

(e) In its investigation, the Division, or its appointed agent, shall use the formula of financial ability to pay delineated in N.J.A.C. 10:46-2.5 to determine if the individual or his or her LRR(s) has sufficient income, assets, resources, finances or estate to pay for all or part of his or her cost of care and maintenance as fixed by the State Board of Human Services or the Commissioner.

1. A written notice shall be sent which informs the individual, legal guardian and/or LRR(s) of the figures used and how the amount due was calculated.

2. The individual, legal guardian, LRR(s) and/or other responsible parties may, at any time, inquire as to how the particular amount due to be paid was determined.

(f) The individual, LRR(s), and/or other responsible parties shall make such payments as are required by N.J.A.C. 10:46-2.5 for the cost of care and maintenance as set by the State Board of Human Services pursuant to N.J.S.A. 30:4-23 et seq. and 30:4-60(b) (See chapter Appendix, incorporated herein by reference), beginning on the date of residential placement by the Division, to the following:

Treasurer, State of New Jersey
DHS-DDD
PO Box 35247
Newark, New Jersey 07193-5247

(g) The Division, or its appointed agent, shall determine the legal settlement of the individual, using N.J.S.A. 30:4-49 through 73 to determine what state or county shall bear any cost of maintenance if the individual cannot pay. In no case shall the individual or other responsible parties be relieved of overall responsibility to repay the full costs of care and maintenance nor shall the LRR(s) be relieved of overall responsibility to pay the full amount assessed.

(h) The county where the individual resides at the time of application shall be notified by the Division if the individual is determined eligible for services. The county of residence and the county of settlement, if different, shall make their records available for examination and provide copies of documents as needed by the Division, or its appointed agent, and shall fully cooperate with the Division, or its appointed agent, in the review and investigation of the ability to pay of the individual or his or her LRR(s).

(i) All payments received by the county or State from the estate of the individual on behalf of any individual receiving residential services shall be treated as payments for current care and maintenance and retained by the Division to offset current costs. Pursuant to N.J.S.A. 30:4-78, the only exception is if payment is made for a specific service period. Such a payment shall be shared in the same ratio between the Division and the county as those parties shared the cost for that period.

(j) The individual and/or legal guardian shall apply for and maintain all current and future benefits for which he or

she may be eligible including, but not limited to, Medicare, Medicaid, State and Federal benefits and any third party support pursuant to statute, rule, order or by contract. If the individual, legal guardian and/or LRR(s) does not apply for and maintain current and future benefits, procedures for termination of services, pursuant to N.J.A.C. 10:46-6, may be initiated.

(k) Eligibility for services shall not be denied if the other eligibility criteria are met but the individual does not have the ability to pay. The determination of lack of ability to pay shall be made by the Division, or its appointed agent, and kept in the client record. The individual's ability to pay shall be reviewed annually.

(l) The individual and/or legal guardian shall agree to assign to the Division at the time of the offer of residential placement all rights to the support indicated in (j) above, unless specifically prohibited by Federal and/or State law or rule. For individuals already residentially placed by the Division on or before September 8, 1998, the assignment of those rights shall be made as soon as possible following (the effective date of this rule).

(m) The Division shall file a lien against the real and personal property of the individual receiving services for the full cost of care and maintenance received minus the amount paid and also against the real and personal property of an individual and/or the LRR(s) for any past due amount the LRR(s) was required to contribute to the cost of the individual's care and maintenance.

(n) If the full amount of the assessed monthly payment cannot be paid, the individual, legal guardian, LRR(s) and/or other responsible parties shall notify the Division immediately. The Division, or its agent, shall investigate and determine whether a new or revised monthly payment is to be made. Such reassessments shall be given priority to be completed by the Division or its agent.

(o) Payment calculations for the individual and/or LRR(s) shall be reviewed and revised annually by the Division or its appointed agent. If the financial circumstances of the individual and/or the LRR(s) change prior to the annual review, the individual, other responsible parties or LRR(s) shall immediately notify the Division in writing at the Fiscal Office (M), Division of Developmental Disabilities, PO Box 170, Trenton, NJ 08601. The individual, other responsible parties or LRR(s) shall be responsible to continue to pay as directed by the Division until the Division, or its appointed agent, completes its review. The requested review shall be given priority. If it is determined that a change in the assessed amount is appropriate, the change shall be effective on the first day of the month following the postmark date of the letter notifying the Division of a change in financial circumstances. For example, if the date of notification was January 2, 1998, the effective date of the change would be February 1, 1998. The review shall be

completed no more than 90 days following the receipt of all the requested documentation.

