic Illness in Children Relief Fund.

3. The Chief of Staff advises the Commissioner on cross-cutting departmental issues and administrative and policy matters, and directly supervises major support areas of the Department, including Human Resources, Budget, Finance, Administration and Real Estate, Technology and Information Systems, Program Integrity and Accountability, the Human Services Police, and the Office of Education. Given these areas of supervision, the Chief of Staff is responsible for ensuring that personnel, operating budgets, information technology initiatives, program/project compliance and community based activities are supportive of the Department's business goals as enumerated by the Commissioner. These areas focus on supporting the divisions and institutions and helping them to deliver quality and accountable service.

4. The Office of Planning and Special Initiatives utilizes relevant research, evaluation and program analysis to make policy recommendations in order to enhance and improve the Department's services. The office is charged with examining and advising the Department's Executive Management Team in areas such as health care, welfare reform, child welfare and services for people with disabilities. Major research projects are conducted, and staff develop and implement inter-departmental initiatives and demonstration projects in numerous service areas.

5. The Office of Legal, Policy and Legislative Affairs provides advice and direction on legal, policy and legislative matters and directly supervises the Office of Legal and Regulatory Liaison (OLRL) and the Office of Legislative Liaison (OLL).

i. The Office of Legal and Regulatory Liaison functions as the Department's legal liaison with the Office of the Attorney General, the Office of the Governor's Counsel and other legal entities. OLRL handles and processes to the Office of the Attorney General all requests for advice (verbal and written), and all litigation (civil, criminal and administrative hearings) involving the Department or one of its employees.

OLRL also functions as the Department's liaison with both the Office of Administrative Law in terms of all rulemaking activity, and the Executive Commission on Ethical Standards as it performs the Ethics Liaison function on behalf of the Department.

ii. The Office of Legislative Liaison reviews, monitors, and coordinates the development of the Department's position on Federal and State bills by working with staff in the divisions and central office. The State Legislative Liaisons work with the Governor's Office, legislators, other State departments, legislative staff, community organizations, and advocacy groups. They also follow-up on constituent inquiries from legislators' offices that are made directly to OLL. The Federal Legislative Liaisons work with various national organizations, the Governor's Washington DC Office, other states, and community organizations in New Jersey which are interested in Federal human service issues. The Office also serves as a clearinghouse on certain Federal reports and studies and keeps the Department staff informed of Federal and national issues that may impact the Department. It also coordinates the Department's position on proposed Federal regulations that have an interdivisional impact and on other Federal issues.

6. The Office of Public Affairs has three broad areas of functional responsibility: media relations, publications and community outreach.

i. The Media Relations function coordinates overall communication strategy, responds to all media inquiries, advises the Commissioner and senior staff on all press issues and media policy, develops positive media coverage through special events, placing stories and maintaining strong relationship with State press corps, and writing press releases, Op-Eds, Letters to the Editor for the Commissioner and senior staff.

ii. The Publications function develops, writes, edits and produces all internal publications, including the Department's annual report and newsletter and various division newsletters. Writes, edits and maintains the Department's website. Prepares all speeches and briefings for Commissioner's appearances, participation in events and speaking engagements.

iii. The Community Outreach function coordinates all Department outreach efforts, including conferences, conventions, etc.; provides recommendations and resources to Department staff for more effective outreach; manages and coordinates the development of various advertising and educational materials for Department initiatives and programs; directs the operations of the Good Neighbors Community Outreach Program; and oversees the appointments process for all Department boards and councils.

(e) The Divisions of the Department are as follows:

1. The Division of Medical Assistance and Health Services (DMAHS) administers the Medicaid program, a Federal and State-funded health care program that serves low-income people, including people who are aged, blind, and disabled. The Division's New Jersey Care 2000 and NJ Care 2000+ programs provide health care to Medicaid beneficiaries through Health Maintenance Organizations (HMOs) that provide them with a primary care physician to manage their health services. DMAHS also manages the NJ KidCare and NJ FamilyCare health insurance programs for low-income working families who have no insurance.

2. The Division of Mental Health Services (DMHS) helps people with mental illnesses by providing services to help them live, work, socialize and learn to their fullest potential. A comprehensive system of care is provided that includes psychiatric in-patient settings, community-based support services, and residential and day treatment programs. DMHS operates the State psychiatric hospitals throughout the State, and also supports the operation of the county psychiatric hospitals.

