

CHAPTER 83

SERVICE PROGRAMS FOR AGED, BLIND OR DISABLED PERSONS

Authority

N.J.S.A. 44:7-12, 44:7-13, 44:7-38 and 44:7-43.

Source and Effective Date

R.1992 d.477, effective November 2, 1992.
See: 24 N.J.R. 3074(a), 24 N.J.R. 4379(a).

Executive Order No. 66(1978) Expiration Date

Chapter 83, Service Programs for Aged, Blind or Disabled Persons, expires November 2, 1997.

Chapter Historical Note

All provisions of this chapter "Service Programs for Aged, Blind or Disabled Persons" became effective March 29, 1974 pursuant to authority delegated at N.J.S.A. 30:1-12 as R.1974 d.85. See: 6 N.J.R. 116(a), 6 N.J.R. 195(d).

1979 Revisions: Subchapter 3 "Special Payments Handbook; Aged, Blind and Disabled" became effective June 1, 1979 as R.1979 d.172. See: 11 N.J.R. 73(b), 11 N.J.R. 283(b).

1980 Revisions: Amendments to section 3.5 became effective July 1, 1980 as R.1980 d.246. See: 12 N.J.R. 192(b), 12 N.J.R. 418(c).

1982 Revisions: Amendments became effective September 7, 1982 as R.1982 d.285. See: 14 N.J.R. 463(b), 14 N.J.R. 981(a).

1983 Revisions: Subchapter 1. "Organization and Administration" expired pursuant to Executive Order No. 66(1978) on July 23, 1983. N.J.A.C. 10:100-1.23 (SSI payment schedule), was recodified as Appendix A. to this chapter. R.1983 d.383 with changes upon adoption to become effective October 1, 1983. See: 15 N.J.R. 1188(a), 15 N.J.R. 1586(a). Originally filed as an emergency rule, R.1983 d.290, effective July 1, 1983. Amendments to Appendix A became effective December 19, 1983 (operative January 1, 1984) as R.1983 d.594. See: 15 N.J.R. 1734(a), 15 N.J.R. 2171(b).

1984 Revisions: Amendments became effective August 6, 1984 as R.1984 d.331. See: 16 N.J.R. 1013(a), 16 N.J.R. 2133(a). Emergency amendment became effective September 28, 1984 (operative October 1, 1984) as R.1984 d.466 and concurrent proposal adopted effective November 28, 1984 (amendments effective January 1, 1985) as R.1984 d.565. See: 16 N.J.R. 2846(a), 16 N.J.R. 3453(a).

1985 Revisions: Emergency amendment became effective December 27, 1985 (operative January 1, 1986) as R.1985 d.712 and concurrent proposal adopted effective February 24, 1986 as R.1986 d.75. See: 18 N.J.R. 216(a), 18 N.J.R. 566(a).

1986 Revisions: Amendments became effective October 20, 1986 (operative November 1, 1986) as R.1986 d.426. See: 18 N.J.R. 1171(a), 18 N.J.R. 2125(a). Emergency amendment became effective December 29, 1986 (operative January 1, 1987) as R.1987 d.79 and concurrent proposal adopted effective April 6, 1987 as R.1987 d.172. See: 19 N.J.R. 246(a), 19 N.J.R. 533(a).

1987 Revisions: New rule, section 3.9 became effective March 3, 1987 as R.1987 d.136. See: 18 N.J.R. 2176(a), 19 N.J.R. 452(a). Further amendments became effective July 20, 1987 as R.1987 d.283. See: 19 N.J.R. 345(a), 19 N.J.R. 1318(a).

1988 Revisions: Amendments became effective April 18, 1988 as R.1988 d.171. See: 20 N.J.R. 163(a), 20 N.J.R. 904(a). Emergency amendment became effective January 4, 1988 (expires March 4, 1988)

as R.1988 d.54 and concurrent proposal adopted effective March 4, 1988 as R.1988 d.143. See: 20 N.J.R. 208(a), 20 N.J.R. 809(c).

1989 Revisions: This chapter was recodified from N.J.A.C. 10:100-3 to N.J.A.C. 10:83-1.1 through 1.10 and Appendix A to section 11. The chapter was readopted effective January 19, 1989 with amendments effective February 21, 1989 as R.1989 d.98. See: 20 N.J.R. 2563(a), 21 N.J.R. 511(a). Emergency amendments, raising payment rates, adopted and filed December 30, 1988 as R.1989 d.58, with expiration date of February 28, 1989. Concurrent proposal adopted and filed February 28, 1989 as R.1989 d.172, effective February 28, 1989. See: 21 N.J.R. 208(a), 21 N.J.R. 764(a). All references to the Division of Welfare have been changed to the Division of Economic Assistance, effective December 4, 1989, pursuant to the provisions of P.L. 1989, c.88. References to the Division of Economic Assistance have been changed to the Division of Family Development. Chapter 83 was readopted in accordance with Executive Order No. 66(1978) as R.1992 d.477. See: Source and Effective Date.

See section annotations for additional rulemaking.

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SUBCHAPTER 1. SPECIAL PAYMENTS HANDBOOK; AGED, BLIND AND DISABLED

10:83-1.1 Introduction

(a) The Supplemental Security Income Program (SSI), administered by the federal Social Security Administration, provides benefits to eligible aged, blind and disabled individuals. The standard for these benefits is established by the State, which supplements the federal payment in the amount necessary to attain this level.

