

CHAPTER 10**FAMILY DEVELOPMENT HEARINGS****Authority**

N.J.S.A. 52:14F-5(e), (f) and (g).

Source and Effective Date

R.1997 d.158, effective March 10, 1997.
See: 29 N.J.R. 282(a), 29 N.J.R. 1295(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 10, Family Development Hearings, expires on September 6, 2002. See: 34 N.J.R. 983(a).

Chapter Historical Note

Chapter 10, Public Welfare Hearings, was adopted as R.1985 d.79, effective March 4, 1985. See: 16 N.J.R. 3068(a), 17 N.J.R. 569(c). Chapter 10 was repealed and a new Chapter 10, Family Development Hearings, was adopted by R.1987 d.200, effective May 4, 1987 (operative July 1, 1987). See: 18 N.J.R. 728(a), 18 N.J.R. 1728(a), 19 N.J.R. 715(a). Pursuant to P.L. 1989, c.88, the Division of Public Welfare was redesignated the Division of Economic Assistance. See: 21 N.J.R. 2288(a).

Pursuant to Executive Order No. 66(1978), Chapter 10 was readopted as R.1992 d.213, effective April 21, 1992. See: 24 N.J.R. 321(a), 24 N.J.R. 1873(b).

Pursuant to Executive Order No. 66(1978), Chapter 10, Family Development Hearings, was readopted as R.1997 d.158, effective March 10, 1997. See Source and Effective Date. See, also, section annotations.

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SUBCHAPTERS 20 THROUGH 21. (RESERVED)**SUBCHAPTER 1. APPLICABILITY****1:10-1.1 Applicability**

(a) The rules in this chapter shall apply to matters transmitted to the Office of Administrative Law by the Division of Family Development (DFD) where an applicant or recipient disputes the proposed action on eligibility or benefits entitlement by a county welfare agency (CWA) or a local decision or inaction by a municipal welfare department (MWD). These rules also apply to food stamp intentional program violations. Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the U.A.P.R., these rules shall apply.

(b) These rules are established in implementation of Federal law, 7 C.F.R. 273.16; 45 C.F.R. § 205.10; 7 C.F.R. § 273.15. In any case where these rules can be construed as conflicting with Federal requirements, the Federal requirements shall apply. Since these rules are established in implementation of Federal law, they may not be relaxed except as specifically provided pursuant to Federal law.

Administrative Correction.

See: 21 N.J.R. 2288(a).

Amended by R.1994 d.417, effective August 15, 1994.

See: 26 N.J.R. 1774(b), 26 N.J.R. 3441(a).

SUBCHAPTERS 2 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPRESENTATION

1:10-5.1 Representation at hearing

(a) An applicant or recipient may appear at a proceeding without legal representation or may be represented by an attorney or by a relative, friend or other spokesperson pursuant to the procedures set forth in N.J.A.C. 1:1-5.4; 7 C.F.R. 273.15(c)(4); 45 C.F.R. 205.10(a)(3)(iii); 7 C.F.R. 273.15(d)(3)(ii)(D); 7 C.F.R. 273.15(p)(2).

SUBCHAPTERS 6 THROUGH 8. (RESERVED)

SUBCHAPTER 9. SCHEDULING; CLERK'S NOTICES; ADJOURNMENTS

1:10-9.1 Adjournments

(a) In cases involving food stamp benefits, upon timely application an applicant/recipient shall receive one adjournment of the scheduled hearing date for a period of no more than 30 days.

(b) In all other cases, upon timely application and for good cause shown, an applicant/recipient may receive one adjournment of the scheduled hearing date for a period of no more than 30 days.

(c) The total of all adjournments in a case shall not exceed 30 days, unless good cause is shown for a greater extension of time.

(d) In cases involving an alleged intentional program violation, the applicant/recipient must request the adjournment at least 10 days before the scheduled hearing date. 7 C.F.R. 273.16(e)(1)(iii).

1:10-9.2 Notice of hearing

(a) In cases involving AFDC or food stamp benefits, except for emergency hearings, the Clerk shall send written notice of the filing and hearing to each party at least 10 days before the scheduled hearing date.

1. The notice may be sent less than 10 days before the hearing date if the applicant or recipient so requests in order to expedite the hearing.

(b) In cases involving an alleged intentional program violation, written notice of the scheduled hearing shall be sent to the applicant/recipient at least 30 days prior to the hearing. 7 C.F.R. 273.16(e)(3).

1:10-9.3 Scheduling of hearing

(a) The hearing shall be held at a time, date and location convenient to the applicant or recipient.

(b) Upon presentation of acceptable information regarding an applicant's or recipient's illness or infirmity which would prevent his or her appearance at a hearing location, the hearing shall be scheduled at the applicant/recipient's residence.

SUBCHAPTER 10. DISCOVERY

1:10-10.1 Discovery

(a) The CWA or MWD shall provide the applicant or recipient or his or her authorized representative opportunity to review the entire case file and all documents and records to be used in the hearing. (7 C.F.R. 273.15(i)(1); 45 C.F.R. 205.10(a)(13)(i); 7 C.F.R. 273.16(e)(3)(c).)

(b) Any other discovery shall be by motion to the judge and for good cause shown. In no case shall the hearing date be adjourned to permit discovery under this subsection.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. CONTINUED ELIGIBILITY; EMERGENCY FAIR HEARINGS

1:10-12.1 Eligibility for continued benefits in AFDC and food stamp cases

(a) If the recipient is entitled to and has elected to receive continued unreduced benefits, the judge shall determine at the conclusion of the hearing whether assistance should be continued unreduced pending a final decision. Benefits shall be continued unreduced if the judge determines that the issue is one of fact rather than law or policy (N.J.A.C. 10:81-6.9(a)), unless the recipient has waived the receipt of continued benefits or continued benefits are otherwise not required by State or Federal law.