3. The Division of Developmental Disabilities (DDD) serves people with developmental disabilities, such as mental retardation, autism, cerebral palsy, epilepsy, spina bifida and traumatic brain injuries. The Division seeks to serve people in the least restrictive environment possible and to foster individual development and independence. DDD helps people with disabilities stay in their own homes with their own families, whenever possible. Support services provided by DDD include respite care, counseling and referral services. DDD operates several State developmental centers, and also provides services in licensed community residences. The community residences are operated by private agencies or individuals under contract with DDD, and they include group homes, supervised apartments, supported living programs, and skill development and family care homes.

4. The Division of Youth and Family Services (DYFS) functions as the State's family and child protection/child welfare agency and provides services to children at risk and their families. The services provided include general social services, foster care, adoption services, child care licensing, domestic violence services, and residential treatment for troubled youths. The Division has district offices, adoption resource centers, institutional abuse investigation offices, and residential treatment centers throughout the State in addition to contracting with numerous community-based providers and individuals. DYFS is mandated by law to investigate all reports of child abuse and neglect.

5. The Division of Family Development (DFD) administers the State's welfare reform program, Work First New Jersey, offering public assistance to people who are poor and homeless. This Division serves numerous needy individuals through several programs which include: Temporary Assistance to Needy Families (TANF); General Assistance (GA); Food Stamps; Emergency Assistance (EA); Child Support and Paternity Programs; Child Care; Home Energy Assistance; Social Services for the Homeless; the Kinship Navigator Program; and the Refugee Resettlement Program. The majority of these services are provided through contracts with county welfare agencies and not-for-profit community agencies.

6. The Division of the Deaf and Hard of Hearing (DDHH) serves as an advocacy agency for people who are deaf or hard of hearing, by promoting accessibility to programs, services and information. This Division is the State's primary source of information and referral services regarding topics related to hearing loss. DDHH also serves as New Jersey's primary interpreter-referral service and it distributes free text telephones (TTYs) to qualified deaf and hard of hearing low-income residents.

7. The Commission for the Blind and Visually Impaired (CBVI) provides educational, vocational rehabilitation, independent living and eye health services to individuals who are experiencing a vision impairment that is affecting normal, daily life activities. The Commission also works to prevent and reduce the incidence of blindness by conducting a variety of educational and eye disease detection programs. These services include a mobile eye health screening unit and other support services and educational programs to help New Jerseyans better understand and prevent the further development of eye diseases, such as glaucoma or diabetic retinopathy. CBVI serves numerous persons each year, including those who benefit from both the Commission's blindness prevention services and visual adjustment programs.

8. The Office of Education (OOE) provides educational, related, and support services to students, ages three to 21 years, in DHS operated and contracted facilities and in DHS Regional Schools. Through the provision of individualized, comprehensive 12 month educational programs, the OOE serves students with a variety of disabilities; students who are at risk of school failure; students who have left school before earning a high school diploma; and students who are pregnant and parenting teenagers. In addition, the OOE administers the New Jersey Youth Corps Program which offers youth, ages 16 to 25 years, the opportunity to earn a diploma while developing employability skills through meaningful community service. The OOE also provides educational funding and oversight to students determined by the Department of Education to be State responsible; implements the New Jersey Technical Assistance Project for students with multi-sensory impairments; and operates a Technology for Life and Learning Center which provides assessment, instructional and educational management services for individuals who are candidates for augmentative and alternative communication systems and other assistive technologies.

9. The Division of Disability Services (DDS) serves as New Jersey's central point of information and referral for individuals of all ages with disabilities and their families. This Division promotes and facilitates maximum independence of people with disabilities through information about and access to services and supports. The Division fosters coordination and cooperation among government agencies that serve people with disabilities. A significant number of callers are served each year. DDS administers the Ticket to Work Medicaid Buy In Program, the Traumatic Brain Injury Demonstration Grant, the Personal Assistance Services Program (PASP) and the Cash & Counseling Demonstration Program. The latter two programs give people with disabilities the freedom to manage and direct their own services.

10. The Office of Child Abuse Prevention includes the NJ Task Force on Child Abuse and Neglect, which aims to improve the child protective system and inform the public about child abuse and neglect. The office also includes the Child Life Protection Commission, which administers the Children's Trust Fund, which issues grants to prevent child abuse. The fund is supported by check-off donations on the New Jersey Income Tax return, by private contributions and by a Federal grant.

11. The mission of the Office for Prevention of Mental Retardation and Developmental Disabilities is to educate the community about the causes of mental retardation and developmental disabilities, and to develop strategies to reduce their occurrence. The Office staffs the Governor's Council on Prevention of Mental Retardation and Developmental Disabilities, and works under the Council's guidance.