(b) While eligibility for SSI is determined by the Social Security Administration, responsibility for provision of services to SSI recipients remains with the State, administered by the county welfare agencies under supervision of the Division of Youth and Family Services. In addition, in accordance with regulations established by the Division of Family Development, New Jersey has elected to provide emergency assistance and burial expenses through State and county funding.

(c) Payment for burial and funeral expenses may also be provided for certain other aged, blind and disabled individuals. These individuals include those adults who are determined by the county welfare agency to be eligible for "Medicaid Only" and former recipients of Old Age Assistance (OAA), Disability Assistance (DA) and Assistance to the Blind (AB), (See N.J.A.C. 10:83-1.4 for classes of recipients eligible for burial and funeral payment.)

1. This Special Payments Handbook—Aged, Blind and Disabled (N.J.A.C. 10:83-1) sets forth the rules, regulations and procedures relative to the provision of emergency assistance and burial and funeral expenses to or on behalf of eligible aged, blind and disabled individuals.

2. Such rules, regulations and procedures are conditioned upon the principles of public assistance as contained in the Public Assistance Manual, N.J.A.C. 10:81-1.1 through 1.10. Regulations regarding complaints and fair hearings, safeguarding information, non-discrimination and fraudulent receipt of assistance as delineated in the Public Assistance Manual are likewise applicable to administration of the special payments in this subchapter.

3. This subchapter is a public document. It is available in accordance with the conditions and procedures set forth in the Public Assistance Manual, N.J.A.C. 10:81-1.13.

Administrative Change to (c) and (c)1.
See: 23 N.J.R. 1411(a).

Case Notes

County welfare board's discretion is severely restricted by state and federal regulations (citing former regulations). *Battaglia v. Union Cty. Welfare Bd.*, 88 N.J. 48, 438 A.2d 530 (1981) certiorari denied 102 S.Ct. 2045, 456 U.S. 965, 72 L.Ed.2d 490 (1982).

Former regulations establishing Medical Assistance to the Aged program and income caps valid. *Devory v. Dept. of Human Services*, 175 N.J.Super. 413, 419 A.2d 1131 (App.Div.1980).

10:83-1.2 Emergency assistance

(a) Emergency assistance (EA), as delineated in this section, provides for the prevention of homelessness, the granting of emergency shelter assistance and temporary rental assistance. EA shall be authorized to or for an individual(s) receiving SSI benefits when circumstances set forth in (a)1 through 3 below exist:

1. When there has been substantial loss of shelter, food, clothing and/or household furnishings by fire, flood or other similar disaster, and the eligible individual(s) is in a state of homelessness and the agency determines that the provision of EA funds for one or more of these basic needs is essential for the health and safety of the individual;

2. When the state of homelessness results from imminent or demonstrated violence which imperil the health and safety of the individual; or

3. Where there is documentation, subject to CWA verification, of a pending eviction, such as a letter from the landlord or other person who is providing shelter or dwelling space to the client, a tenancy complaint filed by the landlord, an order from a court for eviction or foreclosure, an actual eviction or foreclosure has occurred, or when prior shelter is no longer available, and the eligible individual(s) demonstrates a lack of realistic capacity to plan for substitute housing as defined in (a)3iii below, EA shall be authorized in accordance with (a)3i and ii below.

i. Payment may be authorized for three calendar months of retroactive rental or mortgage payments if it will prevent actual eviction or foreclosure. Retroactive utility payments may be authorized for six months if it will prevent actual eviction or foreclosure. Payments for more than three months of retroactive/rental/mortgage and/or six months of retroactive utility payment may only be made in extraordinary circumstances subject to DFD authorization.

ii. In situations of homelessness due to actual eviction or foreclosure or when prior shelter is no longer available, payment shall be authorized for emergency shelter in accordance with (g)1 below.

iii. Lack of realistic capacity to plan for substitute housing exists in the following circumstances:

(1) When the eligible person(s) can demonstrate that there was insufficient time to secure substitute housing between receipt of notice of imminent loss of shelter and actual eviction, foreclosure or loss of prior permanent shelter;

(2) When the eligible person(s) can demonstrate or signs a document, prepared by the CWA, certifying that available funds were exhausted in payment of necessary household and living expenses, such as food, clothing, shelter, or unreimbursed medical expenses, and that payment of such expenses resulted in homelessness; or

(3) When the eligible person(s) demonstrates functional incapacity (see (g)1 below) which would prevent him or her to plan for or secure substitute housing.

(b) Recipients of SSI will be identified on the basis of the most recent SSI/State Data Exchange System (SDX) listing. Individuals in the Medicaid Only program are not eligible for SSI/EA.

(c) An application, Form PA-1G, will be completed in all situations involving EA payments. The CWA will attach to the application a written report of pertinent information concerning the amount and purpose of the payment.

(d) While SSI recipients are permitted to retain certain resources of up to \$2,000 for an individual, or up to \$3,000 per couple, for purposes of eligibility relative to the situations covered by this subchapter, this resource is to be considered by the CWA as available.