(p) The individual shall remain liable for the unpaid balance of the cost of care and maintenance. The LRR(s) shall remain liable for any unpaid portion of the assessed amount.

New Rule, R.1998 d.468, effective September 8, 1998.
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

10:46-2.5 Treasury Formula-DDD

(a) The purpose of this section is to set forth the assessment methodology used by the Department of Human Services for determining the financial ability to contribute toward the cost of care and maintenance of an individual with a developmental disability, and the procedure for the collection of such contribution. This section shall apply to the individual being served, LRR(s) or any other person responsible for the estate of such individual and/or LRR(s). The family maintenance standard, the medical cost standard and the tuition deduction shall be revised annually, using the Consumer Price Index figures then applicable and the cost for in-State tuition at Rutgers, the State University. These revisions shall be published annually by the Department as a public notice in the New Jersey Register. Additionally, the Department shall publish in the New Jersey Register the cost of care and maintenance rates as established by the State Board of Human Services.

(b) The Treasury Formula-DDD(A) charges 20 percent of family income above a minimum cost of living standard to clients with financial dependents (claimed on individual's State and Federal income tax forms) and LRR(s) except as provided in (l) below.

(c) The family maintenance standard (FMS) shall be used to define the income necessary to meet a family's minimal needs. The FMS establishes the lower ceiling on charges by assuring that payments to the Department do not reduce the family's income below this amount. The FMS is tied to an authoritative cost of living standard which reflects inflationary increases. Adjustments in the FMS are made by using the current available 12 month change in the Consumer Price Index (CPI), October through October, for Urban Wage Earners and Clerical Workers for New York/Northeastern New Jersey and the Philadelphia Metropolitan regions. This CPI standard, compiled for a family of four, is changed into equivalent incomes for various family sizes using a scale provided by the Federal government. (See Examples 1 and 2 below.)

(d) The family maintenance standard shall be calculated by the Department in the following manner. (The steps listed below coincide to the numbered instructions shown in Example 2 below.)

1. Step 1—Indicate adjustment months. The adjustment months will be the months of October of the previous year and October of the current year.

2. Step 2—Determine the difference in the Consumer Price Index. For each region, determine the difference in the Consumer Price Index of "all items" by subtracting last October's CPI from the index information received from the current October report.

3. Step 3—Calculate the Consumer Price increase or decrease. Calculate the percentage increase or decrease in the CPI for each region. The difference for each region divided by last October's CPI by region will equal the percentage of increase or decrease.

4. Step 4—Determine average increase or decrease. Calculate the average or the percentage increases or decreases for the regions.

5. Step 5—Adjust the FMS Base (a family of four). Multiply the current standard by the average regional CPI increase or decrease calculated in Step 4, and add the answer to, if an increase, or subtract the answer from, if a decrease, the current standard to obtain the new standard.

6. Step 6—Determine the FMS for smaller and larger families. Multiply the FMS calculated in Step 5 by the Equivalence Standards indicated in the Table in Example 2 below.

(e) The medical cost standard shall be calculated by the Department using the same process described in (d) above for the FMS. The MCS computation, however, only uses the medical care cost component of the CPI. (See Example 1 below.)

(f) The deduction for college tuition shall be the actual college tuition cost paid, but shall not exceed the maximum of the annual in-State tuition expenses for Rutgers University. The deduction shall be net of any scholarships, awards or grants, and shall cover tuition paid but shall not cover such items as room, board, books and lab fees. The maximum college tuition deduction for calendar year 1998 is \$4,262. This shall be revised annually as required by (a) above.

