

CHAPTER 48

ADMINISTRATION

Authority

N.J.S.A. 30:4-6 et seq., 30:1-12 et seq., and 30:6D-5(b).

Source and Effective Date

R.1991 d.27, effective December 19, 1990.
See: 22 N.J.R. 3192(a), 23 N.J.R. 209(b).

Executive Order No. 66(1978) Expiration Date

Chapter 48, Administration, expires on December 19, 1995.

Chapter Historical Note

Chapter 48, Administration, became effective February 15, 1979, as R.1979 d.62, with Subchapter 1, Appeal Procedure. See: 10 N.J.R. 431(c), 11 N.J.R. 133(a). Pursuant to Executive Order No. 66(1978), Chapter 48 expired on February 15, 1984. New rules regarding Appeal Procedure were adopted as R.1985 d.673, effective January 21, 1986. See: 17 N.J.R. 876(b), 18 N.J.R. 184(a). Subchapter 2, Viral Hepatitis, was adopted as R.1989 d.410, effective August 21, 1989. See: 20 N.J.R. 2437(a), 21 N.J.R. 2507(a). Subchapter 3, Lead Control Program, was adopted as R.1989 d.347, effective July 3, 1989. See: 20 N.J.R. 2555(a), 21 N.J.R. 1905(a).

Pursuant to Executive Order No. 66(1978), Chapter 48 was readopted as R.1991 d.27. See: Source and Effective Date. See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. APPEAL PROCEDURE

Law Review and Journal Commentaries

Disabilities. Steven P. Bann, 133 N.J.L.J. No. 15, 73 (1993).

10:48-1.1 General provisions

(a) The purpose of this procedural rule is to delineate the steps to be taken when disagreements arise between citizens and the Division of Developmental Disabilities (DDD). Its aim is to encourage and permit the early resolution of disputes and, where that is not possible, to identify the steps to be taken for review by the appropriate authority.

(b) This subchapter pertains to all disputes and disagreements with service components of the Division of Developmental Disabilities involving a competent adult receiving services from or applying for services of the Division, the guardian of a minor or incompetent adult, the proposed guardian, a licensee of the Division or an authorized representative of a competent adult, guardian of a minor or incompetent adult. In the instance of an attorney, written verification of a client/attorney relationship shall be required.

(c) It is expected that, in most disputes between appellants and service components, the appellant will know the identity of the service component with whom there is disagreement. Where the precise service component is not known, such information may be obtained by calling the Administrative Practice Office of DDD (609) 633-2209.

(d) For persons of legal school age, when disputes arise relating to educational program issues, mediation pursuant to N.J.A.C. 6:28-2.6 shall be available through the Office of Education, Department of Human Services. If either party

is unwilling to participate in mediation, a written request for a due process hearing under N.J.A.C. 6:28-2.7 may be made directly to the Department of Education. A request for mediation is not prerequisite to a hearing.

(e) Division staff are responsible for informing persons served and their families/guardians about appeals and to supply them with copies of the appeal procedure.

(f) An appeal may be settled at any time by a written agreement of both parties. The settlement agreement shall be considered the final decision. The terms of the settlement agreement shall be binding upon the appellant and the Division. The terms of the settlement agreement shall be applicable only to the specific matter under appeal and shall not be released to anyone who is not a party to the settlement.

(g) A settlement may be accepted by the chairperson of an informal conference or the review officer in an administrative review in the same manner as an Administrative Law Judge, in the definition of settlement at N.J.A.C. 10:48-1.2.

(h) Contested matters shall be referred to the Office of Administrative Law (OAL) in accordance with N.J.A.C. 1:1. Non-contested matter shall be referred to administrative review.

(i) Appeals of eligibility, licensure action or specific offers of placement shall be initiated within 30 calendar days from the date on the written notification of ineligibility or licensure action.

(j) Appeals of services shall be limited to those services indicated in the Individual Habilitation Plan as defined at N.J.S.A. 30:6D-10.

(k) Except in emergencies, a placement may be deferred pending the exhaustion of the administrative appeal if the appeal is received verbally or in writing 30 calendar days before the proposed placement and the appellant can demonstrate that there may be irreparable harm to the individual as a result of the placement. The Division Director shall decide whether or not to defer the placement. If the Division Director agrees to defer the placement, the Division shall not be responsible to fund the placement except where the Division was funding the placement prior to the request to defer.

(l) If a placement is made on an emergency basis, the appeal may be filed within 30 calendar days following the placement. The individual shall be maintained in the placement to which he or she was placed during the pending of the appeal.

(m) If an appellant fails to follow the time limits established, the Director's decision is final.

(n) No transcript shall be made of an informal conference.

(o) An initial appeal shall be made in writing to the administrative head of the service component in which the dispute exists except for licensure actions. Appeals of licensure actions shall be made to the Division Director.

(p) The administrative head of the component shall review the appeal to ensure that it conforms with the definition herein. If the administrative head determines that the matter does not conform to the definition of appeal, he or she shall review the matter with the Division's Administrative Practice Officer. If the Administrative Practice Officer agrees that the matter does not conform to the definition of an appeal, the administrative head shall set forth the reasons for this conclusion in writing and direct, as applicable, the individual to seek other means of redress.

(q) The appellant shall be notified in writing that the matter does not conform to the definition of an appeal within 10 working days of receipt by the administrative head of the component.

(r) Evidence as defined in N.J.A.C. 1:1-2 may be submitted in informal conference or administrative reviews. An allegation or conjecture does not constitute evidence.

Amended by R.1991 d.27, effective January 22, 1991.

See: 22 N.J.R. 3192(a), 23 N.J.R. 209(b).

In (b) through (d), defined and clarified "appellants". Added (e) through (s).

Amended by R.1944 d.475, effective September 19, 1994.

See: 26 N.J.R. 1280(a), 26 N.J.R. 3861(a).

Case Notes

Former regulation's review process not futile or unfair. In the Matter of the Commitment of B.R., 202 N.J.Super. 182, 494 A.2d 333 (App.Div.1985), certification denied, 102 N.J. 354, 508 A.2d 224 (1985).

Placement decision was equivalent to "contested matter" entitled to a trial-type hearing. J.E. on Behalf of G.E. v. State, Dept. of Human Services, Div. of Developmental Disabilities, 131 N.J. 552, 622 A.2d 227 (1993).

Conditions requiring trial-type administrative hearing are discussed. J.E. on Behalf of G.E. v. State, Dept. of Human Services, Div. of Developmental Disabilities, 131 N.J. 552, 622 A.2d 227 (1993).

10:48-1.2 Definitions

The following words and terms, when used in this chapter, shall have the meanings as defined in N.J.A.C. 1:1-2 or this section unless the context clearly indicates otherwise.