(e) The goal of the SSI/EA shelter program is to provide for the initial and continuing emergency shelter needs of SSI recipients. EA is designed to provide shelter and to coordinate support services, with client participation, at all levels of government and with other appropriate sectors of the human services delivery community. It is acknowledged that there is a shared responsibility among governmental/non-governmental entities at the municipal, county, and State levels. The CWA and client shall have a shared obligation to resolve the emergency situation and to secure a shelter arrangement which he or she will be able to ultimately maintain without EA. Upon contact with the EA eligible individual, the CWA shall have responsibility to:

1. Immediately authorize appropriate EA benefits to alleviate the emergency situation;
2. Review the circumstances which contribute to the client's homeless situation and limit his or her ability to secure and/or maintain permanent housing (for example, substance abuse, mental illness, insufficient funds);
 - i. Since SSI recipients are elderly and/or disabled these factors must also be evaluated in conjunction with the above;
3. Explain to the client, as well as provide a written copy of, his or her EA rights and responsibilities;
4. Discuss with the EA client the emergency shelter arrangement which the CWA determines, in accordance with (e)2 above, will meet his or her immediate emergency shelter needs;
5. Explain that a written service plan shall be mutually developed, within five working days of the EA authorization date, to provide an individualized plan of action aimed at working toward securing permanent shelter and also, where directly related to securing such shelter, at resolving the circumstances that contributed to his or her emergency situation. Refusal, without good cause, to cooperate with conditions set forth in the service plan that are directly related to the recipient's search for permanent housing or with the initial development of the service plan shall render the client ineligible for continuing EA benefits, until such time as cooperation has been resumed; and
6. Arrange a face-to-face meeting with the client to prepare the service plan at a time and place convenient to both the client and the CWA.

- i. The service plan shall be signed by both the client and the CWA.
- ii. The CWA shall retain the original plan and provide a copy to the client.
- iii. The service plan shall include, but is not limited to:

(1) Selection of shelter arrangement which takes into consideration the client's individual circumstances, such as, but not limited to, mental and/or physical problems;

(2) Client responsibility to seek alternative permanent shelter or an optional permanent housing arrangement and to document such efforts in writing. The CWA shall have an obligation to assist the client in the search for permanent housing and document such assistance in the case record;

(A) Such permanent housing searches are to begin no later than the eleventh day after the date the service plan is signed.

(B) The CWA shall determine a reasonable number of contacts to be made per week by the client, taking into consideration his or her medical and/or social circumstances and availability of potential housing. For example, it shall be considered reasonable for a person who is not suffering from physical or mental incapacity to conduct up to 10 contacts per week, if potential housing resources are available. Where good cause for non-participation in housing searches exists, the service plan shall reflect the applicable reason(s).

(C) Contacts may be made by telephone, personal visit or a combination of both.

(D) Written documentation shall consist of the date of the contact, the telephone number (if applicable), the address (location) of the housing site, and the name of the person contacted (landlord or agent);

(3) Provision of services as set forth at (k) below, emphasizing the reasonable transportation needs of the client associated with the areas identified at (e)6iii(3)(A)-(E) below. Reasonable is defined as the least expensive mode of transportation that can be provided to accomplish the activity or need identified;

(A) Transportation to shelters or to alternate temporary housing;

(B) Search for alternate temporary or permanent shelter;

(C) Negotiation of Food Stamp Program authorizations to participate at issuance sites which are inaccessible to the client;

(D) Visits to the appropriate CWA office for case processing purposes and/or to secure assistance payments or visits to any other appropriate service agency for assistance; and

(E) Attendance at counseling sessions; and

(4) Referral to and/or application for other available benefit entitlements or services (for example, drug and alcohol rehabilitation program, Department of Community Affairs, Home Energy Assistance Program, Food Stamp Program, Community Mental Health Services, Section 8 Housing Certificates).

iv. The CWA shall monitor the EA client's compliance with the service plan, as well as document CWA support activities at least once a month.

v. The CWA shall reevaluate and/or revise the service plan as warranted by changes in the EA client's shelter needs and/or other pertinent circumstances.

(f) An EA client shall be entitled to receive a written notice, inclusive of appeal rights, concerning a decision made by the CWA to deny or terminate EA benefits.

1. Denial notices shall be provided to the client immediately upon denial determination.

2. Termination notices shall be provided at least 10 days in advance of the EA termination effective date.

3. Written notice shall be provided by the CWA at a face-to-face meeting with the EA client. At such time the CWA shall explain to the client the action to be taken, the reason(s) for such action, and his or her right to request a fair hearing.

4. Upon receipt of a notice of EA denial or termination, the client has a right to request a fair hearing provided that such request is made on or before the effective date of the EA termination or within 10 days of the personal delivery receipt date of a denial notice. Such appeals shall be resolved through the fair hearing process in accordance with N.J.A.C. 10:81-6.

i. When a fair hearing is requested because of receipt of an EA termination notice and such request is made on or before the effective date of the EA termination, EA shall continue unaltered until the fair hearing is held and a final decision is rendered by the Director of DFD.

(g) Rules concerning emergency shelter assistance are as follows:

1. The authorized payment shall be the actual cost of adequate emergency shelter arrangements, at the most reasonable rate available, for a specified temporary period not to exceed three calendar months which shall include any portion of the initial month of EA, with extensions for temporary housing for up to two additional months. In addition, in extraordinary circumstances, individualized extensions may be provided on a month-by-month basis for temporary shelter/housing when no alternative plan is available and the need for such extension(s) is documented in the case record, and is for any of the reasons stipulated in (g)3i through 3iii below. The shelter arrangement shall also be reasonably related to the client's mental and physical needs (for example, if a client is suffering from a mental or physical incapacity, and the shelter arrangement would be detrimental to his or her condition, for instance in a situation where a client has recently been discharged from a hospital, requiring bed rest, he or she should be placed in a shelter arrangement that is available for 24 hours, enabling bed rest). Such emergency shelter, wherever possible, shall be in the municipality in which the eligible individual currently resides. If, however, shelter as delineated above is not available within the municipality of customary residence, the recipient, as a condition of eligibility, shall be obliged to accept shelter as delineated above which is situated outside the municipality of customary residence.

i. SSI benefits are not to be counted in the determination of eligibility for or the amount of EA payments authorized for temporary emergency shelter.