(g) The Treasury Formula-DDD(A) allows deductions from total income to accurately determine the disposable income. Allowable deductions shall be as follows:

1. Major "unavoidable" expenses such as non-insured medical expenses in excess of the medical cost standard (MCS);

2. Alimony payments or other court-ordered monthly contributions;

3. College tuition in accordance with (f) above;

4. Child care expenses which comply with current Federal income tax guidelines for the Federal child care credit; and

5. Catastrophic events.

i. Deductions for catastrophic events shall include documented personal property losses from theft or natural catastrophes such as fire, flood or storm. Deductible losses resulting from a natural catastrophe shall have been caused by a sudden and destructive force. Damages occurring over time, such as termite infestation, or residing or painting a house as part of regular maintenance shall not be deductible losses. Situations resulting from extreme financial stress shall be considered as a catastrophic event. Some examples include large debts due to prolonged unemployment and extraordinary business losses. The individual and/or LRR(s) shall provide verification of the claimed deduction(s).

(h) The individual and/or LRR(s) shall provide to the Department State and Federal income tax forms and wage statements in all cases, except when the family can establish status as recipients of public assistance.

(i) The total funds remaining, after the cost of the appropriate FMS is subtracted from the Disposable income, shall be the marginal income. The individual or LRR(s) shall contribute 20 percent of the marginal income.

(j) Individuals with financial dependents, as defined in (l) below, and LRR(s) shall contribute in accordance with the following Treasury Formula-DDD(A):

Total Annual Income less Income Taxes and Allowable Deductions = Disposable Income

Disposable Income less Family Maintenance Standard = Marginal Income

Marginal Income multiplied by .20 then divided by 12 = Monthly Charge

(k) Individuals without financial dependents and those required by (l) below to use this formula shall contribute in accordance with the following Treasury Formula-DDD(B):

1. Total Monthly Net Income less PNA = Disposable Monthly Income.

2. Fifty percent of Disposable Monthly Income shall be automatically contributed to cost of care and maintenance.

i. Where an individual is required to contribute to a HUD rental, that amount shall be deducted from the 50 percent contributed to the cost of care and maintenance.

ii. If an agency wishes to collect room and board directly from the individual served, the agency may request to amend its contract with the Division by the amount it expects to collect. The amount collected shall be deducted from the 50 percent contributed to the cost of care and maintenance.

3. The 50 percent remainder of disposable income shall be potentially available for other expenses as specified in (k)3i through v below, if recommended by IHP team and approved by the assigned State business office of the Division as being determined to be reasonable, pragmatically appropriate, consistent with individual need, and not otherwise provided by the Division:

i. Clothing allowances;

ii. Medical and dental expenses not covered by other sources;

iii. Transportation costs when they are program related or an individual's family member(s) is unable to visit otherwise as determined by (r) below;

iv. Leisure and/or recreation activities; and

v. Burial fund. The amount which may be accumulated shall be subject to any dollar amount limitation established by any statute, rule, order or contract which applies to the individual, including Federal benefits.

4. All earnings from employment below minimum wage shall be exempt from determining an individual's available income and shall not be considered part of the individual's disposable income. Contributions to the cost of care and maintenance from employment earnings at or above minimum wage shall be determined as follows:

i. The first \$65.00 earned shall be exempt from any contribution requirements.

ii. After the first \$65.00 earned, 30 percent of all wages earned will be contributed towards the cost of care and maintenance. If the monthly payment is less than \$20.00, the contribution requirement shall be waived.

(l) A married individual receiving residential services shall use the appropriate Treasury Formula-DDD as set forth below:

1. If two individuals who are married have no dependents and are living together or separately in Division residential placements, each individual shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

2. If an individual is residentially placed by the Division and has a spouse and/or dependents who live elsewhere and the spouse and dependents receive public assistance and/or other Federal or State benefits for themselves only, the spouse and/or dependents shall have no financial responsibility for the cost of the individual's care and maintenance. The individual shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

3. If an individual is residentially placed by the Division, and has a spouse who resides elsewhere and the spouse has income and the dependents may or may not receive public assistance or benefits, the spouse's income

shall be assessed pursuant to (j) above. The individual's income and benefits shall also be reviewed to determine past financial support to the dependents. If there is no evidence that support has been provided by the individual to dependents, the individual's income and benefits shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

4. If an individual is residentially placed by the Division and has a spouse who resides elsewhere, and the spouse has an income and there are no dependents, the spouse's income shall be assessed pursuant to (j) above. The individual shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

5. If an individual is residentially placed by the Division and is financially responsible for a dependent and no public assistance or benefits are received on behalf of the dependent, the individual's income and benefits shall be assessed pursuant to Treasury Formula-DDD(A) in (j) above.

