

**CHAPTER 7
ROLE OF THE COUNTY ADJUSTER**

Authority
N.J.S.A. 30:1-12.

Source and Effective Date
R.2003 d.96, effective January 31, 2003.
See: 34 N.J.R. 3181(a), 35 N.J.R. 1276(a).

Chapter Expiration Date
Chapter 7, Role of the County Adjuster, expires on January 31, 2008.

Chapter Historical Note
Chapter 7, Role of the County Adjuster, was adopted as R.1992 d.31, effective January 21, 1992. See: 23 N.J.R. 2953(a), 24 N.J.R. 278(a).
Pursuant to Executive Order No. 66(1978), Chapter 7, Role of the County Adjuster, expired on January 21, 1997.
Chapter 7, Role of the County Adjuster, was adopted as new rules by R.1999 d.280, effective August 16, 1999. See: 31 N.J.R. 989(u), 31 N.J.R. 2404(a).
Chapter 7, Role of the County Adjuster, was readopted as R.2003 d.96, effective January 31, 2003. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:7-1.1 Purpose and scope

(a) In accordance with P.L. 1990, c.73, approved July 17, 1990, the Department of Human Services (DHS), Office of Finance, promulgates these rules governing the role of the county adjuster. The promulgation of these rules shall assure that the role of each county adjuster is standardized and carried out in an effective and efficient manner.

(b) These rules on the role of the county adjuster apply to the county adjusters of the 21 counties of the State of New Jersey.

(c) The rules, on the role of the county adjuster, relating to the Administrative Office of the Courts (AOC), have been written utilizing the Civil Practice Rules 4:74-7 and 4:74-7A, Civil Commitment, current during 2002. Should these civil commitment rules be changed in the future, the latest effective Civil Practice Rules 4:74-7 and 4:74-7A, Civil Commitment, shall supercede these rules, where appropriate.

Amended by R.2003 d.96, effective March 3, 2003.
See: 34 N.J.R. 3181(a), 35 N.J.R. 1276(a).
In (c), substituted "2002" for "1999".

SUBCHAPTER 2. DEFINITIONS

10:7-2.1 Definitions

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

"Agency" means a Division, institution, facility, or organizational unit within the DHS.

"Amended order" means a superior court order changing the terms of a court order.

"Charitable institution" means, for purposes of these rules, a facility which receives public funds to support the individuals it serves, such as a county nursing home. It does not include, for example, privately owned/operated nursing homes, residential healthcare facilities, or boarding homes.

“Chief executive officer” means the highest ranking official in a State agency or county psychiatric facility.

“Client” means an individual receiving services from the DHS or the county psychiatric facilities.

“Commissioner” means, unless otherwise specified, the Commissioner of the DHS.

“Compromise” means a decision made by the Office of the Commissioner, with regard to State agencies and the county governing body or a proper committee thereof, with regard to a county psychiatric facility, as authorized by N.J.S.A. 30:4-77 and 30:4-80.6, to: satisfy any debt due to a State agency or county psychiatric facility, as appropriate, by accepting less than the amount owed; or release all or part of the assets subject to a lien claim for the use or benefit of the client or his/her dependents, heirs or assignees. A compromise is not necessary for the release of a lien claim if a partial payment is made that constitutes the final distributive share to a creditor (the Department or county) from the estate of a deceased client. (N.J.S.A. 30:4-80.6)

“Compromise offer” means a written offer by or on behalf of a client or former client to: satisfy any debt due to a State agency or county psychiatric facility by offering less than the amount owed; or release all or part of the assets subject to a lien claim for the use or benefit of the client or his/her dependents, heirs, or assignees. Compromise offers can also be made by or on behalf of legally responsible relatives (LRR) to satisfy any unpaid debts the LRR is obligated to pay, as substantiated by a court order, for the care and maintenance of a client or former client, in accordance with N.J.S.A. 30:4-80.6 and N.J.A.C. 10:7-6.2.

“County adjuster” means the county official charged with the responsibility for determining the psychiatric client’s financial ability to pay the DHS psychiatric agency and/or the county psychiatric facility for the cost of care and maintenance. The individual is also responsible for determination of the same client’s legal settlement. The use of this term in these rules shall mean the county adjuster or county designee.

“County bills” means the monthly State charges to the counties for their share of care and maintenance costs for services provided by the various DHS agencies to county chargeable clients.

“County of admission/commitment” means the county where the client was admitted/committed from to a short-term care facility, psychiatric facility or special psychiatric hospital or where a voluntary client is admitted to a facility for treatment, including DDD clients.

“County per diem rate” means the daily per capita rate established for each State agency, set annually by the State House Commission, and used to charge counties for their share of the cost of care and maintenance for clients with county settlement in State operated facilities, in accordance with N.J.S.A. 30:4-78.

“County psychiatric facility” means a county operated psychiatric facility which participates in the State Aid Program of the New Jersey Division of Mental Health and Services (DMHS).

“County settlement” means continuous residence of a client, or parents of a child under age 18, in a county for a period of not less than five years immediately preceding the date of application for admission/commitment, not counting time spent in any charitable or correctional institutions, or public hospital. (Refer to N.J.S.A. 30:4-49 et seq. for additional settlement criteria.)

“Court order” means a legal document issued by the superior court that authorizes the admission/commitment/discharge of a client and specifies financial liability and/or legal settlement of the client.