(1) When plans for more permanent living arrangements are made, any funds actually available to the client are to be counted in the determination of EA payments for shelter, utility deposits, furniture storage, moving expenses, purchase of furniture and appliances.

ii. Every effort shall be made to locate suitable housing in the community of prior permanent residence. If, however, the CWA locates suitable permanent housing, not necessarily in the municipality of prior residence, the client must accept the arrangement. Refusal to relocate without good cause renders the person ineligible for further EA for temporary shelter. Good cause may include, but is not limited to, the need to travel more than one hour each way to and from a place of employment by public or private transportation.

iii. Payment may be authorized for furniture storage, moving expenses, advance rent and security deposits for rent and/or utilities when the CWA determines it is necessary to establish the client in a new permanent living arrangement.

2. Temporary rental assistance may be authorized by the CWA upon initial authorization of EA or at any other time during the receipt of EA. Temporary rental assistance benefits, as authorized in accordance with (g)2i and ii below, shall be expedited by the CWA to preclude the loss of an existing or potential housing arrangement.

i. The individual is facing pending eviction from permanent housing, which had previously been affordable, for reasons such as, but not limited to, loss of employment, temporary unemployment or under employment, or it is anticipated that such permanent housing will be affordable within a three-month period.

ii. The individual is able to locate a housing arrangement or can be accommodated in a housing arrangement in lieu of a temporary shelter arrangement.

(1) The determination of the CWA to authorize temporary rental assistance shall be based on conclusions reached as a result of the development of the action plan as set forth at (e) above, which indicates the individual's cooperation to comply with the case management efforts of the CWA and that there is reasonable assurance that:

(A) The individual's anticipated income from other sources, will support the ongoing housing expenses without continued temporary rental assistance: or

(B) The individual shall continue to conduct permanent housing searches to find a more affordable housing arrangement.

iii. Issuance of temporary rental assistance is governed by the following:

(1) Temporary rental assistance shall be provided for those housing arrangements which can be considered of "permanent nature" by the client and/or the community.

(2) The amount of the authorized temporary rental assistance shall take into account all shelter costs including basic utilities.

(3) CWAs shall authorize temporary emergency rental assistance of up to \$250.00 per month to supplement an EA recipient's recurring income SSI benefit. CWAs shall ensure, however, that the recipient is able to retain at least 35 percent of his or her monthly income. Amounts in excess of the 35 percent may be authorized when it is determined that the client has special needs which must be documented in the case record. The portion of the client's regular income in excess of 35 percent or a higher approved amount shall represent his or her contribution towards the monthly shelter costs. The recipient shall, as a condition of eligibility for temporary rental assistance, cooperate in making application for other benefits for which he or she has potential entitlement, such as Section 8 housing Certificates and/or the Home Energy Assistance Program, with the assistance of the CWA.

(4) Request for temporary rental assistance in amounts in excess of \$250.00 must be approved by DFD prior to issuance.

(5) The CWA shall authorize temporary rental assistance on a case-by-case basis up to a period of one year. In no event shall such temporary rental assistance exceed a total of 12 months when computed in combination with the number of months of back rent and EA temporary rental assistance. Such authorization shall be based on a review of the individual's circumstances and in keeping with the mutually developed service plan.

3. Monthly EA shelter extensions beyond the five-month maximum EA period shall be authorized by the CWA to individual(s) because of any of the following:

i. Due to illness or incapacity of the client or of another person which requires the client's presence in the home on a substantially continuous basis, the individual(s) is unable to perform activities of daily living including participating in permanent shelter searches and/or complying with any of the other provisions of the service plan;

ii. Alternate permanent housing is anticipated to be available or a change in circumstance, for example, other sources of income, is expected within two months subsequent to the extension month which will obviate the need for such shelter extensions; or

iii. The EA recipient has satisfactorily fulfilled his or her permanent housing search responsibilities or was determined unable to make such permanent housing searches and continues to require additional EA shelter assistance.

4. Upon authorization of EA extensions beyond the five-month maximum period, the CWA shall conduct a face-to-face interview with the EA client to reinstate the provisions of the service plan or to adjust the service plan for a more appropriate plan of action. If, for reasons of "good cause," the CWA determines that the EA client will be unable to fulfill any or all of the provisions of the service plan, such reasons shall be duly noted on the service plan and shall be substantiated by appropriate documentation in the case file.

(h) As authorized in (a) above, when food is not available from any other source, an amount of \$4.50 per day per person shall be allowed for a specified number of days only, and in no event beyond such time as other funds become available (for example, next regular benefit payment, support payment, receipt of earnings, receipt of food stamps, and so forth).

1. When it is necessary to provide temporary living arrangements in a hotel, motel, or other facility in which cooking facilities are not available or are determined by the CWA to be inadequate, payment for restaurant meals shall not exceed \$7.50 per person per day and shall be allowed until such time as other funds become available (for example, next regular benefit payment, receipt of food stamps, and so forth).

(i) When authorized under (a) above to the individual(s) to purchase minimum essential clothing for physical health and safety, payment may be granted not to exceed the amounts stated below:

Age	Amount
Adult	\$86.00
Child: 13 and over	86.00
Child: 5 through 12	48.00
Child: Birth through 4	29.00

(j) When authorized under (a) above, EA for house furnishings which the CWA deems urgent and essential to the physical health and safety of the eligible unit shall not exceed the maximum allowances in the following table.