"Administrative hearing" means a proceeding which is conducted by the Office of Administrative Law.

"Administrative review" means a proceeding which is conducted by a review officer appointed by the Division Director or a paper review as decided by the Division Director following an informal conference concerning a non-contested matter.

"Appeal" means a request made by an authorized person within the established time frames for a review of a disputed decision of the Division which involves eligibility, placement, provision of service or licensure. The decision shall be a specific action or proposed action which is identifiable in terms of date, "and person(s) making the decision". General complaints or employee grievances shall not be considered appeals.

"Appellant" means the authorized person who may file an appeal with a service component. The authorized person is one of the following:

1. A competent adult receiving services from or applying for services of the Division;
2. The guardian of a minor or incompetent adult who is receiving services from or applying for services of the Division;
3. The proposed guardian of an individual receiving services where the Division has assessed that the individual is in need of a guardian but a guardian has not yet been appointed;
4. A licensee of the Division in response to a licensure action; or
5. An authorized representative of a competent adult receiving services, a guardian of a minor, a guardian for an incompetent adult receiving services or a licensee. Written verification from the competent adult or guardian of a minor or incompetent adult authorizing representation shall be required.

"Chairperson" means the individual appointed by the administrative head of the component to hold an informal conference.

"Contested matter" means an adversarial proceeding, including any licensing proceeding, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing. (N.J.S.A. 52:14B-2(b), N.J.A.C. 1:1.)

"Evidence" is the means from which inferences may be drawn as a basis of proof in the conduct of contested cases, and includes testimony in the form of opinion and hearsay. (N.J.A.C. 1:1-2.1)

"Final decision" means a decision by an agency head that adopts, rejects or modifies an initial decision by an administrative law judge, an initial decision by an administrative law judge that becomes a final decision by operation of N.J.S.A. 52:14B-10 or a decision by an agency head after a hearing conducted in accordance with these rules. (N.J.A.C. 1:1-2.1)

"Informal conference" means a meeting prior to an administrative review in which the respective parties may informally attempt to resolve the issue which is the subject to appeal.

"Initial decision" means the administrative law judge's recommended findings of fact, conclusions of law and disposition, based upon the evidence and arguments presented during the course of the hearing and made a part of the record which is sent to the agency head for a final decision. (N.J.A.C. 1:1-2.1)

"Involved parties" means the representative of the appellant, and the service component.

"Non-contested case" means any hearing offered by an agency for reasons not requiring a contested case proceeding under the statutory definition of contested case. The Director, Division of Developmental Disabilities, may, at his or her discretion with the agreement of the Director of the OAL, transmit a non-contested matter to the OAL. (N.J.S.A. 52:14F-5(a); N.J.A.C. 1:1-2.1)

"Office of Administrative Law" (OAL) means an independent unit assigned to the Department of State which has the authority to hear contested matters.

"Placement" means the out of home living arrangement, other than for respite, provided by the Division or the day program exclusive of independent employment arranged by the Division.

"Recommended Decision" means the initial determination made by a Division review officer. That decision is subject to comments or exceptions by the parties and may be accepted, modified or rejected by the Division Director.

"Service component" means the operational unit of the Division of Developmental Disabilities (for example, Developmental Center, region, bureau, etc.) which has responsibility for the disputed matter.

"Settlement" means an agreement between parties which resolves disputed matters and may end all or part of the case. Various methods may be utilized to help parties reach agreement, including (1) pre-transmission settlement efforts by an agency; (2) pre-transmission settlement efforts by an administrative law judge at the request of an agency; (3) mediation by an administrative law judge; and (4) post-transmission settlement conferences by an administrative law judge. (N.J.A.C. 1:1-2.1)

"Settlement conference" means an initial step toward resolving a contested matter prior to transmitting the appeal to the OAL as a contested case.

Amended by R.1991 d.27, effective January 22, 1991.

See: 22 N.J.R. 3192(a), 23 N.J.R. 209(b).

Revised entire section; added new definitions.

Amended by R.1944 d.475, effective September 19, 1994.

See: 26 N.J.R. 1280(a), 26 N.J.R. 3861(a).

10:48-1.3 Contested cases

(a) Appeals of licensure actions, determination of ineligibility for services and appeals of specific offers of placement shall be considered to be contested.

1. The request shall be in writing and shall contain the information required below. This information shall be the basis of an initial pleading should the matter be transmitted to the Office of Administrative Law. An appeal shall be denied if the required information is not provided. The request shall include:

- i. Name and address of appellant;
- ii. Name and address of person with developmental disabilities, if the appeal is made by the person's legal guardian;
- iii. A brief statement of the matter under appeal;
- iv. A list of potential witnesses; and
- v. Reference to the law, rule, regulation or policy alleged to be violated.

(b) Appeals of licensure actions shall be forwarded to the Division Director for actions in accordance with N.J.A.C. 10:48-1.4.

(c) If the matter does not meet the conditions of (a) above, and the appellant believes that the matter is contested as defined herein, the appellant shall set forth his or her reasons supporting that the matter should be considered contested in writing.

(d) The appeal shall be made to the administrative head of the component, who shall review the appeal and decide if it is a contested or non-contested matter.

1. If the matter is determined to be contested, prior to transmittal to the OAL, a settlement conference shall be scheduled by the administrative head of the component.

2. If the matter is determined to be non-contested, the requirements of N.J.A.C. 10:48-1.5 shall apply.

- i. The appellant shall be notified in writing that the matter is non-contested.
- ii. If the appellant disagrees, he or she may request a review of that decision by the Division Director.

(e) The appellant shall be notified in writing of a time and date of a settlement conference.

(f) The settlement conference shall require a meeting of the parties, unless both parties agree to a conference by telephone.

1. The settlement conference shall be chaired by a designee of the administrative head of the component.

2. The purpose of the conference is to negotiate a settlement and all matters discussed shall remain confidential and inadmissible as evidence.

3. Evidence or testimony shall not be presented.

4. No tape recording of the matter shall be made.

5. The appellant may elect to be represented by legal counsel.

6. In addition to the administrative head of the component's designee, a representative of the service component initiating the action under appeal shall be present. The Division may elect to have representation by the Office of the Attorney General.

(g) If agreement is reached, a settlement agreement shall be negotiated and the terms of the agreement shall be made in writing. The settlement shall be time limited or otherwise note when the terms of the agreement shall have been satisfied.

(h) All parties shall sign the agreement. Any settlement is contingent upon the signature of the administrative head of the component.

(i) The settlement agreement shall conclude the matter.

(j) If no settlement is possible, the administrative head of the component shall notify the Division Director in writing that no settlement was made. A copy of that notice shall be sent to the appellant.

Amended by R.1991 d.27, effective January 22, 1991.