(m) Assets shall be reported as such by the individual and LRR(s). The Department shall place a lien against the individual's assets for the unpaid cost of care and maintenance. A lien shall be placed against the assets of an LRR(s) for any unpaid portion of the LRR's required payments.

(n) The individual and/or the LRR(s) shall supply information to the Department or its agent regarding current and former residences and financial circumstances. Financial information shall include a full disclosure of income, assets, resources and benefits. The individual and/or the LRR(s) shall supply to the Department information regarding insurance coverage, including name and address of any insurance company(s) providing coverage, and the identification number(s) applicable to the individual.

1. The data required by (n) above shall be the primary source of information for the Department's investigation into legal settlement and the ability to contribute toward the care and maintenance of the individual. Where appropriate, the Department shall review other records, such as property tax records and any other source related to the information required.

2. The required information shall be updated annually by the individual and/or his or her LRR(s), or guardian or other person acting on behalf of the individual, using forms provided by the Department. The completed forms shall be returned to the Department or its agent within 20 days of the date mailed.

(o) The individual, his or her LRR(s), legal guardian or other person acting on behalf of the individual shall notify the Department in writing of any change in the information submitted in accordance with (n)2 above.

(p) The individual shall receive a minimum personal needs allowance of \$40.00 per month from the funds received by the representative payee or from the individual's income. The personal needs allowance shall be used by the individual for his or her personal spending.

(q) Purchases made with the individual's funds shall be the personal property of that individual and shall be reserved for that individual's use.

(r) Any family member who is on a fixed income may request to have the travel expenses which he or she incurs to visit the individual residentially placed by the Division covered pursuant to (k) above.

EXAMPLE 1
New Jersey Department of Human Services
Treasury Formula for the Assessment of Charges to Clients and Legally Responsible Relatives
Calculation of the Medical Cost Standard
(Effective January 1, 1998)

COMPUTATION

The Medical Cost Standards computed on this page are to be used for all CY 1998 assessments.

1. Adjustment Months		October, 1996 and October, 1997
2. Consumer Price Index for Urban Wage Earners and Clerical Workers—Medical Care.		
Adjustment	New York/ Northeastern N.J.	Philadelphia Metropolitan
<u>Months</u>		<u>Metropolitan</u>
October, 1996:	239.9	242.5
October, 1997	246.6	244.4
Difference:	<u>6.7</u>	<u>1.9</u>
3. Percentage Change:		
NEW YORK/NORTHEASTERN N.J.		2.79% Increase
PHILADELPHIA/METROPOLITAN		0.78% Increase
4. Average Regional Percentage Change:		1.79% Increase
5. Adjustment of Medical Cost Standard (Family of Four)		\$4,240x1.0179 = \$4,316
6. Determination of Medical Cost Standard for Various Family Sizes:		

Family Size	Equivalence Factor	Base (Family of Four)	MCS
2	.68	\$4,316	\$2,935
3	.84	\$4,316	\$3,625
4	1.00	\$4,316	\$4,316
5	1.16	\$4,316	\$5,007
6	1.32	\$4,316	\$5,697
7	1.35	\$4,316	\$5,827

NOTE: To calculate the Medical Cost Standard for family sizes larger than seven members, the Equivalence Factor should be increased by three hundredths (.03) for each additional family member and multiplied by the Medical Cost Standard for a family of four.

EXAMPLE 2

New Jersey Department of Human Services
 Treasury Formula for the Assessment of Charges to Clients and Legally Responsible Relatives
 Calculation of the Family Maintenance Standard
 (Effective January 1, 1998)

COMPUTATION

The Family Maintenance Standards computed on this page are to be used for all CY 1998 assessments.

