

CHAPTER 141

TRAUMATIC BRAIN INJURY FUND

Authority

N.J.S.A. 30:6F-5 et seq., specifically 30:6F-8.

Source and Effective Date

R.2009 d.375, effective December 21, 2009.
See: 41 N.J.R. 3191(a), 41 N.J.R. 4816(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 141, Traumatic Brain Injury Fund, expires on December 21, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 141, Charity Racing Days for the Developmentally Disabled, was adopted as R.1984 d.28, effective February 21, 1984. See: 15 N.J.R. 1826(a), 16 N.J.R. 375(b).

Pursuant to Executive Order No. 66(1978), Chapter 141, Charity Racing Days for the Developmentally Disabled, was readopted as R.1989 d.132, effective February 7, 1989. See: 21 N.J.R. 8(a), 21 N.J.R. 636(a). Pursuant to Executive Order No. 66(1978), Chapter 141 expired on February 7, 1994.

Chapter 141, Traumatic Brain Injury Fund, was adopted as new rules by R.2004 d.245, effective July 6, 2004. See: 35 N.J.R. 5342(a), 36 N.J.R. 3280(a). Chapter 141, Traumatic Brain Injury Fund, expired on July 6, 2009.

Chapter 141, Traumatic Brain Injury Fund, was adopted as new rules by R.2009 d.375, effective December 21, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS; REQUIREMENTS

10:141-1.1 Purpose and scope

The purpose of this chapter is to establish criteria for eligibility and to establish a standard methodology for deter-

mining the amount and type of supports and services to be allocated to individuals in the State of New Jersey who have survived a traumatic brain injury.

Amended by R.2006 d.422, effective December 4, 2006.

See: 38 N.J.R. 2015(a), 38 N.J.R. 5158(a).

Substituted "supports and services" for "financial assistance".

10:141-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Applicant" means a person who is seeking service(s) from the Fund.

"Beneficiary" means a person receiving service(s) from the Fund.

"Case management" means the administrative responsibility for oversight of the Fund beneficiary's service plan. Case management is a mandatory service component for initial applicants and recipients of Fund service(s).

"Council" means the New Jersey Advisory Council on Traumatic Brain Injury.

"Department" means the New Jersey Department of Human Services.

"Division" means the New Jersey Division of Disability Services.

"Eligible supports and services" means those goods and services that are reimbursable under the Fund. Eligible supports and services shall be directly related to the functional limitations and symptoms associated with the brain injury, or medical treatment related to the brain injury. A beneficiary may, within the financial limits of the program, receive multiple supports simultaneously.

"Excluded assets" are assets which are excluded from consideration for Fund service(s). Excluded assets include the home occupied by the individual as his or her principal residence, one automobile necessary for the transportation of the applicant/beneficiary, personal effects and household goods. Financial instruments recognized by the United States Internal Revenue Service for the purpose of retirement shall be considered excluded assets. These include 401k Plans, IRAs, and similar such instruments.

"Fund" means the Traumatic Brain Injury Fund.

"Funding year" is defined as the continuous 12-month period which begins the day after the Committee renders a decision on an applicant's/beneficiary's support plan. Expenditures in a funding year on behalf of an applicant/beneficiary shall not exceed the caps defined at N.J.A.C. 10:141-1.5(b).

“Immediate family” is defined as:

1. Biological or adoptive parent(s) or other persons who have been legally determined to be financially responsible for an applicant/beneficiary who is under the age of 18; or

2. Persons who have been legally determined to be financially responsible for an applicant/beneficiary who is over the age of 18, including a lawful spouse.

“Liquid assets” are assets that are convertible to cash within 30 days. Liquid assets include checking and savings accounts, stocks, bonds, treasury notes and similar instruments.

“Order of selection” is defined as the criteria utilized by the Traumatic Brain Injury Fund Review Committee to establish priority for applicants to receive services in the event that the financial resources of the Fund are limited. See N.J.A.C. 10:141-1.6(b).