12. The Catastrophic Illness in Children Relief Fund Commission, which is in but not of the Department, was established by legislation to provide financial assistance for New Jersey families with unserved medical expenses for a child, age 18 or younger. The fund serves as a financial safety net for families struggling with a child's previously incurred medical expenses. The fund is considered a special, dedicated, non-lapsing trust fund, which collects its revenues from an employer surcharge.

Amended by R.2003 d.67, effective January 10, 2003.

See: 35 N.J.R. 873(h).

Rewrote the section.

## SUBCHAPTER 2. PUBLIC NOTICE AND PUBLIC COMMENTS REGARDING DEPARTMENT RULES; RULEMAKING CALENDARS

### 10:1-2.1 Public notice regarding proposed rulemaking

(a) The Department shall provide for the following four types of public notice for all rule proposals in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30):

1. The rule proposal shall be filed with the Office of Administrative Law for publication in the New Jersey Register;

2. The notice of the rule proposal, as filed with the Office of Administrative Law, or a statement of the substance of the proposed rulemaking, shall be posted and made available electronically on the Department's web site;

3. The news media maintaining a press office in the State House Complex shall be provided notice of the rule proposal, as posted and made available electronically on the Department's web site; and

4. The notice of the rule proposal, as filed with the Office of Administrative Law, or a statement of the substance of the proposed rulemaking, shall be made available to the public by an additional manner reasonably calculated to inform those persons most likely to be affected or interested in the proposed rulemaking.

i. The additional method of publicity shall include information on the time, place and manner in which interested persons may present comments and either of the following:

(1) The full text of the proposed rulemaking;

(2) A statement of the substance of the proposed rulemaking; or

(3) A description of the subject and issues involved.

ii. The additional method of publicity with regard to all rule proposals shall be by either:

(1) Mailing to a distribution list, when known, organized entities exist that are the subject of or significantly related to the proposed rulemaking; or

(2) Notice in at least three newspapers of general circulation, when no known, organized entities exist that are the subject of or significantly related to the proposed rulemaking.

### 10:1-2.2 Public comments regarding existing rules and proposed rulemaking

(a) The Department conducts an ongoing regulatory review and invites public comments regarding all Department rules (N.J.A.C. Title 10). The Department's rulemaking includes all rules adopted after the official public comment period and emergency rules in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30), and all rules adopted immediately upon filing with the Office of Administrative Law in accord with specific legislative authority.

(b) Public comments are specifically sought regarding existing Department rules which may be perceived as being not necessary, adequate, reasonable, efficient, understandable, or responsive to the purposes for which they were promulgated.

(c) Public comments regarding existing rules should be submitted in writing and addressed to:

Department of Human Services  
Office of Legal and Regulatory Liaison  
PO Box 700  
Trenton, NJ 08625-0700

(d) The Department invites the public to utilize the opportunity to be heard during the official public comment period following the publication of a notice of pre-proposal or proposal in the New Jersey Register by means of submitting in writing, data, views, or arguments to the name and unit specified in the notice.

#### 10:1-2.3 Department rulemaking calendar

(a) In compliance with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30), the Department shall publish a quarterly rulemaking calendar in the New Jersey Register setting forth a schedule of the Department's anticipated rulemaking proposal activities for the next six months. The calendars shall be publish-

ed in the first New Jersey Register for the months of January, April, July and October.

(b) The rulemaking calendar shall include:

1. The name of the Department;
2. The name of the Commissioner, as agency head;
3. Specific citation to the rules to be affected;
4. Citation to the legal authority authorizing the rule-making action;
5. A synopsis of the rulemaking and its objective or purpose; and
6. The month and year in which publication of the notice of proposal in the New Jersey Register is anticipated.

(c) Calendar amendments and exceptions shall be handled by the Department in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30).

(d) The Department rulemaking calendar, as filed with the Office of Administrative Law, as with notices of rule proposals in accord with N.J.A.C. 10:1-2.1(a)3, shall be posted and made available electronically on the Department's web site.

(e) The additional method of publicity with regard to availability of the Department's rulemaking calendar shall be by providing notice of the rulemaking calendar, as posted and made available electronically on the Department's web site, to the major news media maintaining a press office in the State House Complex.

#### 10:1-2.4 Copies of documents; fees

(a) Any person may obtain copies of documents filed with the Office of Administrative Law from the Department, in accord with the provisions of N.J.S.A. 47:1A-1 et seq., as amended, upon payment of a fee as follows:

1. First page to 10th page: \$.75 per page;
2. Eleventh page to 20th page: \$.50 per page; and
3. All pages over 20: \$.25 per page.