“Crime victim” is a person who suffers personal, physical or psychological injury or death or incurs loss or injury to personal or real property as a result of a crime committed against that person. Victim also includes the nearest relative of the victim of a homicide. (N.J.S.A. 52:4B-37)

“Crime victim exemption status” is the status assigned to a crime victim as defined above who qualifies under P.L. 2001, c.208 as eligible for an exemption from the financial assessment process as a legally responsible relative for the client’s cost of care and maintenance.

“Department” (DHS) means the Department of Human Services or one of its agencies.

“Division of Developmental Disabilities” (DDD) means a division of the DHS which administers the State developmental centers, provides special residential facilities, and supplies social services for the developmentally disabled.

“Division of Mental Health Services” (DMHS) means a division within the Department of Human Services which establishes Statewide policy and coordination regarding the delivery of mental health services, operates the State psychiatric hospitals, and contracts with community-based mental health providers for direct services.

“Incompetent to stand trial” (IST), or pending such status, means a client who has been adjudicated incompetent to stand trial or is being examined for competency to stand trial.

“Involuntary commitment—adult” means a commitment of an adult who is mentally ill, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to be admitted to a facility voluntarily for care, and who needs care at a short term care facility, psychiatric facility or special psychiatric hospital because services are not appropriate or available to meet the person’s mental health care needs. (N.J.S.A. 30:4-27.2m)

"Involuntary commitment—minor" means a commitment of a minor in need of intensive psychiatric therapy which cannot practically or feasibly be rendered in the home or in the community or on an outpatient basis. (Civil Practice Rules 4:74-7A)

"Legal settlement" means the client's legal residence defined by N.J.S.A. 30:4-49 et seq., which is used to determine whether the State and/or a specific county is responsible for the cost of care and maintenance of the client if he/she is unable to pay the full private rate.

"Legally responsible relative (LRR)" means a spouse, mother, or father who is statutorily responsible for a client's cost of care and maintenance. (N.J.S.A. 30:4-66)

"Lien" means a legal encumbrance against the assets of a client or LRR precluding disposition until settlement with the State and/or county for services. Settlements in this context can take many forms, for example, payment, compromise, etc. Liens are filed by the chief executive officer (or equivalent) or a duly constituted agent, for example, county adjuster or supervisor of patient's accounts (SPA). (N.J.S.A. 30:4-80.1, 80.2 and 80.3 et seq.)

"Lien subordination" means a lien claim for the cost of care and maintenance on a client/LRR which is placed in subordinate position to another debt.

"Maintenance bill" means a billing, by year, reflecting the number of days a client was present at the agency, multiplied by the State Board of Human Services daily rate for those years, and from which charge all payments and recoveries realized from the client and/or LRR are deducted.

"No settlement" means that a client does not have State or county settlement and is charged to the State pending his or her removal to the place where he or she has legal settlement, if any. (N.J.S.A. 30:4-52)

"Not guilty by reason of insanity (NGRI)" or "Krol client" means a client who has been found not guilty of a criminal offense by reason of insanity. (See also *State v. Krol*, 69 N.J. 236 (1975).)

"Notice of Commitment Hearing" means a written document giving the time and place of the commitment hearing which is a notice served upon the client and his or her counsel or guardian ad litem which includes a copy of the temporary court order, a statement of the client's rights at the hearing and the screening or clinical certificates and supporting documents. (Civil Practice Rules 4:74-7(c)(4) and 4:74-7A)

"Order of Commitment" means a document signed by either a municipal court judge or a superior court judge which orders a client to be detained in or transferred to a short-term care facility, a psychiatric facility, or a special

psychiatric hospital and contains all the terms mandated in the Civil Practice Rules 4:74-7(c)(4) and 4:74-7A.

"Order of Settlement and Support" means a superior court order establishing legal settlement and financial obligations for institutional care. The order determines the extent of county, State, client and LRR liability.

"Petition for Settlement and Maintenance" means a document by which the county adjuster petitions the court for the designation of the client's legal settlement and provision for payment of the expenses of the client's care and treatment, which is accompanied by a report stating the results of the county adjuster's investigation and his or her recommendations. (Civil Practice Rules 4:74-7(i)(1) and 4:74-7A)

"Power of attorney" means a legal document authorizing an individual to represent another.

"Private rate" means the full per capita rate as set by the State Board of Human Services for State agencies and the county governing body or a county-designated committee thereof, for the county psychiatric facilities.

"Psychiatric facility" means a State psychiatric hospital (N.J.S.A. 30:1-7), a county psychiatric hospital, or a psychiatric unit of a county hospital (N.J.S.A. 30:4-27.2u) and, for the purposes of these rules, the inpatient psychiatric services provided by the University of Medicine and Dentistry of New Jersey through the Community Mental Health Center at Piscataway.

"Recovery" means any money received on behalf of a specific client to offset accumulated maintenance charges for care and treatment in a State or county facility or community program. Sources of recoveries may include: regularly recurring income such as wages, pensions, interest, annuity benefits and Social Security benefits; inheritances; judgments; voluntary contributions; LRR contributions; and Medicare and other third-party insurance coverage.

"Release of property from lien" means to preserve a lien on a client/LRR while removing certain property from its effect. (N.J.S.A. 30:4-80.4)

"Representative payee" means an individual or agency receiving Federal annuity benefits for another person. A representative payee is necessary whenever a client is incapable of managing funds.