“Practitioner” is an individual who is trained and or credentialed to render a service for payment. The person must also hold a credential by a recognized regulatory body or hold membership in good standing in a professional organization related to the service for which the professional is to be paid.

“Review cycle” means the schedule for the consideration and review of a batch of eligible applications by the TBI Fund Review Committee.

“Service coordination” means clinical responsibility for identifying, developing, and organizing services for a beneficiary. Service coordination is a service option available to Fund beneficiaries, the cost of which shall be applied to the beneficiary’s annual and lifetime expenditure caps.

“Support plan” means a document that describes the nature, frequency and cost of services, supports, equipment or items that have been considered for payment.

“TBI Fund Review Committee” means a Committee appointed by the Division of Disability Services to review service plans, render decisions, hear appeals and review policies associated with the operation of the Fund. The Committee may also be utilized to propose solutions to problems associated with the operation of the Fund.

“Time limited” means a period of up to 12 months, after which services and supports of the Fund may end. In circumstances where continued clinical need can be demonstrated, an individual may request a waiver to extend services for up to an additional 12 months.

“Traumatic brain injury” means an injury to the brain caused by a blow or jolt to the head or a penetrating head injury/neuro-trauma that disrupts the normal brain function, where continued impairment can be demonstrated. This term does not include brain dysfunction caused by congenital or

degenerative disorders, birth trauma or injuries caused by other circumstances.

Amended by R.2006 d.422, effective December 4, 2006.
See: 38 N.J.R. 2015(a), 38 N.J.R. 5158(a).

In definition “Case management”, substituted “initial applicants and” for “ongoing”; rewrote definitions “Eligible supports and services”, “Excluded assets” and “Service coordination”; added definition “Funding year”; in definition “Support plan”, substituted “considered” for “approved”; in definition “TBI Fund Review Committee”, deleted “and approve applications,” preceding “service plans”, inserted “render decisions, hear”, and inserted “review” preceding “policies”; and in definition “Traumatic brain injury”, inserted “where continued impairment can be demonstrated”.

Amended by R.2010 d.064, effective May 3, 2010.

See: 41 N.J.R. 4657(a), 42 N.J.R. 844(a).

Added definitions “Practitioner” and “Time Limited”; and rewrote definition “Traumatic brain injury”.

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 1044) adopted, which concluded that an auto mechanic failed to present competent medical or neuropsychological corroboration sufficient to carry his burden that he suffered from a traumatic brain injury while working as mechanic in an auto repair pit area when another employee drove a car off a lift and it struck claimant on the top and back of his head as it fell, resulting in an immediate headache, although claimant continued working, and claimant did not see a doctor until 19 days after his accident; while claimant asserted that he was sensitive to lights, sounds, and smells and these sensations could cause episodes of disorientation and involuntary muscle movement, it is more likely than not that claimant’s symptoms were caused by a psychiatric disorder and not by traumatic brain injury. R.R. v. Div. of Disability Services Traumatic Brain Injury Fund, OAL Dkt. No. HDS 8543-05, Final Decision (March 14, 2007).

10:141-1.3 General requirements

(a) The Traumatic Brain Injury Fund shall pay as a last resort for the cost of post acute care, services, and supports to New Jersey residents who have survived neurotrauma with a traumatic brain injury. The Fund will provide support to foster independence for its beneficiaries. The act establishing the Fund, N.J.S.A. 30:6F-5 et seq., also requires the Brain Injury Association of New Jersey to coordinate public information and prevention education related to the Fund and to traumatic brain injury.

(b) Funding and payment for services must remain within the designated disbursement caps as set forth in N.J.A.C. 10:141-1.5.

Amended by R.2006 d.422, effective December 4, 2006.

See: 38 N.J.R. 2015(a), 38 N.J.R. 5158(a).

In (a), substituted “supports” for “financial assistance”.

10:141-1.4 Administration of the Fund

(a) The following procedures and methods will be used for the administration of the Fund:

1. The Division of Disability Services shall administer the Fund for the Department.

2. A committee known as the TBI Fund Review Committee shall be established within the Division of Disability Services, Department of Human Services, to implement the