Number of persons in Eligible Unit:	Persons					6 or more
	1	2	3	4	5	
Kitchen furnishings:						
Range	\$130	\$130	\$130	\$130	\$130	\$160
Refrigerator	200	200	220	220	220	260
Washing Machine			200	200	200	200
Dinette Set	45	45	65	65	85	85*
Kitchen Equipment	50	60	60	72	72	80
Living Room Furnishings:						
Couch and Chair(s)	125	175	175	225	225	225
Table	20	20	20	20	20	20
Lamp(s)	20	20	20	35	35	35
Floor Covering	25	25	25	25	25	25

* Over 6-\$12 each additional person

Bedroom and furnishings:			
Box Spring, Mattress, and Frame, per set	\$110 Twin		\$130 Double
Bunk Beds, per set of 2 (complete)	\$135		
Crib with Mattress	\$50		
Chest(s) of Drawers			
Bed and Bath Linens and Miscellaneous Furnishings	\$36 Per Person		(Not to exceed \$200 per family)
Window Coverings	\$2.50 Per Window		

(k) The following services shall be performed by agency personnel and must, where appropriate, be provided to all cases granted EA benefits:

1. Information;
2. Referral;
3. Counseling;
4. Assistance in securing shelter, including transportation; and
5. Referral for legal services.

Repeal and New Rule by R.1992 d.488, effective December 7, 1992.
See: 24 N.J.R. 326(a), 24 N.J.R. 1204(a), 24 N.J.R. 4379(b).

10:83-1.3 Payment of burial and funeral expenses

Burial and funeral expenses may be provided for SSI recipients and certain other aged, blind and disabled individuals as identified in N.J.A.C. 10:83-1.4. Funds for such payments are 75 percent State and 25 percent county; there is no federal reimbursement.

Administrative Change.
See: 23 N.J.R. 1411(a).

10:83-1.4 Recipients who may be eligible

(a) Claims for payment of necessary burial and funeral expenses may be received and considered by the county welfare agency with respect to:

1. Persons who are active New Jersey recipients of SSI or Medicaid Only at the time of death;
2. Persons for whom New Jersey eligibility for SSI or Medicaid Only can be otherwise determined, provided that in each instance an application for such assistance was made prior to death;
3. Former recipients of assistance who are not included in (a)1 and 2 above but who left insurance or other assets assigned to or otherwise within the control of the county welfare agency;
4. New Jersey recipients of SSI (or its predecessor programs) or Medicaid Only who were admitted or committed to any tax-supported institution within this State, other than a penal or correctional institution, with such admission or commitment being the only reason for suspension or termination of public assistance, and whose death occurs while confined to such institution.

10:83-1.5 Funeral contract

(a) The right and responsibility to arrange and contract for funeral services and burial rests with the next of kin of the decedent. In the absence of any next of kin, arrangements may be made by any interested party such as a friend, clergyman, or nursing home or hospital administrator.

(b) These regulations shall not control or impair a contract between a funeral director and the next of kin or other party except to the extent that the contract contemplates or results in a claim against the CWA or against assets legally owed to the welfare agency.

(c) In the complete absence and only in the complete absence of any next of kin and when no person or agency is available to arrange funeral services and burial, the CWA may make the arrangements. While the availability of funds is not a factor in determining whether or not the CWA shall make final arrangements, in no instance will the CWA contract to pay (from whatever funds) any more than it would pay from public funds. The CWA will select funeral directors for such contracting in consultation with the county association of funeral directors.

1. Limits of CWA contracting authority: The CWA shall not authorize any cremation, nor shall it authorize any post-mortem examination or any other procedure not a part of regular funeral and burial. (See also N.J.A.C. 10:83-1.6(d) on public burying grounds.) The CWA shall not contract with a cemetery, since such action is the responsibility of the funeral director.

2. Confirmation of CWA contract: The contract may be concluded orally but shall be confirmed by letter from the CWA to the funeral director. All other parts of a CWA-arranged burial and the payment thereof shall be in accord with all parts of these regulations.

As amended, R.1980 d.246, eff. July 1, 1980.
 See: 12 N.J.R. 192(b), 12 N.J.R. 418(c).
 Administrative Change to (c)1.
 See: 23 N.J.R. 1411(a).

10:83-1.6 Condition of payment

(a) A claim filed with a CWA for funeral and/or burial services contracted for/by another party is not a demand for payment owing under a contract but is merely a petition for an allowance to be granted or denied consistent with these regulations. It has the effect of a demand, however, when the CWA was the contracting party.

(b) When either of the contracting parties contemplates that a county welfare agency will be requested to pay any part of the cost of a funeral and/or burial, either or both parties shall notify and consult with the chargeable CWA (see N.J.A.C. 10:83-1.7(c)) before interment or cremation takes place. The probable allowance or disallowance of the claim shall be discussed at that time, but the agency is under no obligation to make payment commitment. The funeral director shall also be advised as to whether the agency holds a judgement lien. The requirement for prior notice may be waived by the CWA upon a showing of good cause (as determined by the CWA) which is not prejudicial to the validity of the claim.