"Short-term care facility" means an inpatient, community based mental health treatment facility which provides acute care and assessment services to a mentally ill person whose mental illness causes the person to be dangerous to self or dangerous to others or property. A short-term care facility is so designated by the Commissioner and is authorized by the Commissioner to serve persons from a specified geographic area. A short-term care facility may be a part of a general hospital or other appropriate health care facility and

meets certificate of need, licensing and inspection requirements of the Department of Health and Senior Services pursuant to P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.) and in accordance with standards developed jointly with the Commissioner of Human Services. (N.J.S.A. 30:4-27.2bb; N.J.A.C. 8:43E-3.3)

“Special psychiatric hospital” means a public or private hospital licensed by the Department of Health and Senior Services to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment and rehabilitation services to persons who are mentally ill. (N.J.S.A. 30:4-27.2cc)

“State House Commission” means the commission empowered by the State Legislature to establish the yearly per capita rates to the State for client maintenance in county psychiatric facilities and to the counties for client care and maintenance in specific State funded agencies and programs.

“State settlement” means when there is no continuous residency in any county for a period of five years or more immediately preceding the date of admission/commitment and there is continuous residence in the State for one year. There are no county charges. (N.J.S.A. 30:4-51)

“Treasury formula” means the method of determining the financial ability to pay for care and maintenance by a client and/or LRR(s). (N.J.S.A. 30:4-60)

“Voluntary admission—adult” means an admission of an adult who is mentally ill, whose mental illness causes the person to be dangerous to self or dangerous to others or property, and is willing to be admitted to a facility voluntarily for care, needs care at a short-term care or psychiatric facility because other facilities or services are not appropriate or available to meet the person’s mental health care needs. A person may also be voluntarily admitted to a psychiatric facility if his or her mental illness presents a substantial likelihood of rapid deterioration in functioning in the near future, there are no appropriate community alternatives available and the psychiatric facility can admit the person and remain within its rated capacity. (N.J.S.A. 30:4-27.2ee)

“Voluntary admission—minor” means any minor 14 years of age or over, who has requested his or her admission to an institution for psychiatric treatment, provided the court, on a finding that the minor’s request is voluntary, enters an order approving the admission. If an order approving a voluntary admission of a minor is entered, the minor may discharge himself or herself from the institution in the same manner as an adult who has voluntarily admitted himself or herself. (Civil Practice Rules 4:74-7A(c))

“Warrant to Enter Satisfaction” means the legal document by which the satisfaction of liens are authorized. They are signed by the chief executive officer or equivalent at the State agency or county psychiatric facility making the claim. (N.J.S.A. 30:4-80.6)

Amended by R.2003 d.96, effective March 3, 2003.
See: 34 N.J.R. 3181(a), 35 N.J.R. 1276(a).

Amended “County of admission/commitment” and “Legally responsible relative (LRR)”; added “Crime victim” and “Crime victim exemption status”.

SUBCHAPTER 3. COUNTY ADJUSTER RESPONSIBILITIES REGARDING COMMITMENTS, ADMISSIONS, REVIEWS AND DISCHARGES

10:7-3.1 DMHS services

(a) The county adjuster shall be responsible for commitment, admission, review and discharge of persons receiving DMHS services, including those receiving services from county psychiatric facilities.

(b) In regard to voluntary admissions, the county adjuster shall:

1. Arrange for a hearing at short-term care facilities, psychiatric facilities, or special psychiatric hospitals for all involuntary clients converting to voluntary status within 20 days of conversion;
2. Arrange for hearings within 20 days of admission to short-term care facilities and psychiatric facilities for all clients admitted voluntarily from mental health screening centers;
3. Make certain that the client is represented by counsel at the hearing;
4. Review the notification of voluntary admission documentation for sufficiency and completeness; and
5. Conduct an investigation to determine the client’s and LRR’s ability to pay for the cost of care and maintenance, in accordance with N.J.A.C. 10:7-4.

(c) In regard to involuntary commitments, including NGRI and IST, the county adjuster shall:

1. Receive commitment papers for clients committed to Federal facilities, short-term care facilities, psychiatric facilities or special psychiatric hospitals;
2. Review the involuntary admission documents for sufficiency and completeness, and forward such documents to the court for its consideration and possible issuance of a temporary commitment, except:

i. When the hospital or facility seeks a temporary commitment order on an emergent basis during non-business hours;

3. Arrange for a commitment hearing to be held in accordance with Civil Practice Rules 4:74-7 and 4:74-7A, Civil Commitment, or as otherwise directed by the Administrative Office of the Courts;

4. Include in the form of the notice of commitment hearing served upon the client and his or her counsel or guardian ad litem the following:

- i. A copy of the temporary court order;
- ii. A statement of the client's rights at the hearing;
- iii. A copy of the screening or clinical certificates; and
- iv. Any supporting documents.

5. Make certain, as directed by the court, that the client is represented by counsel at the hearing; and

6. If licensed to practice law in the State of New Jersey, present the case for the client's involuntary commitment to the court.

(d) In regard to review hearings, the county adjuster shall:

- 1. Arrange for the conduct of review hearings, as directed by the court;
- 2. Make certain that the client is represented by counsel at the review hearings; and
- 3. Prepare, and submit for the court's action, the appropriate order.

(e) As directed by the Administrative Office of the Courts, the county adjuster shall process and maintain paperwork for NGRI/Krol and IST clients.

(f) The county adjuster shall complete and forward reports to the Administrative Office of the Courts, as directed by the AOC, including information to track all involuntary and voluntary psychiatric commitments/admissions throughout the court system.

(g) The county adjuster shall be available to advise the court of the appropriate State and Federal laws, rules, and regulations pertaining to commitment reviews and hearings.

(h) The county adjuster shall, in counties with Medicaid-certified county psychiatric facilities, make certain that a Medicaid application has been processed for each potentially eligible client.