See: 22 N.J.R. 3192(a), 23 N.J.R. 209(b).

Section revised to specify 10, 15 and 20 working-day procedural requirements; added (e).

Repeal and New Rule, R.1944 d.475, effective September 19, 1994.

See: 26 N.J.R. 1280(a), 26 N.J.R. 3861(a).

Section was "Initial step: Informal Conference".

Case Notes

Court could not order retroactive payment for private placement costs if agency action was consistent. S.I. by G. and S.I. v. New Jersey Div. of Developmental Disabilities, 265 N.J. 251, 626 A.2d 466 (A.D. 1993).

Challenge to an administrative placement decision was equivalent to a "contested matter" and entitled to a trial-type hearing. J.E. on Behalf of G.E. v. State, Dept. of Human Services, Div. of Developmental Disabilities, 131 N.J. 552, 622 A.2d 227 (1993).

Conditions requiring trial-type administrative hearing are discussed. J.E. on Behalf of G.E. v. State, Dept. of Human Services, Div. of Developmental Disabilities, 131 N.J. 552, 622 A.2d 227 (1993).

Placement dispute was properly handled by administrative hearings as "noncontested". Mr. and Mrs. J.E. on Behalf of G.E. v. State Dept. of Human Services, Div. of Development Disabilities, 253 N.J. Super. 459, 602 A.2d 279 (A.D.1992), certification granted 130 N.J. 12, 611 A.2d 651, reversed 131 N.J. 552, 622 A.2d 227 (1993).

Appeal of administrative decision is properly made to appellate division of Superior Court. Mr. and Mrs. J.E. on Behalf of G.E. v. State Dept. of Human Services, Div. of Development Disabilities, 253 N.J. Super. 459, 602 A.2d 279 (A.D.1992), certification granted 130 N.J. 12, 611 A.2d 651, reversed 131 N.J. 552, 622 A.2d 227 (1993).

10:48-1.4 Office of Administrative Law

(a) Those matters determined to be contested shall be referred to the Office of Administrative Law (OAL) for a hearing, in accordance with the Administrative Procedure Act at N.J.S.A. 52:14B-2(b) and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) If the contested matter is not settled or involves a licensure action, the Division Director shall transmit the matter to the Office of Administrative Law.

1. In the instance of licensure appeals, the matter shall be transmitted within 10 working days of the receipt of the appeal.

2. In the instance of all other contested matters, the matter shall be transmitted within 10 working days of the notice of the administrative head of the component that the settlement conference did not resolve the matter.

3. While contested cases are being prepared for transmittal to OAL, further efforts may be made to resolve the issue informally.

4. The Director, Division of Developmental Disabilities may, at his or her discretion with the agreement of the Director of the OAL, transmit a non-contested matter to the OAL (N.J.S.A. 52:14F-5(o)).

(c) A decision rendered by the OAL shall be adopted, rejected or modified by the Director, Division of Developmental Disabilities within 45 days of its receipt (N.J.S.A. 52:4B-10(c)). This shall be construed as constituting the final administrative decision of the matter under appeal.

(d) Upon issuance, the final administrative decision shall be sent to the involved parties with notice that any further appeal must be to the Appellate Division of the Superior Court of New Jersey.

(e) The Director shall notify the appellant that a matter has been transmitted to OAL.

Amended by R.1991 d.27, effective January 22, 1991.
See: 22 N.J.R. 3192(a), 23 N.J.R. 209(b).

Clarified case transmittal procedure in accordance with N.J.S.A. 52:14B-2(b) and N.J.A.C. 1:1. Added (d).
Recodified from 10:48-1.5 and amended by R.1994 d.475, effective September 19, 1994.

See: 26 N.J.R. 1280(a), 26 N.J.R. 3861(a).

Prior text at 10:48-1.4, Final step: Administrative review or Administrative Hearing, repealed.

Case Notes

Placement dispute was properly handled by administrative hearings as "noncontested". Mr. and Mrs. J.E. on Behalf of G.E. v. State Dept. of Human Services, Div. of Development Disabilities, 253 N.J.Super. 459, 602 A.2d 279 (A.D.1992), certification granted 130 N.J. 12, 611 A.2d 651, reversed 131 N.J. 552, 622 A.2d 227 (1993).

Appeal of administrative decision is properly made to appellate division of Superior Court. Mr. and Mrs. J.E. on Behalf of G.E. v. State Dept. of Human Services, Div. of Development Disabilities, 253

N.J.Super. 459, 602 A.2d 279 (A.D.1992), certification granted 130 N.J. 12, 611 A.2d 651, reversed 131 N.J. 552, 622 A.2d 227 (1993).

10:48-1.5 Non-contested cases

(a) Informal conference requirements are as follows:

1. An informal conference shall be scheduled by the administrative head of the component in response to a non-contested matter. The informal conference shall be scheduled no more than 20 working days from the date that a matter is determined to be non-contested. Extension of the conference date beyond 20 working days may only occur upon mutual agreement of both parties.

2. The administrative head of the component shall appoint a chairperson to convene the Informal Conference.

3. The chairperson shall prepare a report specifically identifying the issue(s) under appeal, a summary of the position of both parties and a decision with respect to each issue. The reasons for the decision shall be provided. The summary shall be provided to the appellant within 20 working days of the conference. A copy of this summary shall be retained in the individual's file.

4. The appellant may be represented by legal counsel at the informal conference.

5. No transcript shall be made of the informal conference.

6. The Rules of Evidence shall not be strictly enforced.

(b) Should resolution not be possible at the informal conference level, the appellant may submit a written request to the Director, Division of Developmental Disabilities, for an administrative appeal.

1. Written request for an administrative appeal shall be made within 15 working days from the date on the written summary.

2. The Director shall offer an Administrative Review Conference with the parties present or a paper review without the parties appearing. The Division Director shall appoint an Administrative Review Officer.

(c) Administrative paper review requirements are as follows:

1. Each party shall submit written arguments supporting their position to the review officer within 20 calendar days of the written notification of the paper review. Evidence may also be provided.

2. The Rules of Evidence shall be relaxed to include hearsay. It is also permissible to accept a written statement of an individual into evidence instead of an affidavit.

3. Discovery shall be provided in accordance with the requirements of N.J.A.C. 10:41-2.

4. A written decision shall be forwarded to the involved parties within 20 working days of the receipt of both arguments. The written decision shall set forth the reasons for conducting a paper review. This shall be considered the Recommended Decision.

5. Written comments, objections or exceptions to the Recommended Decision may be made by either party and be sent to the Division Director within 10 working days from the date of the Recommended Decision.

6. After review of the Recommended Decision and any comments, objections or exceptions, the Division Director shall issue a Final Decision in writing, within 20 working days of the close of the comment period.