1. Adjustment Months		October, 1996 and October, 1997
2. Consumer Price Index for Urban Wage Earners and Clerical Workers—All Items.		
Adjustment	New York/ Northeastern N.J.	Philadelphia Metropolitan
Months		
October, 1996:	164.4	164.2
October, 1997:	168.1	166.8
Difference:	3.7	2.6
3. Percentage Change:		
NEW YORK/NORTHEASTERN N.J.		2.25% Increase
PHILADELPHIA/METROPOLITAN		1.58% Increase
4. Average Regional Percentage Change:		1.92% Increase
5. Adjustment of Family Maintenance Standard (Family of Four)		\$20,895x1.0192 = \$21,296
6. Determination of Family Maintenance Standard for Various Family Sizes:		

Family Size	Equivalence Factor		Base (Family of Four)	FMS
2	.68	x	\$21,296	\$14,481
3	.84	x	\$21,296	\$17,889
4	1.00	x	\$21,296	\$21,296
5	1.16	x	\$21,296	\$24,703
6	1.32	x	\$21,296	\$28,111
7	1.35	x	\$21,296	\$28,750

NOTE: To calculate the Family Maintenance Standard for family sizes larger than seven members, the Equivalence Factor should be increased by three hundredths (.03) for each additional family member and multiplied by the Family Maintenance Standard for a family of four.

New Rule, R.1998 d.468, effective September 8, 1998.
 See: 30 N.J.R. 1737(a), 30 N.J.R. 2169(a), 30 N.J.R. 3271(a).

require the Division of Developmental Disabilities, and others, to assist in the formulation of a treatment plan. State in Interest of R.M., 141 N.J. 434, 661 A.2d 1277 (1995).

10:46-3.2 Where to apply

(a) Application shall be made to the regional offices of the Division. The initial contact may be made to an intake worker by telephone, in writing or by appearing in person.

(b) If the intake worker determines that the request is for the services of the Division, he or she shall send the person an application.

(c) If the intake worker determines that the request is for services not offered by the Division, the intake worker shall offer to refer the person to an appropriate agency. If the person wishes to pursue the services of the Division, the intake worker shall send an application and information concerning services.

(d) Applications shall be made to a regional office of the Division. Forms and instructions may be obtained by writing to or calling:

- | | |
|---|---|
| Regional Office:
Northern Regional Office
201-927-2600
1B Laurel Drive
Flanders, NJ 07836 | Counties of Jurisdiction:
Sussex, Morris, Warren, Passaic,
Bergen, Hudson |
| Upper Central Reg. Office
201-379-1700
65 Springfield Avenue
Springfield, NJ 07081 | Essex, Somersct, Union |

SUBCHAPTER 3. APPLICATION

10:46-3.1 Who may apply

(a) Application for services under this chapter may be made by the following persons:

1. An adult on his or her own behalf;
 2. The parents or guardian of a minor;
 3. An agency, public or private, on behalf of a minor of whom it has care and custody;
 4. A court having jurisdiction over a minor;
 5. The guardian of an adjudicated incompetent adult;
- or
6. A court of competent jurisdiction on behalf of an adult person who appears to be developmentally disabled.

(b) For applicants who apply for Family Support, the requirements of N.J.A.C. 10:46A shall apply.

Amended by R.1995 d.511, effective September 18, 1995.
 See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Case Notes

Court must undertake to determine appropriate disposition, other than incarceration, of developmentally disabled juvenile, and should

Regional Office:
Lower Central Reg. Office
609-292-4500
222 S. Warren St.
Trenton, NJ 08625

Counties of Jurisdiction:
Middlesex, Monmouth, Mercer,
Ocean, Hunterdon

Southern Regional Office
609-757-4700
101 Haddon Ave.
Suite 17
Camden, NJ 08103-1485

Camden, Atlantic, Gloucester,
Cumberland, Salem, Cape May,
Burlington

(e) If the person for whom eligibility is sought does not live in New Jersey at the time of the application, the applicant shall indicate if they presently receive services from a state agency in the state where the individual resides. To apply for services from the State of New Jersey under the Interstate Compact on Mental Health (N.J.S.A. 30:7B-1 et seq.), the request shall be sent to the Administrative Practice Officer, Division of Developmental Disabilities, PO Box 726, Trenton, New Jersey 08625. The request shall be forwarded to the appropriate regional office for a determination of eligibility. All information required in N.J.A.C. 10:46-3.3 shall be provided. All notice requirements contained in N.J.A.C. 10:46-4.2 shall be followed.

Amended by R.1995 d.511, effective September 18, 1995.
See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

10:46-3.3 How to apply

(a) Application shall be made on forms supplied by the Division.