(i) The county adjuster shall process the necessary documentation for the payment of legal representation and interpreters utilized by clients at their hearings where necessary.

(j) The county of admission/commitment issues the original and all amended support orders, unless venue/jurisdiction has been transferred to the county of settlement.

(k) The county of admission/commitment need not be the county of settlement.

10:7-3.2 DDD client admission procedures

(a) The county of admission of a DDD client shall be the county where the individual resided prior to admission to a DDD facility or community residential placement

(b) No court order of settlement or support shall be issued to DDD clients or their LRRs.

(c) The Department of Human Services shall determine settlement for DDD clients and their LRRs.

(d) The county of admission need not be the county of settlement.

(e) The county adjuster shall have 20 work days to review the settlement decision made by the Department, its designated agent, or contractor. If the county adjuster questions the decision, the county adjuster shall submit supporting information in writing to the Division business manager of the facility in which the client resides. If the issue cannot be resolved by the adjuster and the business manager, the Division Director shall review the question and shall issue a final decision.

10:7-3.3 Records available to DHS

The county adjuster shall make all client records available to the Department, its designated agents, or contractors.

10:7-3.4 Cooperation with DHS

The county adjuster shall cooperate fully with the Department, its designated agents, or contractors in the determination of settlement, and the review of the client's or LRR's financial ability to pay for the services provided.

SUBCHAPTER 4. COURT ORDERS OF SETTLEMENT AND SUPPORT

10:7-4.1 County adjuster's responsibilities for preparing court orders of settlement and support for clients/LRRs of DMHS and/or county psychiatric facilities

(a) The county adjuster, at the discretion of the court, shall act as referee to conduct investigations to determine each client's legal settlement and the client's/LRR's financial ability to pay for the cost of care and maintenance. This investigation shall be a thorough and systematic attempt to learn the facts about the client's/LRR's financial

circumstances and residence(s), and shall be conducted as follows:

1. The county adjuster shall utilize his or her subpoena powers to conduct such investigation, when necessary.

2. The investigation shall be completed within six to eight weeks but no later than 60 days after receipt of notification of admission/commitment of the client.

3. The county adjuster's investigatory testimony, in the form of findings, conclusions and recommendations, are subject to the approval of the court and shall be based on factual evidence.

4. The county adjuster shall utilize the "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives—The Treasury Formula" procedures manual. Published or updated annually, in accordance with N.J.S.A. 30:4-60, this manual assists in identifying those areas to be addressed by these investigations.

5. The county adjuster of the county of admission shall refer all cases when an investigation indicates settlement is in another county. The county adjuster of the county to which the client's case is referred shall review the information provided by the county of admission, conduct its investigation as required and respond in writing to the referring county. If accepted, the county of admission shall obtain an order transferring venue to the county of settlement and the county of settlement will then proceed with petition.

(b) The formal investigation to determine legal settlement shall, as necessary, take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1. Obtain client residency data from screening, admissions and commitment documents;

2. Contact facilities from previous admissions of the client to obtain residency data and to inquire as to the county of admission and the classification of the admission (including private hospitals, county facilities, other counties and their facilities, and State agencies);

3. Interview the client for residency data, when possible;

4. Interview the client's spouse, relatives, friends and neighbors for residency data;

5. Obtain residency data from Federal, State and county agencies supplying the client with benefits or assistance (SSA, SSI, SSD, RR, VA Pensions, Medicare, Medicaid, DYFS, DFD, General Assistance, etc.);

6. Contact county, State and Federal correctional facilities for residency data (including county probation offices), if applicable;

7. Review local municipal records to verify residency data, such as property tax records, police records, occupancy permits/inspections, etc.;

8. Obtain written verification of residency data, whenever possible;

9. Obtain oral verification of residency data when written data is not obtainable; and

10. Keep a record of the client's settlement investigation, including date, time, data obtained, method data obtained and the source of the data.

(c) The formal investigation of support to determine financial ability of the client and/or LRR(s) to pay shall, as necessary, take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1. Obtain client financial data from admissions documents;

2. Contact facilities from previous admissions of the client to obtain financial data (including private hospitals, county facilities, other counties and their facilities, and State agencies);

3. Interview the client for financial data, when possible;

4. Interview the client's spouse, relatives, friends and neighbors for financial data;

5. Provide an LRR claiming crime victim exemption from financial assessment status, with the DHS approved form to complete and submit with appropriate proof to the county adjuster. The county adjuster shall review the completed form and proofs and determine if the exemption meets the criteria of P.L. 2001, c.208.

i. It is the responsibility of the person claiming the exemption to supply copies of documents that will substantiate his or her claim for exemption from financial assessment. Some examples of documents that may be submitted to the county adjuster are police reports (identifying victim), indictment, judgment or conviction, court order finding the defendant IST or NGRI, and/or a restraining order. These examples are not all inclusive; other forms of proof may be submitted.

ii. A person determined by the county adjuster to have crime victim exemption status from financial assessment as an LRR shall only retain the exemption for the commitment(s) that resulted from that crime against the LRR. Should the client have future commitments, the exemption does not carry forward. If a new crime is committed against the LRR the person must submit a new exemption request and proofs directly related to the new commitment.