7. Upon issuance, the Final Decision shall be sent to the parties with notice that any further appeal must be made to the Appellate Division of the Superior Court of New Jersey.

(d) Administrative review conference requirements are as follows:

1. An administrative review conference shall be scheduled within 20 working days of receipt of the appeal. Adjournments may be granted by the Division Director for good and valid reason.

2. The appellant may be represented by attorney or spokesperson and may present documentation and such witnesses as have knowledge of the issues involved.

3. The service component shall be represented by a person designated by the administrative head of the component and may produce documentation and such witnesses as have direct knowledge of the issues involved. The person representing the component may not be the same person who chaired the informal conference.

4. A verbatim tape recording of the proceeding shall be made. The party requesting a written transcript shall bear the costs of transcription and shall provide copies to the other party and review officer at no cost.

5. The Rules of Evidence shall be relaxed to include hearsay. It is also permissible to accept a written statement by an individual if the individual is not present at the administrative review.

6. Discovery shall be provided in accordance with the requirements of N.J.A.C. 10:41-2.

7. The appellant may request that an employee of the Division testify at the conference. The appellant shall make such a request in writing to the Review Officer at least five working days prior to the conference. The request shall include the name, work location, title (if known) and a summary of the information to be provided by the employee.

8. The administrative review conference shall adhere to the following format:

- i. An opening statement by each party;
- ii. The presentation of testimony and evidence. There shall be the opportunity for cross examination;
- iii. Rebuttal of testimony and evidence. There shall be the opportunity for cross examination; and
- iv. A summary.

9. The review officer shall render a written decision within 20 working days of the review conference. This shall be considered the Recommended Decision.

10. Written comments, objections or exceptions to the Recommended Decision may be made by either party and be sent to the Division Director within 10 working days from the date of the Recommended Decision.

11. After review of the Recommended Decision and any comments, objections or exceptions, the Division Director shall issue a Final Decision in writing, within 20 working days of the close of the comment period.

12. Upon issuance, the Final Decision shall be sent to the parties with notice that any further appeal must be made to the Appellate Division of the Superior Court of New Jersey.

Amended by R.1991 d.27, effective January 22, 1991.
See: 22 N.J.R. 3192(a), 23 N.J.R. 209(b).

Section revised to clarify conduct of paper reviews and administrative review conferences.

Recodified from 10:48-1.6 and amended by R.1994 d.475, effective September 19, 1994.

See: 26 N.J.R. 1280(a), 26 N.J.R. 3861(a).

10:48-1.6 Emergency relief

Emergency relief shall be available as provided in N.J.A.C. 1:1-2.6.

New Rule, R.1994 d.475, effective September 19, 1994.
See: 26 N.J.R. 1280(a), 26 N.J.R. 3861(a).

SUBCHAPTER 2. VIRAL HEPATITIS

10:48-2.1 Purpose

The purpose of this subchapter is to delineate Division of Developmental Disabilities policies and procedures regarding the screening, treatment and control of viral hepatitis B in the service components of the Division.

10:48-2.2 Scope

(a) This subchapter applies to those employees and clients within the following service components of the Division of Developmental Disabilities:

1. Developmental Centers;
2. Community Services; and

3. Special Residential Services.

(b) This subchapter also applies to programs offered by private mental retardation facilities licensed in accordance with N.J.A.C. 10:47.

10:48-2.3 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings:

“Acute viral hepatitis B” means the recent onset of viral hepatitis B which is identified by positive blood tests for HBsAg, and elevated liver function tests with other clinical symptoms compatible with hepatitis B.

“Anti-HBc” means the presence of the antibody to hepatitis B core antigen, acquired once a person has contracted the disease, which indicates that the person is no longer susceptible to contracting viral hepatitis B.

“Anti-HBs” means the presence in the blood of the antibody to hepatitis B surface antigen which indicates that the person has had a hepatitis B infection and is immune or has received either immune globulin or hepatitis B vaccine. Provided that the person has not recently received immune globulin, anti-HBs means, for the purposes of this subchapter, that the person is not susceptible.

“At risk” means the designation of a person who is neither a carrier of hepatitis B virus, nor has an antibody to hepatitis B, and who is, or may be expected to be, exposed to the blood or body fluids of a client who is hepatitis B surface antigen positive, through either the person’s own designated duties or through the behavior of the client, which may include, but is not limited to, aggressive behavior (biting), self-mutilation, accidental injury, frequent bleeding, sexual activity, uncontained menstrual bleeding, seizure disorders, oral pathology, and skin lesions.

“Client” means a person who is eligible for, and is receiving, the services of the Division.

“Department” means the Department of Human Services.

“Developmental Center” means those State-operated facilities providing residential services to specified clients.

“Division” means the Division of Developmental Disabilities within the Department of Human Services.

“Hepatitis B carrier” means a person in whom HBsAg is found in the blood when that person is tested twice six months apart.

“Individual habilitation plan” (“IHP”) means a written plan of intervention and action that is developed by the interdisciplinary team. It specifies both the goals and objectives being pursued on behalf of the individual and the steps being taken to achieve them by each agency. It identifies a

continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The individual habilitation plan is a single, consistent and comprehensive plan that encompasses all relevant components, such as an education plan, a program plan, a rehabilitation plan, a service plan, a treatment plan, and a health care plan. Various aspects of the plan, such as education, rehabilitation, health care, and others, are assigned to those persons or agencies who can provide, or are legally required to provide, the training or services.

“Infectious person” means a person who is hepatitis B surface antigen positive.

“Immune person” means a person who is hepatitis B surface antibody positive.

“Institution” means developmental centers operated by the Division or private mental retardation facilities.

“Interdisciplinary team” (“IDT”) means an individually constituted group of relevant individuals responsible to develop a single integrated IHP. The team shall consist of the client, the client’s parent (if the client is a minor or an adult who deserves that the parent be included), guardian or advocate, those persons who work most directly with the client and professionals and representatives of service areas who are relevant to the identification of the client’s needs and the design and evaluation of programs to meet them.

“Private mental retardation facility” means an institution for the mentally retarded, whether operated for profit or not, which is not maintained, supervised or controlled by any agency of the government, or the state, or any county or municipality and which maintains and operates facilities and collects fees for the residential care and habilitation training of 16 or more, non-related developmentally disabled individuals for periods exceeding 24 hours.

“Special residential services” means that component of the Division which is responsible for client placed in Private Mental Retardation Facilities.

“Susceptible person” means a person who has no serologic marker for hepatitis B virus.

“Transfer” means the removal of a client from one service unit and placement into another service unit, as follows:

From	To
Developmental Center	Developmental Center Community Services Special Residential Services
Community Service	Developmental Center Special Residential Services
Special Residential Services	Developmental Center Community Services
Special Residential Service	Special Residential Service (Transfers between New Jersey Private Licensed Mental Retardation Facilities)

"Viral hepatitis B" means a type of inflammation of the liver. Hepatitis B virus is found in the blood, blood products, and to a lesser degree, in other body secretions. The major mode of transmission is blood to blood contact.