(c) Submission of petition: The funeral director or other claimant shall, within 30 days after interment or cremation, submit to the CWA a petition on Form PA-11 or on a substantially similar document which certifies to services rendered, to payments contracted, received and expected, and to compliance with all applicable laws and regulations. Petitions submitted beyond the 30 day period may be considered upon a showing of good cause (as determined by the CWA) which is not prejudicial to the validity of the claim.

1. Notification: Promptly upon a determination of approval or disapproval of funeral/burial claim, the CWA will notify the claimant of the decision. The CWA will also notify any others who have the need for the information, such as friends or next-of-kin who contracted for the funeral/burial.

(d) The CWA shall not make arrangements for the burial of any person in a burial ground owned by the State, county, or municipality or any institutions thereof, nor may it participate in the cost of any funeral or burial which uses such a burying ground.

(e) Combined resources: definition: The combined resources of a decedent means the aggregate net total value of all of the following:

1. Cash on hand or in the hands of others as property of the decedent including personal needs accounts in long term care facilities (but excluding cash in the custody, possession, or control of the CWA);
2. Other resources, such as securities, real estate, antique furniture, and automobiles, which are not assigned to the welfare agency or to any other person or agency as surety for value;

3. Life insurance or death or funeral benefits from public or private sources which have been received, or which are receivable by the estate of the decedent, by the decedent's spouse, children, father or mother because of the death of the decedent (see N.J.A.C. 10:81-7.26(f) and (g) for information on RSDI and Veteran's death benefits);

4. Payments of the same nature as in (g)3 above which have been received by or which are receivable by any other person excepting such amounts as are lawfully claimed by such person as a bona fide assignee for value or as a claimant for equitable refund of premiums paid;

5. Sums which have been paid or are promised to be paid on account of the death of the decedent by any other person or organization, excepting such sums as have been paid or will be paid to the welfare agency;

6. Funds owed the decedent at the time of death;

7. When the decedent and his or her spouse had been determined eligible for SSI or Medicaid Only as a couple, any amount of resources of the decedent and the surviving spouse in excess of the program resource limit for one person.

As amended, R.1980 d.246, July 1, 1980.
 See: 12 N.J.R. 192(b), 12 N.J.R. 418(c).
 As amended, R.1982 d.285, eff. September 7, 1982.
 See: 14 N.J.R. 463(b), 14 N.J.R. 981(a).

(e) Amount that others may pay towards SSI recipient funeral expenses raised from \$800.00 to \$900.00 before agency contribution is reduced or eliminated.

Amended by R.1986 d.426, effective October 20, 1986 (operative November 1, 1986).

See: 18 N.J.R. 1171(a), 18 N.J.R. 2125(a).

(f) Deleted; old (g) renumbered to (e).
 Amended by R.1987 d.283, effective July 20, 1987.

See: 19 N.J.R. 345(a), 19 N.J.R. 1318(a).

(c)1 repealed, old (c)2 renumbered (c)1.

Administrative Change to (b).

See: 23 N.J.R. 1411(a).

10:83-1.7 Authorization of payments

(a) Allowances: The allowance for funeral services, exclusive of cemetery costs, is the actual amount charged or \$1,970.00 whichever is less. When ground burial is made of uncremated remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or \$460.00, whichever is less. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable.

(b) Payment: The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent and as further reduced by the sum of all contributions from next of kin and other interested parties.

1. For those decedents who were found eligible for burial and/or funeral payment consideration solely by reason of assigned assets (N.J.A.C. 10:83-1.4(a)3), the sum of the cemetery and funeral payments to be authorized shall not exceed the liquidated value of such assets and in no case more than the maximum of payments indicated in (a) above.

(c) Time of payment: Payment shall be made by the chargeable CWA in accordance with the same time schedule as is applicable in AFDC (see N.J.A.C. 10:81-7.26).

(d) Chargeable CWA—definition: The chargeable CWA for any burial and/or funeral claim is the CWA of that county in which the decedent was last a resident. For this purpose, residence is established in a county at the time that a person moves to the county with intent to remain. Residence is not changed by entering a hospital but is changed by entering a residential health care facility or long term care facility. Chargeability is not determined or influenced by the possession, custody, holding or assignment of resources by any CWA or by the holding of eligibility files or other records by a CWA or by action taken or not taken under case transfer procedures.

As amended, R.1980 d.246, eff. July 1, 1980.

See: 12 N.J.R. 192(b), 12 N.J.R. 418(c).

Amended by R.1986 d.426, effective October 20, 1986 (operative November 1, 1986).

See: 18 N.J.R. 1171(a), 18 N.J.R. 2125(a).

(a) Deleted; New (a)-(b); old (b) renumbered to (c).

Amended by R.1988 d.171, effective April 18, 1988.

See: 20 N.J.R. 163(a), 20 N.J.R. 904(a).

(d) substantially amended.

Administrative Change to (b)1.

See: 23 N.J.R. 1411(a).

10:83-1.8 Other CWA duties at time of death

(a) In any case in which the CWA becomes aware of the death of an SSI or Medicaid Only recipient and the CWA (and to the best of its knowledge, no other CWA) has no financial interest (that is, has no lien or claim and will not be paying any part of burial cost), the CWA will notify in writing all known holders of the decedent's assets or funds that it has no interest in the assets or funds. The CWA is cautioned against the giving of instructions as to the disposition of funds in which it has no interest.