6. Obtain financial data from Federal, State and county agencies supplying the client with benefits or assistance (SSA, SSI, SSD, RR, VA Pensions, Medicare, Medicaid, DYFS, DFD, General Assistance, etc.);

7. Obtain client's/LRR's employment financial data, when possible;

8. Review client/LRR's tax records, pay stubs, banking/savings institution's records, employment retirement records, insurance records, etc., for financial data;

9. Contact county, State and Federal correctional facilities for financial data, if applicable;

10. Review local municipal records to verify financial data, such as property tax records;

11. Obtain written verification of financial data, whenever possible;

12. Obtain oral verification of financial data when written data is not obtainable;

13. Keep a record of the client's/LRR's financial investigation, including date, time, data obtained, method data obtained and the source of the data; and

14. Complete the appropriate treasury formula worksheets.

(d) The county adjuster shall utilize the procedures found in the "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives—The Treasury Formula" procedures manual, developed in accordance with N.J.S.A. 30:4-60 to calculate the amount of monthly charges to clients/LRRs.

1. The county adjuster shall utilize the appropriate treasury formula worksheets. The county adjuster shall complete the appropriate worksheet to the maximum extent possible. The county adjuster shall complete the "Summary of Total Charges" form for each client/LRR.

2. The county adjuster shall only utilize the manual or the last manual published plus the update for the current calendar year. The "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives—The Treasury Formula" procedures manuals or updates are distributed in December of each year with an effective date of January 1st of the next year. Copies can be obtained from the:

Department of Human Services
Office of Finance
222 South Warren Street, 4th Floor
PO Box 700
Trenton, New Jersey 08625-0700

(e) The county adjuster shall review the settlement and support court orders prior to submission to make sure that they are in compliance with all appropriate Federal and State laws and regulations. Specifically, the county adjuster shall ensure that said orders do not contain Federal benefit funds consisting of Social Security benefits, Veterans Administration benefits, Railroad Retirement benefits and/or Federal Civil Service Pension benefits.

(f) Settlement orders shall not be submitted to the court making Medicaid, Medicare, or private insurance responsible for the cost of care and maintenance. Settlement orders shall only indicate that the client has county, State, or no settlement in the State or county. Support orders shall indicate whether the client and/or the LRRs are chargeable for paying all or a portion of the cost of care and maintenance pursuant to the Treasury Formula and whether the county or State is responsible for the support of the individual.

1. The only exception shall be clients who meet the requirements of N.J.S.A. 30:4C-30.1. Settlement and support orders for these clients shall indicate the county of settlement, if any, that the county is relieved of the financial responsibility for these clients under N.J.S.A. 30:4C-30.1. The orders shall indicate that the client and his or her estate remain liable for the full cost of care and maintenance.

(g) Inmates/detainees of county and municipal corrections systems transferred to State or county psychiatric facilities shall be the financial responsibility, for the cost of care and maintenance, of the county in which they were incarcerated. Inmates of the State correctional system, whether housed in a county or State correctional facility, shall be the financial responsibility of the State when transferred to a State or county psychiatric facility. The county adjuster shall include for State correctional inmates the State prisoner identification number in the investigation accompanying the order of settlement and support.

(h) The county adjuster shall submit a petition for the court to determine the client's legal settlement and provision for payment of expenses of the client's care and maintenance, in accordance with Civil Practice Rules 4:74-7 and 4:74-7A, or as otherwise directed by the AOC. The county adjuster shall attach a report to the petition that includes the investigative findings and/or testimony, the treasury formula worksheet(s), the results of the investigation and the recommendations for an order of settlement and support. The county adjuster shall schedule a hearing, with proper notice, for settlement and support, only if there are objections to the proposed court order. The county adjuster shall distribute a copy of the petition and report:

1. Directly to the client or the client's guardian or guardian ad litem, if any, by certified mail, return receipt requested, or as directed by the court;

2. To the client's counsel, by regular mail, as required;

3. To the supervisor of patients accounts of the State agency where the client is located, by regular mail;

4. To the CEO or his or her designee of the county psychiatric facility where the client is located, by regular mail;

5. To the DMHS for State and no settlement clients in county psychiatric facilities, by regular mail; and

6. To the legally responsible relative(s) (LRRs), where applicable, by certified mail, return receipt requested, or as directed by the court.

(i) The county adjuster shall file the completed Orders of Settlement and Support in the county adjuster's office of the county of settlement.

(j) The county adjuster shall reevaluate the client's and/or LRR's financial circumstances annually or sooner when information is obtained that their financial circumstances have changed. The county adjuster shall take the appropriate action to initiate an amendment to the client's and/or LRR's Order of Settlement and Support.

(k) The county adjuster shall distribute copies of the following documentation to the appropriate agency's supervisor of patients' accounts, or equivalent, no later than 90 days after receipt of notification that the client is admitted/committed:

1. An appropriate Order of Settlement and Support;
2. An amended Order of Settlement and Support, if applicable;
3. Investigative findings and/or testimony;
4. Treasury Formula worksheets;
5. Summary of Monthly Charges form(s); and
6. Outside representative payee voluntary agreement(s), if applicable.

Amended by R.2003 d.96, effective March 3, 2003.

See: 34 N.J.R. 3181(a), 35 N.J.R. 1276(a).

In (c), added a new 5 and recodified former 5 through 13 as 6 through 14; in (i), substituted "adjuster's" for "clerk's".

