

"Supervised apartment" means apartments that are occupied by individuals with developmental disabilities and leased or owned by an entity licensed under N.J.A.C. 10:44A.

"Supports" means those services other than residential services provided by the Division which will help the individual remain in his or her living situation.

Amended by R.2001 d.470, effective December 17, 2001.

See: 33 N.J.R. 2434(a), 33 N.J.R. 4354(a).

Inserted "Challenge grant", "Funded vacancy", "In-home supports", "Self-Determination Process", and "Supports".

Amended by R.2005 d.153, effective May 16, 2005.

See: 36 N.J.R. 3975(a), 37 N.J.R. 1731(a).

Added "Emergency services", "Placement", "Residential placement funded by the Division of Developmental Disabilities" and "Supervised apartment"; deleted "In-home supports"; in "Supports", deleted "generic" following "those" in the first sentence and deleted the second sentence.

SUBCHAPTER 2. ADMINISTRATION

10:46B-2.1 General standards for administration of placements

(a) The Division recognizes that families provide care for most individuals with developmental disabilities.

(b) Individual and family support shall be provided whenever possible to avoid long term out-of-home placements. Such support shall be provided to the family in accordance with N.J.A.C. 10:46A, subject to the availability of funding in a given fiscal year.

(c) The Division recognizes that, even with support, not all families or caregivers can provide the individual with a living arrangement. The Division further recognizes that even when the family or caregiver can support the individual, the family or caregiver should not be expected to provide support indefinitely.

(d) Whenever possible, the individual shall be offered an available placement in a setting which is least restrictive of his or her personal liberty.

(e) Because an individual's needs and abilities change, no out-of-home placement shall be considered permanent.

(f) When placement is appropriate, every effort shall be made to place an individual within New Jersey.

(g) The Division shall make every effort to return individuals placed out-of-State to an in-State residence as soon as possible, except where the conditions stipulated in N.J.A.C. 10:46B-4.3 have been satisfied.

(h) The Division shall place an individual only in a licensed facility appropriate for that individual, as docu-

mented in his or her IHP. (See (j) below.) An individual may choose to live independently in an unlicensed facility and may continue to receive support services from the Division, in which case the provisions of this chapter shall not apply.

(i) When funding from a source other than the Division is available to the individual, Division staff may broker a placement. In such an instance, the Division shall not be responsible to provide any funding for placement. If the Division brokers a placement, the person's current waiting list status shall continue.

(j) The IHP specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them. The IHP may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. For an individual who has been determined by an Interdisciplinary Team to require active treatment, the IHP shall address all needs identified. For an individual who makes only specific service requests, the IHP shall be a service plan which addresses only those specific requests.

(k) The interdisciplinary team (IDT) shall consist of the individual receiving services, the legal guardian, the individual's parents or family member (if the individual is an adult and desires that the parent or family member be present), those persons who work most directly with the individual served and professionals and representatives of service areas relevant to the identification of the individual's needs and the design and evaluation of programs to meet those needs.

Amended by R.2001 d.470, effective December 17, 2001.

See: 33 N.J.R. 2434(a), 33 N.J.R. 4354(a).

In (h), deleted the last sentence.

Case Notes

Late-in-life placement change from private to public facility violated protected rights of older disabled patient who had lived all his life in same private placement. *N.J.W. v. Division of Developmental Disabilities*, 96 N.J.A.R.2d (DDD) 25.

Placement for developmentally disabled adult upon closure of training center was placement that was otherwise most appropriate to individual's development. *M.S. v. Developmental Disabilities*, 95 N.J.A.R.2d (DDD) 31.

Alternate placement when most appropriate service was not available due to fiscal limitations was most appropriate to maximizing developmentally disabled adult's potential. *R.W. v. Developmental Disabilities*, 95 N.J.A.R.2d (DDD) 23.

Private institutional care in residential placement was not available due to fiscal limitations, but alternate placement to provide appropriate care for developmentally disabled adult was available. *P.F. v. Developmental Disabilities*, 95 N.J.A.R.2d (DDD) 1, appeal decided 656 A.2d 1.