(b) In any instance in which the CWA has either a lien or claim on the assets of a decedent by reason of previous assistance granted or payment of burial, the CWA will notify all known holders of the decedent's assets or funds of its interests. It will request that such funds be remitted to the CWA, (up to the amount of the CWA's interest) taking such steps as may be necessary to acquire the funds. If, after reimbursement to the CWA in full, a surplus remains or will remain, either in CWA accounts or the accounts of others, the CWA will determine whether any or all of the surplus remains or will remain, either in CWA accounts or the accounts of others, the CWA will determine whether any or all of the surplus funds are the proceeds of assigned life insurance for which there had been a named beneficiary. If so, the CWA will remit to the beneficiary any such funds in its possession. The CWA will notify the Chief, Bureau of Medical Care Surveillance, as above, of any other surpluses including those arising from assigned life insurance for which the beneficiary was the estate of the decedent.

1. When more than one CWA is involved either by reason of a claim or by liquidation of resources, the CWA will distribute the available funds by mutual consent of the directors, in each instance applying resource funds to burial costs before taking reimbursement of assistance costs.

10:83-1.9 Irregularities

(a) In the event of a dispute or disagreement about a claim which cannot be readily resolved between the agency and a funeral director the CWA will submit the matter to the State office for review and advice.

(b) In the event that the CWA becomes aware of the filing of any claim which is in duplication of or is inconsistent with any burial/funeral claim received by the CWA, the CWA staff shall:

1. Advise the recipient of the other claim of the circumstances and take all appropriate steps to assert and secure the CWA's rights; and

2. In the absence of a prompt local resolution of the matter, report it to the State office for review and advice; and

3. Determine whether any violation of a criminal nature may have occurred and, if so, report the matter in writing to the County Prosecutor.

(c) In the event that the CWA later learns of the existence of resources which should have been available for funeral/burial costs but were not known or not made available, it will immediately take all appropriate steps to secure its rights to refund or recovery.

1. If a claim for refund or repayment of funeral/burial cost is the only claim to be presented by a CWA to the representative of an estate and the DMAHS will be presenting a claim on the same estate, DMAHS will, at the request of the CWA, present the funeral/burial claim as a part of its own claim. DMAHS will accord the funeral/burial claim priority in payment over its own claim. (See PAM Appendix B, DEA/DMAHS Agreement Sections A and C.)

As amended, R.1984 d.331, eff. August 6, 1984.

See: 16 N.J.R. 1013(a), 16 N.J.R. 2133(a).

Deleted text from (a).

10:83-1.10 Retroactive adjustment payments

(a) This section on retroactive adjustment payments expires on September 30, 1987. No payments are to be approved for any funeral for which a petition for retroactive payment has not been received by the agency by September 30, 1987.

(b) The agency will make retroactive adjustment payments to funeral directors under the following conditions:

1. The decedent died on or after September 8, 1985.

2. The decedent died before November 1, 1986.
3. The funeral director provided embalming and preparation services.
4. The funeral director submitted, and the agency received, a properly completed and notarized petition on Form PA-11C or substantially similar document on or before the expiration date hereof.
5. The decedent was programmatically eligible for funeral payment; and
 - i. The agency made or is authorized to make a funeral contribution under prior regulation; or
 - ii. The agency was not authorized to make a funeral contribution under prior regulation because the decedent's resources in combination with the contributions of others exceeded agency payment limits.

(c) The amounts to be paid are as follows:

1. For funerals for which the agency contributed—\$600.00.
2. For funerals for which the agency did not contribute—the amount by which \$1500 exceeds the total amount paid for funeral and burial, but not more than \$600.00.

(d) Time of payment: The agency will make the retroactive payments as promptly as possible but, in the absence of irregularity, not later than 30 days after the date of receipt of the petition. The agency will reconcile irregularities as promptly as possible and make payment within 30 days after the last irregularity in any petition is reconciled.

(e) Other agency action shall be as follows:

1. The agency will communicate with all funeral directors to whom the agency made funeral payments for decedents who died on or after September 8, 1985, identifying the decedents, and advising of these provisions for retroactive payments.
2. Unless it is known that a retroactive payment cannot be made, the agency will communicate with the funeral director who conducted the funeral of any other person known or believed to have died on or after September 8, 1985 while programmatically eligible, identifying the decedent and advising of these provisions for retroactive payments. If the identity of the funeral director is not known, communication shall be made with others, such as next-of-kin or hospital administrators as indicated, for the information.
3. The agency will supply blank copies of Form PA-11C in reasonable quantity to any funeral director requesting them. The agency will establish procedures for prompt responses to inquiries and processing of petitions.

New Rule, R.1987 d.136, effective March 3, 1987.

See: 18 N.J.R. 2176(a), 19 N.J.R. 452(a).

10:83-1.11 New Jersey Supplemental Security Income payment levels

(a) Pursuant to Section 1618(a) of the Social Security Act, the Department has elected to "pass-through" to eligible Supplemental Security Income (SSI) recipients, and to incorporate herein by reference, the full amount of any Federal cost-of-living adjustment (COLA) to Social Security payments. Notice of such COLAs shall be published in the New Jersey Register as a notice of administrative change to the payment levels set forth in (b) below, effective on the date specified in the notice.

(b) New Jersey Supplemental Security Income payment levels are as follows:

<u>Living Arrangement Categories</u>	<u>Payment Level</u>
<u>Eligible Couple</u>	<u>1/1/97</u>
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$80/726.00*
Residential Health Care Facilities and certain residential facilities for children and adults	\$1,249.36
Living Alone or with Others	\$751.36
Living in Household of Another, Receiving Support and Maintenance	\$577.09
<u>Eligible Individual</u>	
Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less	\$40/484.00*
Residential Health Care Facilities and certain residential facilities for children and adults	\$634.05
Living Alone or with Others	\$515.25
Living with Ineligible Spouse (No other individuals in household)	\$751.36
Living in Household of Another, Receiving Support and Maintenance	\$366.98

* The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

Amended by R.1983 d.594, effective December 19, 1983, operative January 1, 1984.