SUBCHAPTER 5. ACCOUNTING

10:7-5.1 County adjuster accounting procedures

(a) The county adjuster is responsible for accounting activities regarding clients/LRRs of DMHS and the county psychiatric facilities with respect to the State billing for clients with county settlement, the county billing for clients with State or no settlement, and billing and collection of client and/or LRR maintenance contributions and recoveries for clients with county settlement. The county adjuster is also responsible for accounting activities regarding DDD clients/LRRs with respect to the State billing for clients with county settlement, and the reporting of all maintenance collections and all recoveries received by the county from the client and/or LRR or a third party on behalf of the client. Payment from DDD clients and their LRRs shall be made in accordance with N.J.S.A. 30:4-60b and N.J.A.C. 10:46-2.3(f). The State and counties' settlement agreement pursuant to *County of Union v. Gibbs* (Docket No. 38428, New Jersey Supreme Court, stipulation of dismissal, February 17, 1995) case does not preclude the county from reporting all the maintenance collections and all recoveries received by the county. Under terms of the settlement agreements, the counties are required to submit documentation and remit certain recoveries immediately to the State.

(b) The county adjuster shall review and reconcile the monthly State billing to the county for clients with county settlement. The county adjuster shall determine that those clients charged to the county have appropriate county settlement, and that the number of days charged are accurate to the extent possible. The county adjuster shall certify to the county administration that the State billing is correct and is authorized for payment.

1. The county adjuster shall notify the DHS, Office of Finance, in writing within 25 workdays from the date of receipt of the State billing of any adjustments required.

2. The county adjuster shall review all credits issued by the State to determine if appropriate for clients charged to the county. The county adjuster shall notify the State within 25 workdays of receipt of the credits of any discrepancies, additional information and/or adjustments required.

(c) The county adjuster shall review the county billing to the State and certify to the State that clients billed by the county psychiatric facility have appropriate State or county settlement and that the clients were resident in the facility for the number of days charged.

1. The DHS, DMHS shall notify the county adjuster in writing, if necessary, within 25 workdays from the receipt of the county billing of any adjustments required.

2. The county adjuster shall review all credits issued by the county to the State to determine if the clients were properly charged to the State. The DMHS will review the accuracy of the credit(s) information submitted to the State and notify the county adjuster within 25 workdays of receipt of any adjustments required.

3. The county adjuster shall file a report with the DMHS on all revenue received by the county psychiatric facility. The report shall be on a cash basis by revenue source for the calendar year. The report is due to DMHS by June 30 of the year following the end of the calendar year.

(d) The county adjuster shall actively pursue court-ordered and voluntary contributions due from county chargeable clients and/or LRRs of DMHS and/or the county psychiatric facilities. A monthly statement shall be issued to contributing clients and/or LRRs of DMHS and/or the county psychiatric facilities indicating the amount of contribution expected (court ordered or voluntary) for the month as well as any open balances from previous months.

(e) The county adjuster shall maintain a ledger account for each client with county settlement. This ledger shall reflect the amounts of county charges incurred on the clients' behalf for services in State agencies and county psychiatric facilities. The ledger shall also reflect the amounts of offsetting client/LRR contributions, State maintenance recoveries, retroactive recoveries (compromises, settlements, etc.), and credits from county and/or State facilities for Medicare and/or commercial insurance recoveries.

(f) The county adjuster shall issue a monthly report to the DHS, Office of Finance, indicating the amounts of client/LRR court ordered and/or voluntary contributions received by client, service period, and nature of contribution. This report shall be issued no later than 25 days after the end of each month on forms developed by the State.

1. The county adjuster shall report LRR contributions for Medicaid eligible county chargeable clients in DDD Intermediate Care Facility/Mental Retardation (ICF/MR) facilities to the Division of Medical Assistance and Health Services (DMAHS).

2. The county adjuster may maintain an aged statement of court ordered accounts receivable. This statement shall reflect the amounts outstanding at the end of each quarter resulting from the county contributor billing. The statement shall reflect the age of the amounts due from each client. The statement shall also segregate all balances for litigation, which has been initiated or is pending for collection, and write-offs.

i. The county adjuster shall not consider voluntary contributions as receivables.

ii. For court ordered contributions, the county adjuster shall initiate individual collection efforts for those balances outstanding for more than six months.

iii. For court ordered contributions, the county adjuster shall refer to the court for collection, those balances outstanding for more than one year.

iv. For court ordered contributions, the county adjuster shall prepare justification to support balances outstanding for more than two years. The justification shall document previous collection efforts taken in accordance with (f)2ii and iii above.

v. For court ordered contributions, the county adjuster shall prepare a request to remove from the receivables, those balances determined to be uncollectible. The removal of the receivable, an accounting transaction, must be reported to the DHS, Office of Finance. For court ordered contributions, the county adjuster shall prepare an amended order for removal of those balances determined to be uncollectible. The amended order shall direct that the client has State or county settlement, the revised contribution amount, and that the client and his or her estate continues to be responsible for the full cost of care and maintenance.

(g) Any payments due the State for DMHS State psychiatric facility clients and DDD clients shall be incorporated into the reconciliation of the mental health billings for the State psychiatric facilities. The payments due shall be considered as adjustments.

(h) The county adjuster is responsible for reconciling with the DHS the county charges on behalf of clients with county settlement in State agencies net of subsequent contributions and recoveries, as deemed appropriate by DHS.

SUBCHAPTER 6. LIENS

10:7-6.1 Procedures for handling liens

(a) DDD through its agencies and designated agents shall file all liens against the real and personal property of every State and county settlement DDD client admitted to services, whether or not a client has any known property. The only exception is that liens for Medicaid clients shall be filed by the DMAHS. The chief executive officer of the agency shall file liens against LRRs of DDD clients only when the LRR fails to pay the assessed amounts which were based on his/her ability to pay. (N.J.S.A. 30:4-80.1)

(b) If after collecting third party insurance and other payments, there is still an outstanding debt, the county adjuster, if designated, shall file a lien for the cost of care and maintenance against the real and personal property of every State and county settlement client admitted or committed to a psychiatric facility, whether or not a client has any known property. Such liens shall be filed by the chief executive officer or his or her designee or by the county adjuster on his or her specific request for authorization to the chief executive officer. The only exception is that liens for Medicaid clients shall be filed by the DMAHS. The county adjuster, when authorized, shall file the non-Medicaid liens with the county clerk, or the register of deeds and mortgages, as appropriate for that county. The county adjuster shall also file liens with the clerk of the Superior Court of New Jersey.

