

CHAPTER 140

PERSONAL ASSISTANCE SERVICES PROGRAM

Authority

N.J.S.A. 30:4G-21.

Source and Effective Date

R.2009 d.71, effective January 30, 2009.
See: 40 N.J.R. 4668(a), 41 N.J.R. 1052(a).

Chapter Expiration Date

Chapter 140, Personal Assistance Services Program, expires on January 30, 2014.

Chapter Historical Note

Chapter 140, Personal Assistance Services Program, was originally codified in Title 10 as Chapter 123A, Personal Attendant Services Program. Chapter 123A was adopted as R.1992 d.314, effective August 17, 1992. See: 23 N.J.R. 2091(b), 24 N.J.R. 2914(a).

Pursuant to Executive Order No. 66(1978), Chapter 123A, Personal Attendant Services Program, was readopted as R.1997 d.361, effective August 11, 1997, and the chapter was renamed Chapter 123A, Personal Assistance Services Program, Subchapter 5, Personal Attendants, was renamed Subchapter 5, Personal Assistants, and Subchapter 6, Consumer Information and Personal Assistant Training, was adopted as new rules by R.1997 d.361, effective September 2, 1997. See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Chapter 123A, Personal Assistance Services Program, was recodified as N.J.A.C. 10:140, effective March 1, 1999. See: 31 N.J.R. 687(a).

Chapter 140, Personal Assistance Services Program, expired on August 11, 2002.

Chapter 140, Personal Assistance Services Program, was adopted as new rules by R.2003 d.302, effective August 4, 2003. See: 35 N.J.R. 1253(a), 35 N.J.R. 3583(a).

Chapter 140, Personal Assistance Services Program, was readopted as R.2009 d.71, effective January 30, 2009. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10:140-1.1 Purpose
- 10:140-1.2 Scope
- 10:140-1.3 Personal Assistance Consumer Bill of Rights
- 10:140-1.4 Definitions
- 10:140-1.5 Target population and priority for services

SUBCHAPTER 2. ELIGIBILITY

- 10:140-2.1 Eligibility standards
- 10:140-2.2 Exceptions to eligibility standards
- 10:140-2.3 Procedures for requesting and granting exceptions to eligibility standards

SUBCHAPTER 3. SCREENING, SERVICES AND APPEALS

- 10:140-3.1 Screening
- 10:140-3.2 Assessment
- 10:140-3.3 Individual personal assistance services plan
- 10:140-3.4 Disposition of application
- 10:140-3.5 Services

- 10:140-3.6 Exceptions to service standards
- 10:140-3.7 Procedures for requesting and granting exceptions to service standards
- 10:140-3.8 Transfer of services to another county
- 10:140-3.9 Suspension of service and termination of service
- 10:140-3.10 Adverse agency actions
- 10:140-3.11 Hearings and appeals
- 10:140-3.12 Confidentiality and disclosure of information

SUBCHAPTER 4. CONTRACTING AND FEES

- 10:140-4.1 Contracting for services
- 10:140-4.2 Provider fees
- 10:140-4.3 Consumer fees
- 10:140-4.4 Standards for adjustments in consumer fees
- 10:140-4.5 Procedures for requesting adjustments in consumer fees

SUBCHAPTER 5. PERSONAL ASSISTANTS

- 10:140-5.1 Requirements for personal assistants

SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

- 10:140-6.1 Training requirements
- 10:140-6.2 Waivers to training requirements for personal assistants
- 10:140-6.3 Penalties for noncompliance with training requirements
- 10:140-6.4 Compensation for attendance at training courses

SUBCHAPTER 7. COMPLIANCE WITH LAWS

- 10:140-7.1 Requirements of county designated agency
- 10:140-7.2 Duties of county designated agency
- 10:140-7.3 State Consumer Advisory Council on Personal Assistance Services
- 10:140-7.4 County designated agency disqualification
- 10:140-7.5 Disqualification appeal process

