

**CHAPTER 140**

**PERSONAL ASSISTANCE SERVICES PROGRAM**

**Authority**

N.J.S.A. 30:4G-21.

**Source and Effective Date**

R.2009 d.71, effective January 30, 2009.  
See: 40 N.J.R. 4668(a), 41 N.J.R. 1052(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 140, Personal Assistance Services Program, expires on January 30, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 140, Personal Assistance Services Program, was originally codified in Title 10 as Chapter 123A, Personal Attendant Services Program. Chapter 123A was adopted as R.1992 d.314, effective August 17, 1992. See: 23 N.J.R. 2091(b), 24 N.J.R. 2914(a).

Pursuant to Executive Order No. 66(1978), Chapter 123A, Personal Attendant Services Program, was readopted as R.1997 d.361, effective August 11, 1997, and the chapter was renamed Chapter 123A, Personal Assistance Services Program, Subchapter 5, Personal Attendants, was renamed Subchapter 5, Personal Assistants, and Subchapter 6, Consumer Information and Personal Assistant Training, was adopted as new rules by R.1997 d.361, effective September 2, 1997. See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Chapter 123A, Personal Assistance Services Program, was recodified as N.J.A.C. 10:140, effective March 1, 1999. See: 31 N.J.R. 687(a).

Chapter 140, Personal Assistance Services Program, expired on August 11, 2002.

Chapter 140, Personal Assistance Services Program, was adopted as new rules by R.2003 d.302, effective August 4, 2003. See: 35 N.J.R. 1253(a), 35 N.J.R. 3583(a).

Chapter 140, Personal Assistance Services Program, was readopted as R.2009 d.71, effective January 30, 2009. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**10:140-1.1 Purpose**

(a) Pursuant to the provisions of N.J.S.A. 30:4G-13 et seq., the Department of Human Services provides support to individuals with chronic physical disabilities in meeting their daily needs for personal care and assistance with activities of daily living in order to live independently within their community. The Personal Assistance Services Program, administered by county designated agencies in each of New Jersey's 21 counties and within the limits of funds appropriated or otherwise made available to it, shall assist self-directed adults with chronic physical disabilities to:

1. Be employed in a paid occupation;
2. Receive training or education related to employment; or
3. Actively participate in community-based independent living.

**10:140-1.2 Scope**

These rules apply to all activities and persons participating in the Personal Assistance Services Program, including, but

not limited to, the designated State contracting agency, applicants, consumers, personal assistants, and county agencies administering the program, and subcontracted provider agencies.

### 10:140-1.3 Personal Assistance Consumer Bill of Rights

(a) Each consumer, and, as appropriate, each applicant:

1. Shall be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle, including the identification and determination of one's own needs, schedules and the services necessary to meet these needs;

2. Shall be served by personal assistants who are properly trained and competent to perform their duties;

3. Shall receive services in compliance with all State laws and regulations without discrimination based on race, religion, gender, age, creed or disability in the provision or quality of services;

4. Shall be free from mental and physical abuse, neglect and exploitation, and shall be free from chemical and physical restraints;

5. Shall be accorded privacy while receiving services, in communications and in all daily activities;

6. Shall be accorded respect for one's property rights;

7. Shall have one's personal, financial and medical records treated as confidential;

8. Shall be free to fully exercise one's civil and due process rights and to be assisted by a personal assistant as appropriate and necessary;

9. Shall receive in a timely manner all decisions regarding eligibility and amount and kind of services and the reasons therefore in writing and, if appropriate, orally, along with the administrative hearings and appeals procedure;

10. Shall have access to a fair appeals process through which disputes can be resolved;

11. Shall receive written information regarding consumer standards and responsibilities in the Personal Assistance Services Program and shall have them verbally explained as needed;

12. Shall have as few personal assistants entering one's home as possible;

13. Shall have the right to interview, screen and select one's personal assistant; and

14. Shall dismiss those personal assistants who do not respect consumer rights.

### 10:140-1.4 Definitions

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

"Administrative hearing" means a hearing held by the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-9 et seq., N.J.S.A. 52:14F-1 et seq., N.J.A.C. 1:1-1 and N.J.A.C. 10:6.