10:48-2.4 Exclusion from programs

(a) Clients identified by a physician as hepatitis B carriers, or individuals who have acute hepatitis B, shall not be excluded from regular participation in services solely on the basis of being diagnosed as hepatitis B infected or carriers.

(b) The placement in programs of clients who have acute hepatitis B or who are carriers of hepatitis B shall be determined on a case by case basis. Any exclusion of a client from a program or from program activities shall be based upon objective criteria as determined by the client's interdisciplinary team and shall be related to a direct danger of infection to others. Reasonable and appropriate alternate activities, as determined by the interdisciplinary team, shall be provided to clients who are excluded because of a diagnosis of active hepatitis B or carrier.

(c) If a client is excluded from programming because of a diagnosis of hepatitis B or carrier of hepatitis B, the client, guardian or family shall be advised of the reason for exclusion.

10:48-2.5 Immunization expenses

(a) When clients and/or staff who are considered to be at risk are offered the opportunity to be immunized for hepatitis B, health care benefits and entitlements, medical insurance, or other means of medical coverage shall be utilized first as a means of payment.

(b) To the extent that the immunization costs are not covered by the sources in (a) above, the Division shall incur the expense either partially or totally.

(c) As a prerequisite for admission to a developmental center, appropriate immunization shall be required.

10:48-2.6 Requirements for program participation or placement of persons with hepatitis B

(a) Decisions concerning placement or program participation within community programs or Special Residential Services shall be made jointly by the Division and the service provider, in consultation with the client's physician.

(b) Medical questions may be referred to a mutually agreed-upon expert for consultation.

(c) Clients shall be immunized for hepatitis before placement in a developmental center.

10:48-2.7 Staff training

(a) Before the admission to service of a client who has acute hepatitis B or who is a hepatitis carrier, all staff shall receive instruction in the methods by which hepatitis B is transmitted and how personal hygiene can prevent the transmission of hepatitis.

(b) Staff shall be informed of the various types of hepatitis vaccine and the protection provided by each type and shall be given the opportunity to receive immunization.

(c) The service provider shall provide, or cause to be provided, the required training.

(d) Training shall be repeated as circumstances require.

10:48-2.8 Responsibility for testing and monitoring

(a) The provisions of this subchapter shall be followed in developmental centers and in private mental retardation facilities in New Jersey.

(b) The provisions of this subchapter may be used as guidelines by physicians of clients in community programs.

10:48-2.9 Testing and monitoring process

(a) Except in emergency situations, each client shall have a blood test to determine the presence of HBsAg and anti-HBc, or anti-HBs using currently accepted techniques, within 60 days before the admission of the client to developmental centers or private mental retardation facilities.

(b) In emergency situations which require that the client be admitted before testing has been completed or before the test results are obtained, the testing and monitoring process shall be completed as soon as possible after the client is admitted.

(c) If the client is HBsAg positive the client shall be tested once more six months later, unless he or she is a known carrier. Testing thereafter shall be at the discretion of the attending physician.

(d) No further testing is required if the anti-HBs and/or the anti-HBc is positive and the patient is certified by a physician as having a natural immunity.

10:48-2.10 Admission of client

(a) A client may be admitted to a developmental center if he or she has been tested and found to have acute hepatitis B or be a carrier of hepatitis B, if the developmental center can provide adequate medical care and precautions, as determined by the Medical Director of the center.

(b) A client may be admitted to a community program or to a Special Residential Services program if he or she has been tested and found to have acute hepatitis B or be a carrier of hepatitis B, upon evaluation on a case by case basis, by the Division and the program, in consultation with the client's physician.

10:48-2.11 Transfer of client

(a) If a client is to be transferred, testing shall be performed unless the client has been identified as having natural immunity, is a known carrier or has had testing within 30 days prior to the proposed transfer date. Monitoring and retesting shall be conducted as indicated in N.J.A.C. 10:48-2.8 and 2.9.

(b) If testing has occurred within 30 days prior to the proposed transfer date, the monitoring and retesting shall be conducted as indicated in N.J.A.C. 10:48-2.8 and 2.9.

(c) Any delays in transferring a client who has acute hepatitis B or who is a hepatitis B carrier shall be reviewed on a case-by-case basis by the sending and receiving programs. A decision to delay the transfer of a client shall be reviewed no less than every 90 days.

10:48-2.12 Immunization of susceptible individuals at risk

(a) All clients in day or residential programs in New Jersey who are not carriers and who do not have natural immunity and are at risk of contracting hepatitis B shall be provided with the opportunity to receive hepatitis B vaccine, under the terms indicated in N.J.A.C. 10:48-2.4 (a) and (b).

(b) Any staff member considered to be at risk contracting hepatitis B while employed in a program operated by, or under contract with, the Division in New Jersey shall be given an opportunity to be tested and to receive hepatitis B vaccine, under the terms of N.J.A.C. 10:48-2.4 (a) and (b).

10:48-2.13 Informed consent

(a) Staff responsible for testing or vaccination shall obtain the client's or client's guardian's, or staff person's, informed consent before testing or vaccination. The informed consent shall be placed in the client's or staff person's file, as appropriate.

(b) Clients who are not mentally deficient or incompetent and staff who are at risk shall be informed of the risk of contracting hepatitis B and of the availability of vaccines, the benefits of the vaccines and possible adverse effects of the vaccines. Written documentation of the information given to the client or staff person shall be placed in the client's or staff person's file, as appropriate.

(c) In the case of minors or mentally deficient or incompetent adult clients who are at risk, the guardian of the person shall be informed of the availability of the vaccine, the benefits of the vaccine, and the possible adverse side

effects. Written documentation of the information given to the guardian of the person shall be placed in the client's file.

(d) The person being informed shall be advised to consult his or her personal physician, or the personal physician of the minor or the mentally deficient or incompetent client, as appropriate, to determine if the vaccine is contraindicated in the particular situation.

(e) A staff member, a client who is competent, a guardian of a minor or a guardian of a deficient or incompetent client may elect to decline the offer of vaccination, after receiving information on the vaccine from the staff person designated to obtain consent.

(f) A staff member, a client who is competent, a guardian of a minor or a guardian of a mentally deficient or incompetent client shall sign a statement that he or she understands the benefits and the possible side effects of the vaccine and that he or she either agrees to or refuses the testing and/or the vaccine. The signed statement shall be kept in the employee's or client's file.

(g) The requirements of (a) through (f) above shall be documented and kept in the client's or employee's file. Documentation shall be kept on file of all informed consent forms distributed and whether or not they were returned.