(b) Minimum information submitted shall include, but not be limited to:

1. Social data, such as name, address, telephone number, social security number, and present living arrangement;
2. Medical information;
3. Present program or employment type;
4. Name, address and telephone number of the individual, if someone other than the person on whose behalf application is being made;
5. Presenting request, such as the specific service(s) that may be desired if known by the individual; and
6. Information for the individual's financial information sheet, including basic information such as social security number and the amount and type of benefits received, and those documents as required in N.J.A.C. 10:46-2.1(f).

(c) Accommodations shall be made available by the Division for applicants who cannot complete the application by him or herself. Applications may be taken in sites other than the regional office. Applications may be taken at any site which will facilitate the determination of eligibility.

(d) It is the responsibility of the applicant to cooperate with the Division in obtaining required records by signing consent to release of information forms and identifying persons or agencies known by the applicant to be in possession of the needed records.

(e) An application shall be deemed complete when there is sufficient information to make a determination of eligibility.

Amended by R.1998 d.468, effective September 8, 1998.
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

In (b), substituted references to individuals for references to applicants in 4 and 5, and added 6.

SUBCHAPTER 4. DETERMINATION PROCESS

10:46-4.1 Determination

(a) A Division intake worker shall begin a case file upon receipt of an application for determination of eligibility for services.

(b) The intake worker shall assist in completion of the application upon request of the applicant.

(c) Upon receipt of an application including all necessary documentation and completion of an in person interview with the applicant, the intake worker shall make an initial recommendation in writing based upon specific findings regarding eligibility pursuant to N.J.A.C. 10:46-2.

(d) An Intake team may, at the request of the intake worker or his or her supervisor, review the recommendation of the intake worker and:

1. Render a determination regarding eligibility; or
2. Refer the matter to a second Intake team, when there is disagreement among the first team concerning eligibility. No member of the second team shall have participated in the initial Intake team review.

(e) The determination of the Intake worker or Intake team(s) shall be made in writing within 10 working days and shall be based on specific findings.

(f) In cases where the matter is referred for further review, the intake worker shall present the case record to the second team. The second team shall review the record and shall make a final determination.

Amended by R.1995 d.511, effective September 18, 1995.
See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

10:46-4.2 Notice requirements

(a) Division staff shall notify the applicant in writing of the status of the eligibility determination no more than 60 days after initial contact with the intake worker.

10:46-7.1 Appeals

(a) If the individual is determined by the Division not to meet the criteria for eligibility prior to the financial determination, the Division shall notify the individual in writing within 30 working days of the determination.

1. The notice shall include specific criteria which were not met by the individual.

2. The notice shall include information regarding the individual's right to appeal the determination of ineligibility pursuant to N.J.A.C. 10:48-1. Such appeals shall be deemed to be contested matters.

(b) If the individual is determined by the Division to be eligible for functional services but the individual, LRR(s) or other responsible party disagrees with the amount that the Division determines shall be paid, the individual or his or her legal guardian or LRR(s) shall appeal within 30 days from the date of the letter notifying him or her of the calculated amount, in accordance with the procedure set forth below.

1. The request for an appeal shall specify all material facts which the individual, legal guardian or LRR(s) or his or her attorney disputes. Requests for an appeal shall also set forth all legal issues which the individual, legal guardian or LRR(s) is raising on appeal and shall present all arguments on those issues which the individual, legal guardian or LRR(s) wishes the Division to consider. The individual, legal guardian or LRR(s) shall explain in detail why the calculated amount is inaccurate.

i. If the individual is receiving residential services, he or she or the LRR(s) shall be responsible to begin to pay the assessed amount unless otherwise agreed to by the Division. The disputed portion of the assessed amount shall be placed into an escrow account by Department staff until the appeal procedure is complete.

ii. The request for an appeal shall be sent to:

Administrative Practice Officer
Division of Developmental Disabilities
PO Box 708
Trenton, NJ 08625-0708

2. All termination proceedings shall be suspended during the pendency of the appeal process.

3. The Department, or its contracted agent, shall have 30 days from receipt of the request for an appeal to determine if the amount of the financial assessment was properly calculated based upon the documentation and facts presented in the request for an appeal in (b)1 above.