1. Regarding State agencies, the county adjuster, acting as an agent for a particular DHS agency, may request and be authorized in writing by the chief executive officer to file the liens required for all clients, except Medicaid clients, with their county's settlement. This authorization to file liens is in the form of a power of attorney, which shall be completed anew whenever the county adjuster and/or the person authorizing the power of attorney changes.

i. The county adjuster, if authorized to file liens by the chief executive officer of the agency, shall file liens against LRRs of clients only when the LRR fails to pay the court ordered payments which were based on his/her ability to pay. (N.J.S.A. 30:4-80.1)

ii. The county adjuster, if authorized to file liens, shall mail a copy of the lien by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be forwarded by regular mail to the State agency.

2. Regarding county psychiatric facilities, the county adjuster shall request authorization in writing from the chief executive officer of the county psychiatric facility to file liens against all clients, except those receiving Medicaid, in the county psychiatric facility and their LRRs, as appropriate. Liens shall be filed against LRRs only when

they fail to make the court ordered payments based on their ability to pay. (N.J.S.A. 30:4-80.1)

i. The county adjuster shall mail a copy of the lien by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county psychiatric facility.

3. Liens shall not be filed against those portions of bank or investment accounts, which are comprised, of Social Security, Veterans Administration, Railroad Retirement or Federal Civil Service benefits. Federal law specifies that these benefits be excluded from legal attachment.

4. Liens, on behalf of the State or county psychiatric hospitals, shall not be filed against inmates or detainees transferred from the State or county correctional systems.

(c) A lien against a client shall only be discharged after receiving payment in full for the outstanding cost of the client's non-Medicaid care and maintenance, as documented in the client profile (see N.J.A.C. 10:7-5.1(e)), or as a result of a compromise and settlement. Only the DMAHS shall discharge Medicaid filed liens. A lien against an LRR shall be discharged after receiving payment of the delinquent court ordered payments from the LRR or the client or as stipulated in a compromise and settlement.

1. Regarding State agencies, the chief executive officer of the State agency shall discharge a lien by filing a "Warrant to Enter Satisfaction" in the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

i. The chief executive officer shall mail a copy of the "Warrant to Enter Satisfaction" to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county adjuster if the involved client has county settlement.

2. Regarding county psychiatric facilities, the chief executive officer of a county psychiatric facility or his or her designee shall discharge a lien by filing a "Warrant to Enter Satisfaction" with the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

i. The chief executive officer of a county psychiatric facility or his/her designee shall mail a copy of the "Warrant to Enter Satisfaction" to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county adjuster to be placed in the client's file.

10:7-6.2 Procedures for compromises, settlements, releases of property from liens and lien subordinations

(a) The following apply only to actions on non-Medicaid liens or debt. Liens filed by DMAHS shall only be compromised, settled, subordinated or released by DMAHS.

(b) Regarding State agencies, the county adjuster shall forward all requests for compromises, settlements, releases of property from liens and lien subordinations to the State agency involved. The county adjuster shall be notified of a compromise by the State or by an original request. The county adjuster shall include his or her written opinion and any additional information on the request in the package sent to the appropriate State agency. The agency will process the request and the DHS, Office of Finance, will notify the county adjuster of the decision and action taken.

(c) Regarding county psychiatric facilities, the county adjuster shall investigate, gather testimony in the form of findings and conclusions and make recommendations to the county governing body concerning the compromise of lien claims for current and former clients and/or LRRs of clients in county psychiatric facilities.

1. The county adjuster shall request an opinion from the DHS, Office of Finance, on all compromises where the State is a creditor party to the lien.

2. The county adjuster shall notify the DHS, Office of Finance, within 30 calendar days, of all compromises of liens and provide the appropriate credit on the State Aid reimbursement report that is filed monthly by the county with DMHS. The credit shall reflect the State's share of the funds received. The State and county shall share the funds received in the same ratio as the reasonable cost of maintenance and clothing are the responsibility of the State and county for the service period(s) covered by the lien(s) and the compromise settlement.

3. The county adjuster shall mail a copy of the letter of approval/disapproval of a compromise offer to the client, the LRR, or the person with power of attorney over the client's assets. A copy of this letter shall also be forwarded to the DHS, Office of Finance.

(d) Regarding county psychiatric facilities, on occasion, requests may be received from clients, former clients or LRRs to permit the release of specified property from a lien or to subordinate a lien. Generally these requests are as a result of a desire to secure a home equity loan, second mortgage, car loan or to avoid a foreclosure proceeding. Each request shall be reviewed on a case-by-case basis and the approval/disapproval of the request should be documented to the requester and in the client's file. By subordinating the lien or releasing only specified property from the lien, the county and State are able to maintain their claims for potential collection in the future.

1. If a lien has encumbered a savings or investment account which is exclusively Social Security, Veterans Administration, Railroad Retirement or Federal Civil Service benefits, the chief executive officer of the county psychiatric facility or his or her designee (the county adjuster if so designated) shall immediately release the account from the lien by filing a "Release of Property from Lien" form. Federal law specifies that these benefit funds are immune from legal attachment.