10:48-2.14 Immunization of clients scheduled to be admitted to developmental centers

(a) Prior to the admission of a client to a developmental center, at least one dose of the hepatitis B vaccine shall be administered to any client who has been tested pursuant to the recommendations of the Center for Disease Control Report Number 50, published March 1986 and who has no antibody or antigen to hepatitis B.

(b) The following procedures shall be followed for emergency admissions:

1. If admission occurs before testing and immunization can be initiated, then full hepatitis B testing and immunization shall take place as part of the initial admission medical evaluation;

2. If admission occurs after testing is completed, but before immunization, and the client has no antibody or antigen to hepatitis B, the first dose of the Hepatitis B vaccine shall be given within 14 days from admission.

10:48-2.15 Treatment for those who have been exposed to hepatitis and have not been immunized or who have no natural immunity

(a) Treatment for those who have been exposed to hepatitis and have no immunity shall be administered pursuant to the Morbidity and Mortality Report published by the Centers for Disease Control, June 23, 1989. (Centers for Disease Control, Atlanta, Georgia 30333) as follows:

1. Appropriate Division or agency staff shall inform the client or guardian and staff that immunization is recommended in some cases, including, but not limited to, the following:

- i. When the client or staff person has been bitten by an individual who tests positive for HBsAg, if the bite breaks the skin;
- ii. When the susceptible client or staff person has been exposed to the blood or other body fluids of an individual who tests positive for HBsAg.

2. Appropriate Division or agency staff shall inform the client or guardian or staff person that the appropriate post-exposure treatment, as determined by a physician, pursuant to the current Morbidity and Mortality Report, published by the Centers for Disease Control, Atlanta, Georgia 30333, should be given.

10:48-2.16 Registry of carriers of hepatitis B

(a) A registry of hepatitis B carriers shall be maintained by developmental centers, regional Offices of Community Services and the Bureau of Special Residential Services of the Division, which shall contain the names of all clients of the center, office, or bureau who have been determined by a physician to be carriers of hepatitis B.

(b) The registry shall be confidential, in accordance with N.J.A.C. 10:41-2.

(c) The registry shall contain the client's:

1. Name;
2. Date of birth;
3. Guardianship status;
4. Current residential placement name and address;
5. Current day program name and address;
6. Hepatitis B surface antigen status;
7. Hepatitis Be antigen status.

(d) The Community Services Registry shall contain, for each client on the registry, a history of the person's institutional placement, and shall include psychiatric hospital, developmental center, or other placement, as applicable.

(e) The registry shall be maintained as follows:

1. In the developmental center, by the staff person responsible for infection control;
2. In the Bureau of Special Residential Services, by the Office of the Chief; and
3. In the regional offices, by the Regional Nurse.

(f) A client's name shall be removed from the registry if he or she becomes immune.

10:48-2.17 Limitations to program participation

(a) A client who has acute hepatitis B or who is a carrier of hepatitis B shall be included in all programs designated for the client in the IHP, unless a determination has been made by the IDT that the client should not participate in programming. This determination shall be fully documented in the client's IHP.

(b) Where exclusion from a specific program activity has been determined appropriate by the IDT, reasonable and appropriate alternatives shall be provided to the client, consistent with the recommendations in his or her IHP.

(c) Any exclusion of a client from a program shall be based upon objective criteria, including, but not limited to, medical and behavioral consideration of any of the client's behaviors which result in increased risk of transmission of hepatitis to others (for example, aggressive behavior (biting), self mutilation, accidental injury, frequent bleeding, sexual activity, uncontained menstrual bleeding, seizure disorders, oral pathology and skin lesions).

(d) The client or family of the client or the guardian, as appropriate, shall be informed in writing of the client's exclusion and of the reason(s) for the exclusion.

(e) The IDT shall evaluate exclusion of clients from programming every 90 days as long as the exclusion is in effect. The evaluation shall be noted in the client's file.

10:48-2.18 Appeal of exclusion of client from program

If the client, family, or guardian disagrees with the exclusion from programming, an appeal may be made in accordance with the provisions of N.J.A.C. 10:48-1.

SUBCHAPTER 3. LEAD CONTROL PROGRAM

10:48-3.1 Purpose

The purpose of this subchapter is to establish standards for a lead control program and a pica/lead registry.

10:48-3.2 Scope

The provisions of this subchapter shall apply to all clients of the Division of Developmental Disabilities who are residing in State-operated facilities, as well as those clients residing in facilities run by provider agencies who contract with or who are regulated by the Division. Additionally, this subchapter applies to day programs operated by the Division or by provider agencies under contract with or regulated by the Division.

10:48-3.3 Definitions

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

“Certified Lead Safe” means any structure which has been deemed lead safe by the Division’s Lead Control Supervisor or the Office of Institutional Environmental Services of the Department of Human Services.

“Class I Risk” means individuals at low risk of lead poisoning.

“Class Ia Risk” means individuals with blood lead of less than 25 micrograms per deciliter (mcg/dl) with equal to or more than Erythrocyte Protoporphyrin (EP) 35 mcg/dl. It is not uncommon to see iron deficiency anemia in this class.

“Class Ib Risk” means individuals with blood lead of 25-49 mcg/dl and EP of less than 35 mcg/dl.

“Class II Risk” means individuals with blood lead of 25-49 mcg/dl and EP of 35-109 mcg/dl.

“Class III Risk” means individuals with blood lead of 25-49 mcg/dl with EP of 110 mcg/dl or over, or blood lead of 50-69 mcg/dl with 35-249 mcg/dl.

“Class IV Risk” means individuals with blood lead over 70 mcg/dl and EP of 110 mcg/dl or over. It also includes individuals with blood lead of 50 mcg/dl and over with EP greater than 250 mcg/dl.

“Component” or “service component” means a developmental center, Special Residential Services, or Community Services.

“Individual habilitation plan” (IHP) means a written plan of intervention and action that is developed by the interdisciplinary team. It specifies both the goals and objectives being pursued on behalf of the individual and the steps being taken to achieve them by each agency. It identifies a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The individual habilitation plan is a single, consistent and comprehensive plan that encompasses all relevant components, such as an education plan, a program plan, a rehabilitation plan, a service plan, a treatment plan, and a health care plan. Various aspects of the plan, such as education, rehabilitation, health care, and others, are assigned to those persons or agencies who can provide, or are legally required to provide, the training or services.

“Interdisciplinary team” (“IDT”) means an individually constituted group of individuals responsible to develop a single integrated IHP. The team consists of the client, the client’s parent (if the client is a minor or an adult who desires that the parent be included), guardian or advocate, those persons who work most directly with the client and

professionals and representatives of service areas who are relevant to the identification of the client’s needs and the design and evaluation of programs to meet them.