(c) Where an appeal request appears to set forth disputed material facts, the Director may require the individual, legal guardian or LRR(s) and his or her attorney, if any, to

attend a pre-transmittal conference conducted by a designated employee of the Division.

1. The Division shall notify the individual, legal guardian or LRR(s) of the date, time and place of the pre-transmittal conference scheduled pursuant to this subchapter. The pre-transmittal conference shall be held no later than 45 days following the recalculation of the assessed amount by the Department or its contracted agent.

2. The purpose of the pre-transmittal conference shall be to clarify disputed material facts and legal issues raised in the appeal request; to review the evidence upon which the individual, legal guardian or LRR(s) bases his or her claim; to answer questions on how the amount due was calculated; and to attempt to resolve the dispute.

3. Where the Division and an individual, legal guardian or LRR(s) cannot reach a resolution of the dispute and the Division representative determines that disputed material facts do exist, the appeal shall be transmitted to the Office of Administrative Law as a contested case. The Division may choose to notify the Office of Administrative Law that it will not be sending a representative to the hearing.

4. If it is apparent to the Division representative that no material facts are in dispute as alleged, the representative shall detail the lack of disputed material facts in writing and ask the Director to decide the appeal based upon a summary review of the record as set forth in (e) below. The Director shall allow the individual, legal guardian or LRR(s) to respond in writing to specify all disputed material facts and the reasons why a hearing is necessary.

5. No pre-transmittal conference shall be adjourned from the scheduled pre-transmittal conference date except for good cause and upon order of the Director or an employee designated by the Director. All requests for adjournment must be made in writing, with the reasons specified therein, no later than seven days before the date scheduled for the pre-transmittal conference. All requests shall be sent to the following address:

Administrative Practice Officer
Division of Developmental Disabilities
PO Box 708
Trenton, NJ 08625-0708

6. In the event an individual, legal guardian or LRR(s) fails to attend a pre-transmittal conference wherein an adjournment has not been granted, the Division shall determine that the individual, legal guardian or LRR(s) has abandoned the request for a hearing and shall decide the appeal pursuant to (e) below.

(d) Where an appeal request fails to set forth any disputed material fact and fails to set forth any legal issue or any argument on those issues, the request for a hearing or further review shall be denied. The Division shall notify the individual, legal guardian or LRR(s) of this denial and the grounds thereof, and shall notify the individual, legal guardian or LRR(s) that the proposed action shall become effective on such date as the Division shall specify. Such notice shall constitute the final agency decision in the matter.

(e) Where there are no disputed material facts and an appeal request sets forth one or more disputed legal issues and presents arguments on these issues, the Director may consider those legal issues and arguments in a paper review of the written record. There shall be no discovery, but the individual, legal guardian or LRR(s) shall have the opportunity to submit written arguments. The Director shall consider these arguments, if any, the materials presented at the pre-transmittal conference, if any, and all prior documents regarding the determination of fees. The Director shall render a written determination which shall constitute the final agency decision in the matter.

APPENDIX

NEW JERSEY DEPARTMENT OF HUMAN
SERVICES CALENDAR YEAR 1998
Patient Payment Rates for State Institutions and Programs
(Pursuant to N.J.S.A. 30:4-23 et seq.)

<u>STATE PSYCHIATRIC HOSPITALS</u>	Patient Rate (Per Diem)
Greystone Park Psychiatric Hospital	Blended Rate
Trenton Psychiatric Hospital	per diem
Marlboro Psychiatric Hospital	Average
Ancora Psychiatric Hospital	\$346.99
Senator Garret Hagedorn Center for Geriatrics	
	Individual Rates
Arthur Brisbane Child Treatment Ctr.	\$811.63
Forensic Psychiatric Hospital	\$461.72
<u>STATE DEVELOPMENTAL CENTERS</u>	
Vineland Developmental Center	
Greenbrook Regional Center	Blended
North Jersey Developmental Ctr.	Rate
Woodbine Developmental Center	per diem
New Lisbon Developmental Ctr.	Average
Woodbridge Developmental Center	\$270.80
Hunterdon Developmental Center	
North Princeton Dev. Ctr.	
	Individual Rates
Vineland Special Hospital	\$552.54
SPECIAL RESIDENTIAL SERVICES	\$251.88

New Rule, R.1998 d.468, effective September 8, 1998.
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).