2. The chief executive officer of the county psychiatric facility or his or her designee (the county adjuster if so designated) shall file the "Release of Property from Lien" and "Lien Subordination Form" with the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

SUBCHAPTER 7. ADMINISTRATION

10:7-7.1 Procedures for administering the county adjuster's office

(a) The county adjuster shall meet the appropriate records retention requirements specified by the State in the county adjuster's record retention schedule, by the county governing body and/or by the AOC. To the extent that any record contains personal health information, the county adjuster shall comply with the privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (Pub.L. 104-191), and shall take appropriate disciplinary action against any employee who wrongly discloses any such information.

1. The county adjuster shall ensure that these records are secured in accordance with the appropriate Federal and State confidentiality and/or access laws and regulations.

2. The county adjuster shall ensure that records to be microfilmed/fiched or data imaging processed are not destroyed until the microfilm/fiche or data imaging files have been returned from processing and reviewed. Such film or files shall be scanned for light spots, piggybacked items and illegibility. If a problem has developed, the original documents shall be reprocessed.

(b) The county adjuster shall serve as a member of the county Board of Social Services, as required by law (N.J.S.A. 44:7-7). The county adjuster shall also serve as a member of other boards or committees as directed by their county government.

(c) The county adjuster shall conduct mental health searches of individuals seeking gun permits for any history of psychiatric admissions within the county, as required by law (N.J.S.A. 2C:58-3c).

(d) The county adjuster shall participate, where appropriate, in guardianship proceedings. If the county adjuster has information regarding the appointment of a potential guardian that information shall be provided to the agency by the county adjuster.

(e) The county adjuster shall accomplish those office administrative duties that include, but are not limited to, the areas of personnel, payroll and budgeting as determined by the county.

(f) The county adjuster shall act as liaison between county government, the clients/LRRs, and the DHS agencies.

1. The county adjuster shall forward to the DHS, Office of Finance, each January, a current organizational chart of the adjuster's office with names of employees, their titles and their office phone numbers.

2. The county adjuster shall report all communication/cooperation problems with State agencies to the DHS, Office of Finance, to permit appropriate corrective actions.

3. The county adjuster may act as liaison with the AOC pertaining to involuntary commitments.

(g) The county adjusters shall also complete any number of additional responsibilities that the State, their particular county government, or AOC may assign.

Amended by R.2003 d.96, effective March 3, 2003.

See: 34 N.J.R. 3181(a), 35 N.J.R. 1276(a).

In (a), added the second sentence in the introductory paragraph.

SUBCHAPTER 8. SANCTIONS/APPEAL PROCEDURES

10:7-8.1 Sanctions for Non-Compliance with Federal and State Laws and Regulations

The county adjuster shall assure compliance with Federal and State law and these regulations or appropriate sanctions may be applied. A county's failure to submit required legal documents, financial reports and payments within the time periods specified may result in the imposition or initiation of sanctions by the Commissioner of the Department. Notice will be provided to the county governing body and the county adjuster prior to the imposition of sanctions when the county adjuster is found to not be in compliance with these rules. Sanctions shall be initiated at the Commissioner's discretion on a case-by-case basis. Sanctions may be administrative and/or financial. Administrative sanctions may be, but are not limited to, letters of warning and/or notice to the county for non-compliance and/or referral to the Attorney General for advice and/or action. Financial sanctions may be, but are not limited to, the withholding of funds from the county.

10:7-8.2 Procedures for appeals from sanctions

(a) The governing body of each county shall be afforded an opportunity to appeal any section imposed. Appeals will not be expected to resolve issues that have policy implications or broader applicability. There are two levels of appeal available:

1. Level 1: A request for a Level 1 appeal will be considered timely filed if it is submitted in writing to the

DHS, Director, Office of Finance within 30 days of receipt of the State applied sanctions.

i. The first level of appeal represents an informal administrative process. The appeal will be heard by appropriate staff of the Office of Finance of DHS within 60 days of receipt.

ii. The county should be prepared to present such substantiating materials as may be required for an informal discussion of the subject matter.

iii. This level of appeal will attempt to reach equitable resolutions of the matters under dispute.

iv. Notice of the decision relating to the first level of appeal will be provided to the county governing body and the county adjuster when the Level 1 appeals process is completed.

2. Level 2: If the county is not satisfied with the results of the first level of appeal, a second level may be requested. A request for a Level 2 appeal will be considered timely filed if it is submitted in writing to the Commissioner within 60 days of receipt of notification of results of the Level I appeal.

i. The second level appeal will be heard by a panel of representatives from the DHS consisting of the Commissioner or designee, the Assistant Commissioner of Budget, Finance, Administration and Real Estate or designee, and the Director(s) of the Division(s) appropriate to the subject under dispute or designee(s). The Department will schedule an appropriate time and place for the panel to hear the appeal within 60 days of receipt.

ii. Notice of the decision relating to the second level of appeal will be provided to the county governing body and the county adjuster when the Level 2 appeals process is completed.

(b) Any financial adjustments resulting from an appeal will be determined during the appeals process and depend on the specific situation.

(c) The date of submission is defined as the date received by the Department.

Amended by R.2003 d.96, effective March 3, 2003.

See: 34 N.J.R. 3181(a), 35 N.J.R. 1276(a).

In (a)2i, substituted "Assistant Commissioner of Budget, Finance, Administration and Real Estate" for "Assistant Commissioner of Budget, Finance and Administration".