“Lead poisoning” means a toxic condition which results from absorption of lead into the body by means of ingestion or inhalation.

“Pica” means the maladaptive behavior of mouthing or ingesting inedible substances or objects, including, but not limited to, soil, toys, or paint chips.

“Pica/lead registry” means a current record of clients who exhibit pica behavior or who have been diagnosed by a physician as having lead poisoning, and a current record of all program sites or residences used by clients who exhibit pica behavior.

10:48-3.4 Classification of clients

(a) Clients who exhibit pica or who have a history of lead toxicity shall be tested for Erythrocyte Protoporphyrin (EP) and blood lead level.

(b) Based upon results of the tests in (a) above, clients shall be divided into four classes, as follows:

ERYTHROCYTE PROTOPORPHYRIN (EP) BY EXTRACTION
Risk Classification of Asymptomatic Children
for Priority Medical Evaluation

Blood Level #	Erythrocyte Protoporphyrin (EP) #			
	<35	35-109	110-249	≥250
Not done	I	†	†	†
≤24	I	Ia	Ia	EPP+
25-49	Ib	II	III	III
50-69	††	III	III	IV
≥70	††	††	IV	IV

- # Units are in mcg/dl of whole blood.
- † Blood lead test needed to estimate risk.
- EPP+ Erythropoietic protoporphyria. Iron deficiency may cause elevated EP levels up to 300 mcg/dl, but this is rare.
- †† In practice, this combination of results is not generally observed; if it is observed, immediately retest with venous blood.
- ≤ Equal to or less than
- ≥ Equal to or greater than

NOTE: Diagnostic evaluation is more urgent than the classification indicates for:

1. Children with any symptoms compatible with lead toxicity.
2. Children under 36 months of age.
3. Children whose blood lead and EP levels place them in the upper part of a particular class.
4. Children whose siblings are in a higher class.

(c) The guidelines in (b) above refer to the interpretation of screening results, but the final diagnosis and disposition rest on a more complete medical and laboratory examination of the child.

10:48-3.5 Behavior modification plan

The interdisciplinary team shall consider whether to prepare a behavior modification plan, as part of the IHP of every client who exhibits pica behavior. If a behavior modification plan is not recommended, the IDT shall document in the client's record the reason(s) for not providing a behavior modification plan.

10:48-3.6 Duties of the Lead Control Supervisor

(a) The primary duty of the Lead Control Supervisor shall be to coordinate the efforts of the lead control programs in the operational units of the Division. The Lead Control Supervisor in the Division's Central Office shall:

1. Develop and maintain a centralized Pica/Lead Registry for the Division, in accordance with the provisions of this subchapter;
2. Act as liaison to the New Jersey Department of Health on lead control matters and, as necessary, make referrals to the lead abatement specialists recommended by the Department of Health;
3. Supervise all lead abatement projects to assure compliance with applicable safety standards (see N.J.S.A. 24:14A-1 et seq.)
4. Evaluate, within 20 working days of receipt of a request to evaluate, all proposed public, private and community residential and program sites proposed for use by a client who exhibits pica behavior;
5. Forward a written report of findings within 10 working days of completion of the evaluation to the person requesting the evaluation;
6. Monitor Division lead control programs for compliance with this subchapter;
7. Certify as "lead safe" sites which have been evaluated and/or lead abated in compliance with (a)3 above; and
8. Determine, if a client exhibits a change in blood lead levels;
 - i. Whether an evaluation of the environment for a potential lead source is necessary; and
 - ii. Whether more frequent testing is appropriate.

10:48-3.7 Duties of the Lead Control Coordinator

(a) A Lead Control Coordinator shall be appointed at each Regional Office of the Office of Community Services; at the Bureau of Special Residential Services and at each developmental center to oversee and direct the lead control program. The Lead Control Coordinator, as part of his or her duties, shall:

1. Develop and maintain a pica/lead registry which conforms to the provisions of this chapter;

2. Advise the Lead Control Supervisor by telephone immediately when a client's test results indicate that he or she is in Class II, III, or IV;

3. Advise the Medical Director for clients in developmental centers;

4. Advise the Coordinator of Nursing for clients in community programs; and

5. Develop operational procedures for the program within the developmental center, Bureau of Special Residential Services, or the regional office.

(b) The Lead Control Coordinator shall assure that orientation or refresher courses are offered to all staff who work with clients, as needed.

(c) The Lead Control Coordinator shall prepare, and forward to the Lead Control Supervisor, a quarterly report of lead control activities, including, but not limited to, test results, abatement projects and transfers. The Lead Control Coordinator shall forward copies of the quarterly report to the developmental center Superintendent and Medical Director, or to the Regional Administrator, Deputy Director and Coordinator of Nursing in the Office of Community Services, or to the Chief of the Bureau of Special Residential Services, as appropriate, and to the Chief Medical Consultant in the Commissioner's Office.

(d) The Lead Control Coordinator shall inform the Lead Control Supervisor of all planned lead abatement projects.

10:48-3.8 Duties of the Medical Director

The Medical Director in a developmental center shall direct and supervise the medical care and treatment of clients who have lead toxicity.

10:48-3.9 Site evaluation

(a) The Lead Control Supervisor shall order a lead analysis of each unevaluated building which is currently used, or is proposed to be used, by clients who exhibit pica behavior.

(b) As soon as a site is selected, any unevaluated site shall be referred to the Lead Control Supervisor as follows:

1. By the Regional Adult Training Office, for adult training and crew labor programs;

2. By the Office of Licensing and Inspection, for Skill Development Homes, Family Care Homes and Family-based Respite;

3. By the Program Development Unit, for Group Homes, Supervised Apartments, Unsupervised Apartments and Supportive Living Arrangements;

4. By the Regional Placement Coordinator, for established community residences not previously evaluated.

(c) Before the placement of a client who exhibits pica behavior into an unanalyzed, established community program, the site shall be referred to the Lead Control Supervisor, as follows:

1. By the Regional Placement Coordinator, for residential placement;
2. By the Regional Adult Training Office, for a day program.

(d) Any Developmental Center building which is used by clients who exhibit pica behavior shall be referred to the Lead Control Supervisor by the Center's Lead Control Coordinator.

(e) The Office of Licensing and Inspection shall refer proposed private residential facilities to the Lead Control Supervisor for evaluation.

10:48-3.10 Content of referrals for lead analysis

(a) A referral to determine the lead content of buildings used for community programs and private residential facilities shall be in writing and shall include:

1. The address of the site;
2. The name and telephone number of the service provider; and
3. The name and telephone number of the person making the referral.

(b) A referral to determine the lead content of buildings in developmental centers shall be in writing and shall include:

1. The location of the building; and
2. The name and telephone number of the person to be contacted in order to be admitted to conduct the analysis.