See: 15 N.J.R. 1734(a), 15 N.J.R. 2171(b).
SSI payment levels increased.

Originally filed as an adopted Emergency Amendment as R.1982, d.215, Temporary Supplemental Security Income payment levels effective July 19, 1982 until September 30, 1982. Superseded by payment levels effective October 1, 1982, representing a \$2.10 increase in optional State supplement pursuant to the Legislature's increase in annual Lifeline benefits.

Amended by R.1983 d.383, effective August 30, 1983, with changes upon adoption effective October 1, 1983.

See: 15 N.J.R. 1188(a), 15 N.J.R. 1586(a).

Originally filed as an emergency rule, R.1983 d.290, effective July 1, 1983.

Amended by R.1983 d.594, effective December 19, 1983, operative January 1, 1984.

See: 15 N.J.R. 1734(a), 15 N.J.R. 2171(b).
SSI payment levels increased.
Amended on emergency basis, R.1984 d.466, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2846(a).
Readopted, R.1984 d.565, effective November 28, 1984 (amendments effective January 1, 1985.)
See: 16 N.J.R. 2846(a), 16 N.J.R. 3453(a).
Previously filed as emergency rule R.1984 d.466.
Payment levels raised.
Emergency Amendment, R.1985 d.712, effective December 27, 1985. (operative January 1, 1986).
See: 18 N.J.R. 216(a).
Payment levels raised in 1986.
Readoption R.1986 d.75, effective February 24, 1986.
See: 18 N.J.R. 216(a), 18 N.J.R. 566(a).
Emergency Amendment, R.1987 d.79, effective December 29, 1986 (operative January 1, 1987; expired February 27, 1987).
See: 19 N.J.R. 246(a).
Payment levels raised in 1987.
Adopted Concurrent Proposal, R.1987 d.172, effective April 6, 1987.
See: 19 N.J.R. 246(a), 19 N.J.R. 533(a).
Emergency Amendment, R.1988 d.54, effective and operative January 4, 1988 (expired March 4, 1988).
See: 20 N.J.R. 208(a).
Payment levels raised in 1988.
Adopted Concurrent Proposal, R.1988 d.143, effective March 4, 1988.
See: 20 N.J.R. 208(a), 20 N.J.R. 809(c).
Emergency Amendment, R.1989 d.58, effective December 30, 1988 (operative January 1, 1989, expired February 28, 1989).
See: 21 N.J.R. 208(a).
Payment levels raised in 1989.
Amended by R.1989 d.98, effective February 21, 1989.
See: 20 N.J.R. 2563(a), 21 N.J.R. 511(a).
Recodified from Appendix A.
Amended by R.1989 d.172, effective February 28, 1989.
See: 21 N.J.R. 208(a), 21 N.J.R. 764(a).
Provisions of emergency amendment retained.
Emergency Amendment, R.1990 d.23, effective December 15, 1989, operative January 1, 1990 (expired February 13, 1990).
See: 22 N.J.R. 64(a).
Payment levels increased.
Adopted Concurrent Proposal, R.1990 d.149, effective February 7, 1990.
See: 22 N.J.R. 64(a), 22 N.J.R. 800(a).

Provisions of emergency amendment R.1990 d.23 readopted without change.
Emergency Amendment, R.1991 d.38, effective December 31, 1990; operative January 1, 1991 (expires March 1, 1991).
See: 23 N.J.R. 234(a).
Increased Payment Levels.
Adopted Concurrent Proposal, R.1991 d.168, effective February 27, 1991.
See: 23 N.J.R. 234(a), 23 N.J.R. 1008(a).
Provisions of emergency amendment R.1991 d.38 readopted without change.
Emergency Amendment, R.1992 d.39, effective December 26, 1991; operative January 1, 1992 (expires February 24, 1992).
See: 24 N.J.R. 300(a).
Increased payment levels.
Adopted concurrent proposal, R.1992 d.124, effective February 21, 1992.
See: 24 N.J.R. 300(a), 24 N.J.R. 952(a).
Provisions of emergency amendment R.1992 d.39 readopted without change.
Amended by R.1993 d.166, effective April 19, 1993.
See: 24 N.J.R. 434(a), 25 N.J.R. 1764(b).
Passthrough of 3 percent Federal COLA and incorporation by reference of such future COLAs to be published as a notice of administrative change in the New Jersey Register.
Administrative Change: Payment levels, effective January 1, 1994.
See: 26 N.J.R. 235(b).
Administrative Change: Payment levels, effective January 1, 1995.
See: 26 N.J.R. 5023(a).
Administrative Change: Payment levels, effective January 1, 1996.
See: 28 N.J.R. 185(a).
Administrative Change: Payment levels, effective January 1, 1997.
See: 28 N.J.R. 5072(a).

Case Notes

Appeals remanded for determination regarding whether former regulation setting forth specific monthly income level as cutoff for home health care benefits under the Medical Assistance for the Aged program provided a minimum standard of living compatible with decency and health. *Texter v. Dept. of Human Services*, 178 N.J.Super. 104, 428 A.2d 505 (App.Div.1981) affirmed in part, modified in part 88 N.J. 376, 443 A.2d 178 (1982).