

CHAPTER 84**PROGRAM ADMINISTRATION****Authority**

N.J.S.A. 30:4B-2.

Source and Effective Date

R.1999 d.27, effective December 22, 1998.
See: 30 N.J.R. 3911(a), 31 N.J.R. 135(c).

Executive Order No. 66(1978) Expiration Date

Chapter 84, Program Administration, expires on December 22, 2003.

Chapter Historical Note

Chapter 84, Program Administration, was adopted as new rules by R.1993 d.611, effective January 18, 1994. See: 24 N.J.R. 4480(b), 26 N.J.R. 374(a).

Pursuant to Executive Order No. 66(1978), Chapter 84, Program Administration, was readopted as R.1999 d.27, effective December 22, 1998. See: Source and effective Date. See, also, section annotations.

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SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS**10:84-1.1 Authority of the Commissioner under P.L. 1990, c.66**

(a) The Commissioner of the Department of Human Services (DHS) is obligated to ensure that programs that serve eligible low-income persons administered by counties throughout the State are provided to eligible persons in an accessible, efficient, and cost-effective manner.

(b) The Commissioner has the authority to establish rules, regulations, and directives, including incentives and sanctions, to ensure that county agencies provide benefits to eligible recipients in a manner consistent with State and Federal law.

(c) The Commissioner shall have the authority to review and approve CWA budgets.

(d) The Commissioner shall have the power to assume direct administration of all county welfare agency operations in situations in which the Commissioner determines that a county agency is failing to effectively administer or to substantially follow State and Federal law in its administration of those programs for which the Department of Human Services has responsibility, thereby placing clients, who are dependent on public assistance benefits, at serious risk.

10:84-1.2 Factors prompting the assumption of county operations

(a) The following are factors viewed as particularly significant program irregularities and management deficiencies. Elements such as unlawful activity, pervasive fiscal and/or program deficiencies are the primary basis for consideration of assumption action. Failure on the part of the county to correct any such deficiency so identified by the Department will result in the ultimate administrative takeover of program administration by the Department.

1. Unlawful activity refers to arrest, indictment or conviction by a court of law of any senior official of a county welfare agency, county welfare board or other appropriate county welfare agency governing body for abuse(s) related to public assistance program administration. Unlawful activity includes, but is not limited to, fraud, theft, perjury, removal, alteration or destruction of public records, other similar wrongdoing, or willful misuse of public assistance funds. Failure of the agency to remove such individual from the situation which enabled the unlawful activity shall be considered as evidence of noncompliance.

2. Fiscal operations irregularities or management deficiencies refer to absence of adherence to State and Federal fiscal procedures and regulations relating to public assistance administration. Inauditable fiscal records shall be interpreted as evidence of noncompliance if the agency fails to effect corrective action within specified timeframes.

3. Program operations irregularities or management deficiencies refer to persistent and pervasive failure on the part of the county welfare administrative agency to safeguard the confidentiality of its clients; or to regard an individual's civil rights in the administration of public assistance benefits and services; or to correctly determine program eligibility and/or timely and accurate benefit issuance in accordance with State and Federal program regulations and procedures; or failure to efficiently and effectively operate the public assistance program and fulfill the requirements of Federal and State public assistance laws. Failure on the part of the agency to take corrective action on deficiencies, identified based on a program audit, within specified time frames shall be considered evidence of noncompliance.

Administrative Correction.
See: 26 N.J.R. 1657(b).

Amended by R.1999 d.27, effective January 19, 1999.
See: 30 N.J.R. 3911(a), 31 N.J.R. 135(c).

In (a)3, inserted "; or failure to efficiently and effectively operate the public assistance program and fulfill the requirements of Federal and State public assistance laws" at the end of the first sentence.

10:84-1.3 Corrective action plans

(a) The Department shall afford a county welfare administrative agency reasonable opportunity to correct identified deficiencies before assuming administration for violations as set forth in N.J.A.C. 10:84-1.2.