10:48-3.11 Monitoring and evaluation of lead abatement procedures

(a) The Lead Control Supervisor or designee shall monitor the lead abatement procedures in any structure undergoing renovation.

(b) The Lead Control Supervisor or designee shall evaluate any area previously abated which has not been certified lead safe.

10:48-3.12 Site certification process

(a) When the Lead Control Supervisor has certified a site as lead safe, the Supervisor shall notify the person who requested the evaluation.

(b) The Lead Control Supervisor shall maintain a record of all sites evaluated, the results of each analysis and certifications granted.

10:48-3.13 Ceramics

By January 1, 1989, only non-toxic ceramic materials and supplies may be utilized in programs of the Division and all kilns shall be vented to the exterior of the building in which the kiln is located and shall have a minimum captured velocity of 100 feet per minute.

10:48-3.14 Testing of clients

(a) For any client newly admitted to any service component, testing shall be as follows:

1. The client shall be tested for blood lead, EP, and hematocrit within 72 hours of admission, unless testing has been done within the three months before admission;
2. A client who exhibits pica behavior shall be retested for blood lead, EP and hematocrit three months after admission; and
3. All test results shall be documented in the client's record and reported to the Lead Control Coordinator.

(b) When clients who exhibit pica behavior and/or elevated lead levels are permanently transferred from one service component to another, testing shall be as follows:

1. The service component from which the client is transferred shall:
 - i. Test each client for blood lead, EP, and hematocrit prior to transfer, unless these tests were performed within the last three months before the scheduled transfer;
 - ii. Permanently mark the outside cover of the record to reflect the client's pica behavior or elevated lead level;
 - iii. Inform the Lead Control Coordinator at the service component to which the client is transferred, in writing, of the client's transfer;
2. The service component to which the client is transferred shall:
 - i. Immediately review the transfer documents of each transferred client to ascertain the presence of a pica and/or lead problem; and
 - ii. If pica behavior or test results shown in the record indicate, enter the client's name in the pica/lead registry.

(c) Follow-up testing, which shall include blood lead, EP and hematocrit, shall be completed three months after the client has been admitted.

(d) A client who is on the pica/lead registry shall be tested for blood lead, EP and hematocrit upon return from a home visit of more than 30 days duration.

10:48-3.15 Transfer of clients listed in the pica/lead registry

A client listed in the pica/lead registry shall be transferred only to a lead safe residence.

10:48-3.16 Transfer of clients who exhibit pica behavior

(a) No client who exhibits pica behavior shall be transferred to a site which has not been certified lead safe.

(b) A referral for evaluation shall be made to the Lead Control Supervisor of any facility which has not been certified lead safe and is scheduled to receive a client who exhibits pica behavior.

10:48-3.17 Mandatory hospitalization

Hospitalization is mandatory for clients with a Class IV blood lead level, unless physician certification that hospitalization is otherwise medically contraindicated is placed in the client's record.

10:48-3.18 Monitoring and evaluation of clients

(a) Clients listed on the pica/lead registry shall be tested for blood lead, EP and hematocrit, at least yearly, as follows:

1. For Class I, Ia and Ib blood levels, testing shall be conducted annually;
2. For Class II blood lead levels, blood lead level shall be tested every three months;
3. For Class III blood lead levels, blood lead level shall be tested monthly;
4. For Class IV serum lead levels, blood lead level, E.P. and hematocrit shall be tested at least monthly, with additional testing done at the discretion of the attending physician.

(b) When a client's test results change, the client shall be tested according to the requirements for the class of greater risk. After the client's test results have consistently remained in a class of lesser risk for a period of one year, the client shall be tested according to the requirements for the class of lesser risk.

(c) Any client with a history or current classification of Class II, III, or IV shall reside in a lead safe environment.

(d) Any client with a history or current classification of Class I, Ia, or Ib currently residing, or receiving a day program in, a leaded environment shall be tested quarterly.

(e) The name of any client who has a classification of Class I for a period of two years, without change, may be removed from the pica/lead registry and placed in a history file, upon certification from the Medical Director at a developmental center, or the Lead Control Coordinator of Special Residential Services or the Lead Control Coordinator at the regional office, as appropriate. The certification shall be placed and permanently retained in the client's record. If pica behavior occurs after certification, the client shall be tested and the client's name placed on the pica/lead registry.

(f) Any client who exhibits, or is reported to exhibit, pica behavior and has no known history of pica behavior shall be examined by a physician and reported to the Lead Control Coordinator, who shall add the client's name to the pica/lead registry.

(g) Individuals categorized as Class IV Risk should be medically evaluated within 24 hours and in any case shall be evaluated within 48 hours.

10:48-3.19 Pica/lead registry

(a) The pica/lead registry shall be a loose-leaf binder divided into three sections, with the following information:

1. For each client listed as an active pica/lead client of Classes I, II, III or IV, the registry shall include a separate page designed as a flow chart to contain the client's:

- i. Name, date of birth, residence, and any change in residence, with the date of change noted;
- ii. Test values for blood lead, EP and hematocrit, with the date of each test and the classification of lead level; and
- iii. Specific treatment program for lead poisoning, where the client was treated, and the date of treatment; and

2. For each client listed as an inactive pica/lead client, the section shall be divided as follows:

- i. A list of clients with a history of pica, to include physician certification of the cessation of pica behavior; and
- ii. A list of clients with a history of lead poisoning; and

3. An environmental inventory of all residential and program buildings, to include:

- i. Structures which contain lead;
- ii. Structures which are lead-abated, and the dates of abatement;
- iii. Structures which have been reconstructed and lead-abated, with the dates of abatement;
- iv. Copies of all lead analysis findings with the dates of inspection of the sites; and
- v. Structures which have not been evaluated.

10:48-3.20 Prevention and treatment of lead poisoning for clients who engage in pica behavior

(a) All client records shall be permanently marked on the outside cover to designate the client's current status on the pica/lead registry.

(b) All areas to which the clients are exposed shall be evaluated and objects or materials which could cause lead poisoning shall be removed or secured away from client areas.

(c) All staff who work with clients shall be informed of the clients' pica behavior. Staff shall supervise clients to prevent mouthing or ingestion of leaded or other dangerous material.

(d) Any other persons who may have temporary care of a client shall be advised by staff responsible for the client that

the client exhibits pica behavior and shall be advised of precautions to take to prevent pica behavior.

(e) Staff shall ask the person returning a client whether a client exhibited pica behavior, and about the details of the pica behavior, whenever a client is returned to a developmental center or other residential facility from a visit.

(f) The client's attending physician shall be informed of the client's pica behavior and of the client's latest blood lead level test results by appropriate Division or agency staff.