SUBCHAPTER 1. GENERAL PROVISIONS

10:140-1.1 Purpose

(a) Pursuant to the provisions of N.J.S.A. 30:4G-13 et seq., the Department of Human Services provides support to individuals with chronic physical disabilities in meeting their daily needs for personal care and assistance with activities of daily living in order to live independently within their community. The Personal Assistance Services Program, administered by county designated agencies in each of New Jersey's 21 counties and within the limits of funds appropriated or otherwise made available to it, shall assist self-directed adults with chronic physical disabilities to:

1. Be employed in a paid occupation;
2. Receive training or education related to employment; or
3. Actively participate in community-based independent living.

10:140-1.2 Scope

These rules apply to all activities and persons participating in the Personal Assistance Services Program, including, but not limited to, the designated State contracting agency, applicants, consumers, personal assistants, and county agencies administering the program, and subcontracted provider agencies.

10:140-1.3 Personal Assistance Consumer Bill of Rights

(a) Each consumer, and, as appropriate, each applicant:

1. Shall be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle, including the identification and determination of one's own needs, schedules and the services necessary to meet these needs;

2. Shall be served by personal assistants who are properly trained and competent to perform their duties;

3. Shall receive services in compliance with all State laws and regulations without discrimination based on race, religion, gender, age, creed or disability in the provision or quality of services;

4. Shall be free from mental and physical abuse, neglect and exploitation, and shall be free from chemical and physical restraints;

5. Shall be accorded privacy while receiving services, in communications and in all daily activities;

6. Shall be accorded respect for one's property rights;

7. Shall have one's personal, financial and medical records treated as confidential;

8. Shall be free to fully exercise one's civil and due process rights and to be assisted by a personal assistant as appropriate and necessary;

9. Shall receive in a timely manner all decisions regarding eligibility and amount and kind of services and the reasons therefore in writing and, if appropriate, orally, along with the administrative hearings and appeals procedure;

10. Shall have access to a fair appeals process through which disputes can be resolved;

11. Shall receive written information regarding consumer standards and responsibilities in the Personal Assistance Services Program and shall have them verbally explained as needed;

12. Shall have as few personal assistants entering one's home as possible;

13. Shall have the right to interview, screen and select one's personal assistant; and

14. Shall dismiss those personal assistants who do not respect consumer rights.

10:140-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context indicates otherwise:

"Administrative hearing" means a hearing held by the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-9 et seq., N.J.S.A. 52:14F-1 et seq., N.J.A.C. 1:1-1 and N.J.A.C. 10:6.

"Administrative review" means an independent examination of an agency action that is conducted by the State Program Administrator or designee, by convening a meeting of the relevant parties in the action under dispute and/or by examining the relevant records and documents in accordance with N.J.A.C. 10:6-1.4.

"Adverse agency action" means the denial, reduction, suspension or termination of services, or the denial of a request for an exception, or the failure to act upon a request for services within prescribed time frames.

"Advisory Council" means the State Consumer Advisory Council on Personal Assistance Services, created by N.J.S.A. 30:4G-20.

"Applicant" means a person who applies for services under the Personal Assistance Services Program.

"Assessor" means a person who is employed by the program to conduct eligibility assessments and has a master's or social work degree, or a bachelor's degree and three years of experience in rehabilitation services, or is a registered nurse with a bachelor of science degree in nursing.

"Available" means, as applied to a caregiver, physically present, able, and appropriate, as determined with full consideration of the consumer's personal situation.

"Chore service" means light housekeeping activities. This service does not include inside or outside maintenance of the dwelling or property.

"Chronic physical disability" means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance to maintain the person's independence and health.

"Commissioner" means the Commissioner of the Department of Human Services.

"Community-based independent living" means self-directed living whereby a consumer is actively participating in community-based activities aside from employment or education, including, but not limited to, homemaking, parenting, searching for employment, volunteer service, participation on governing boards, serving on committees.