(b) The corrective action or resolution procedure will be comprised of a multi-step process to include, but which is not limited to:

1. Identification of Departmental findings of deficiencies and notification to the county agency of the need to take corrective action;

2. Convening of one or more conferences of Departmental and county agency personnel to identify possible causes of the deficiencies in CWA operations and negotiation of appropriate corrective actions;

3. Development, submittal and implementation of an approved corrective action plan by the CWA to improve CWA operations, within the time periods specified by the Department, to correct the identified deficiencies;

4. Upon implementation of the corrective action plan, monitoring of CWA operations by the Department to verify that planned corrective actions are taking place as stipulated; and

5. Reassessment by Department staff of the CWA's operations at the end of the designated period.

i. CWAs that have effected the corrective actions required for the identified deficiency shall be so notified and shall no longer be subject to the corrective action requirement for that deficiency which has been satisfactorily resolved.

ii. CWAs which have failed to effect required corrective action within the specified time frame or failed to show a good faith effort toward corrective action shall be subject to the following:

(1) The Department shall provide written notification of its findings and convene a meeting with representatives of the CWA, county welfare board or other appropriate CWA governing body, and the county governing authority to discuss any unresolved deficiencies.

(2) When it is determined that, after meeting with representatives of the CWA, county welfare board or other appropriate CWA governing body, and the county governing authority, barriers for improvement remain and cannot be resolved, the Department shall advise, in writing, all parties involved of its intent to assume direct administration of county operations in accordance with N.J.A.C. 10:84-1.4. That written notification shall include:

(A) The basis for the assumption action;

(B) The date the assumption will commence;

(C) A statement advising the county that it shall be responsible for the payment of reasonable expenses incurred by the Department to make administrative and/or programmatic changes necessary to ensure that the CWA's operations are provided in an effective and efficient manner and comply with State and Federal law and regulations; and

(D) A statement concerning county appeal rights advising the CWA of its right to request a State fair hearing in writing, which must be post-marked within 10 days of the mailing date of the notice of assumption (see N.J.A.C. 10:84-1.5 concerning State fair hearings).

10:84-1.4 State assumption of direct administration of county operations

(a) For each fiscal year, or portion thereof, in which a service or function associated with the provisions of P.L. 1990, c.66, is assumed by the Department, the county shall deduct from its final appropriations upon which its permissible county tax levy is calculated the amount which the county expended for that service or function during the last full budget year, or portion thereof, for which the service or function so transferred was funded from appropriations in the county budget. If the Commissioner determines that any county welfare agency has failed to effectively administer or to substantially follow State and Federal law in its administration of those programs for which the Department of Human Services has responsibility, the Commissioner shall have the authority to take the following actions:

1. Make the administrative and programmatic changes necessary to ensure compliance with State and Federal law and regulation;

2. Bill the county for the reasonable expenses incurred by the Department in ensuring compliance;

3. Hire any consultant or undertake any studies of the agency's operations deemed appropriate;

4. Direct expenditures of the CWA in a reasonable and prudent manner to effectuate the purposes of any public assistance program, including reallocating funds within the CWA budget and determine additional amounts of revenue needed to ensure the efficient and effective administration of such programs within the agency's budget;

5. Operate the CWA; and

6. Do all acts necessary or appropriate to ensure that the needs of eligible public assistance recipients are met pursuant to State and Federal law.

10:84-1.5 State fair hearings for State assumption of CWA operations

(a) Any county that wishes to appeal a decision by the Department concerning State assumption of the CWA's operations is entitled to request a State fair hearing within 10 days of the date postmarked on the envelope containing the notice of State assumption of operations. The request shall be made, in writing, to DFD's Bureau of Administrative Review and Appeals (BARA) by the CWA director, president of the county welfare board or by a representative of the county governing authority.

1. When a request is received by BARA, it shall immediately be registered as of that date.

2. All assumption hearing requests shall be transmitted to the Office of Administrative Law (OAL) for a hearing before an Administrative Law Judge (ALJ).

3. The OAL shall schedule the State assumption hearing and send any necessary notices to all appropriate parties concerned. The hearing shall be in accordance with the provisions of N.J.A.C. 1:1.

(b) A final administrative hearing decision shall be rendered by the Commissioner of the Department of Human Services or his or her designee. All parties to the matter shall be notified by mail of any decision or order. The final decision shall be effective on the date of issuance.

1. The county may appeal the final decision rendered by the Commissioner or designee through the Appellate Division of the Superior Court; however, such appeal shall not delay implementation of the final decision.