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### SUBCHAPTER 3. ADDITIONAL OPPORTUNITY TO BE HEARD UPON SHOWING OF SUFFICIENT PUBLIC INTEREST

#### 10:1-3.1 Extension of the public comment period

(a) The Department, in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30), may extend the time for submission of public comments on a proposed rulemaking, at its discretion, without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30), shall extend the time for submission of public comments for an additional 30-day period, if, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of time to submit comments.

(c) Sufficient public interest is demonstrated in an extension of the comment period when the following occurs:

1. In the case of the Division of Developmental Disabilities, the Division of Family Development, the Division of Medical Assistance and Health Services, the Division of Mental Health Services, and the Division of Youth and Family Services, 50 or more individuals have expressed the need for the extension of the comment period; or
2. In the case of all other Divisions and Department offices, 10 or more individuals have expressed the need for the extension of the comment period.

#### 10:1-3.2 Conducting of a public hearing

(a) The Department, in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30), may conduct a public hearing on a proposed rulemaking, at its discretion, without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30), shall conduct a public hearing on a proposed rulemaking at the request of a Legislative Committee, a State agency, or a county, local or municipal governmental entity, if such request is made to the Department within 30 days following publication of the proposed rulemaking, or if sufficient public interest is demonstrated.

(c) Sufficient public interest is demonstrated with regard to the conducting of a public hearing when the following occurs:

1. In the case of the Division of Developmental Disabilities, the Division of Family Development, the Division of Medical Assistance and Health Services, the Division of Mental Health Services, and the Division of Youth and Family Services, 100 or more individuals have either expressed the need for a public hearing on the rule proposal or disagreement with one or more substantive provisions of the rule proposal; or
2. In the case of all other Divisions and Department offices, 50 or more individuals have either expressed the need for a public hearing on the rule proposal or disagreement with one or more substantive provisions of the rule proposal.

(d) The Department shall not consider, in the calculation of the number of comments received, those comments that relate to specific recommended changes in the rule that the Department has agreed to make or does not have the legal authority to make.

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### SUBCHAPTER 4. PETITIONS FOR RULEMAKING REGARDING DEPARTMENT RULEMAKING

#### 10:1-4.1 Department compliance

The Department shall take appropriate action with regards to petitions for rulemaking to ensure compliance with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30).

**10:1-4.2 Public petitions process and requirements**

(a) An interested person may petition the Department to adopt a new rule or amend or repeal an existing rule.

(b) All petitions shall be clearly and concisely worded and include the following:

1. The substance or nature of the rulemaking which is requested (proposed text material may be provided);
2. The reasons for the request and the petitioner's interest in the request; and
3. References to the authority of the Department to take the requested action.

(c) Petitions shall be addressed to either the specific relevant Division of the Department or the Department Central Headquarters at:

Department of Human Services  
Office of Legal and Regulatory Liaison  
PO Box 700  
Trenton, New Jersey 08625-0700

**10:1-4.3 Department action upon receipt of petition**

(a) Any material submitted to the Department that is not in substantial compliance with these rules shall not be deemed to be a petition for rulemaking requiring further Department action pursuant to this subchapter, the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30).

(b) The Department shall take appropriate, timely action upon receipt of a petition for rulemaking in accord with the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) and the Office of Administrative Law Rules for Agency Rulemaking (N.J.A.C. 1:30). This action shall include the following:

1. The petition shall be date stamped and logged;
2. The petition shall be referred to the relevant Division or handled at the Department level as deemed appropriate;

3. Within 15 days of initial receipt, notice of the receipt of the petition shall be filed with the Office of Administrative Law for publication in the New Jersey Register. The notice of petition shall include:

- i. The name of the petitioner;
- ii. The substance or nature of the rulemaking action which is requested;
- iii. The problem or purpose which is the subject of the request; and
- iv. The date the petition was received.

4. The Department action on a petition shall be either to:

- i. Deny the petition;
- ii. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or

iii. Refer the matter for further deliberations which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days. The Department shall mail the results of these further deliberations to the petitioner and submit the results to the Office of Administrative Law for publication in the New Jersey Register.

5. The Department shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition within 60 days of initial receipt of the petition. The notice of action shall include:

- i. The name of the petitioner;
- ii. The Register citation for the notice of petition;
- iii. The signature of the Commissioner, as agency head, signifying that the petition was duly considered pursuant to law;
- iv. The nature or substance of the Department action upon the petition; and
- v. A brief statement of reasons for the Department action.