SUBCHAPTER 3. PLACEMENTS

10:46B-3.1 Availability of placements

(a) Residential placement is a waiver service. In order to receive placement, the individual and/or representative payee is responsible to make application for all benefits, comply with the requirements for all benefits and comply with the requirements of N.J.A.C. 10:46-2.1(a) through (c).

(b) Only when the need for placement is indicated in the IHP and when the individual can be reached on the waiting list, in accordance with N.J.A.C. 10:46C-1.4, the Division shall plan with the individual, his or her legal guardian and, where appropriate, interested family members, to identify an appropriate, available, out-of-home placement.

(c) The availability of placements shall be limited to the Division's funding in a given fiscal year. Prioritization for placement shall be governed by N.J.A.C. 10:46C.

(d) All placements shall be in accordance with all applicable Federal and State statutes, regulations and rules, including the State Code of Criminal Justice provision at N.J.S.A. 2C:30-4 which prohibits the disbursement of public money or the incurring of obligations in excess of legislative appropriation and limit of expenditure.

(e) In an effort to provide fairly for all individuals served, it is recognized that Division appropriations need to be applied across the State and across the entire fiscal year and that planning and judgment are necessary and appropriate on a case-by-case basis as well to ensure that appropriations are not dissipated in an effort to meet extraordinary needs of one individual to the detriment of the rest of the population who require and could benefit from services needed to be funded from the same finite source.

(f) Approval by the Division Director shall be required for all admissions to developmental centers, in accordance with the provisions of N.J.A.C. 10:46B-4.2, unless the admission is for respite for a period of 30 days or less.

Amended by R.2001 d.470, effective December 17, 2001.

See: 33 N.J.R. 2434(a), 33 N.J.R. 4354(a).

Added (e).

Amended by R.2005 d.153, effective May 16, 2005.

See: 36 N.J.R. 3975(a), 37 N.J.R. 1731(a).

Rewrote the section.

10:46B-3.2 Waiting lists

(a) Except as otherwise provided in N.J.A.C. 10:46B-3.3, 4.2 and 4.3, a person shall be placed residentially only from the priority waiting list, N.J.A.C. 10:46C.

(b) If a placement is not immediately available, the individual shall be assigned to a waiting list category, in accordance with N.J.A.C. 10:46C.

(c) For any child residentially placed by a local education authority (LEA) in New Jersey, the Division of Developmental Disabilities shall assign that child to the priority category based on the date that the child was residentially placed by the LEA or no less than three years before the child's educational entitlement ends, whichever date is earlier. The anticipated need for placement shall be reviewed annually at the time of the IHP. The Division shall not assume responsibility for a residential placement until the child's educational entitlement ends.

(d) For any child residentially placed by the Division of Youth and Family Services, the Division of Developmental Disabilities shall assign that child to the priority category based on the date that the child was residentially placed by the Division of Youth and Family Services or no less than three years before the child reaches age 21, whichever date is earlier. The anticipated need for placement shall be reviewed annually at the time of the IHP.

Amended by R.2001 d.470, effective December 17, 2001.

See: 33 N.J.R. 2434(a), 33 N.J.R. 4354(a).

Designated existing paragraph as (a) and added (b) through (d).

Amended by R.2005 d.153, effective May 16, 2005.

See: 36 N.J.R. 3975(a), 37 N.J.R. 1731(a).

Added a new (a), recodified former (a) through (c) as (b) through (d), and deleted former (d).

10:46B-3.3 Emergencies

(a) An emergency need for services or placement shall be deemed established when the person is homeless or in imminent peril, as defined in this chapter. Supports may be provided to the person where he or she is currently living to avoid homelessness or imminent peril. Where supports can be provided, the Division shall not declare a need for an emergency services or placement.

(b) When the Regional Administrator has determined that an emergency exists, the Division shall offer emergency services, if available. Emergency services shall meet the individual's basic needs.

1. The individual or his or her legal guardian shall be notified by telephone which agency will provide emergency services and where to take the eligible individual.

2. The Division shall confirm in writing the offer of emergency services.

3. Emergency services shall be provided for 30 days during which time the provider agency shall conduct an assessment to determine:

i. Whether the individual may return home with or without supports; or

ii. If the provider agency shall offer a long-term placement.