"Administrative review" means an independent examination of an agency action that is conducted by the State Program Administrator or designee, by convening a meeting of the relevant parties in the action under dispute and/or by examining the relevant records and documents in accordance with N.J.A.C. 10:6-1.4.

"Adverse agency action" means the denial, reduction, suspension or termination of services, or the denial of a request for an exception, or the failure to act upon a request for services within prescribed time frames.

"Advisory Council" means the State Consumer Advisory Council on Personal Assistance Services, created by N.J.S.A. 30:4G-20.

"Applicant" means a person who applies for services under the Personal Assistance Services Program.

"Assessor" means a person who is employed by the program to conduct eligibility assessments and has a master's of social work degree, or a bachelor's degree and three years of experience in rehabilitation services, or is a registered nurse with a bachelor of science degree in nursing.

"Available" means, as applied to a caregiver, physically present, able, and appropriate, as determined with full consideration of the consumer's personal situation.

"Chore service" means light housekeeping activities. This service does not include inside or outside maintenance of the dwelling or property.

"Chronic physical disability" means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance to maintain the person's independence and health.

"Commissioner" means the Commissioner of the Department of Human Services.

"Community-based independent living" means self-directed living whereby a consumer is actively participating in community-based activities aside from employment or education, including, but not limited to, homemaking, parenting, searching for employment, volunteer service, participation on governing boards, serving on committees.

“Consumer” means an individual who meets the eligibility standards of N.J.A.C. 10:140-2.1, or has received an exception under N.J.A.C. 10:140-2.2, and is receiving services.

“County designated agency” means a county office for the disabled or other agency designated by the county government, pursuant to N.J.S.A. 30:4G-13 et seq., to administer in that county the Personal Assistance Services Program.

“Department” means the Department of Human Services.

“Designated State agency” means a division, bureau or office of State government, designated by the Commissioner of the Department of Human Services. The program is currently administered by the Division of Disability Services.

“Designated training agency” means the agency responsible for the administration of the Statewide training program, as provided by N.J.A.C. 10:140-6, under contract with the designated State agency.

“Direct services” means the performance of assessments, reassessments and follow-up visits by a qualified assessor and/or the provision of personal assistance services to consumers.

“Education or training” means enrollment in courses or training programs related to employment.

“Emancipated minor” means an individual who is under age 18 and is married and living separate and apart from his or her parents and/or guardian; or who is under age 18 and is determined through a court order to be capable of making his or her own decisions.

“Employment” means working in a paid occupation, whether in cash or in kind, including, but not limited to, full time employment; part time employment; the practice of a profession; self-employment; farm work; home-based employment; or other gainful work.

“Informal caregiver” means an individual who is 18 years of age or older residing in the household for other than the purpose of sharing expenses.

“Personal assistance service” means activities of daily living and related tasks performed by a personal assistant. Personal assistance services include, but are not limited to, assistance in essential daily activities such as bathing, dressing, and feeding; assistance with light housekeeping activities such as laundry, shopping, and meal preparation; assistance with paperwork and communication; and assistance with mobility, including driving and the use of public or para-transportation systems.

“Personal assistant” means a person who meets the qualifications with regard to training, equivalent work experience or certification in the provision of personal assistance services, as established by N.J.A.C. 10:140-5 and who provides personal assistance services to a consumer.

“Program” means the Personal Assistance Services Program.

“Relative” means a person who is 18 years of age or older and is related to the consumer by blood or by law.

“Resident” means a person who abides or resides in the State of New Jersey for other than a temporary purpose and who has no present intention of moving from the State.

“Self-directing or self-directed” means a person who is able to make decisions regarding daily activities, to make major life decisions, and to manage and supervise a personal assistant; and who can accept the responsibility for those decisions and actions.

“Statement of understanding” means a document which sets forth the terms and conditions of the program and the responsibilities of the consumer under these rules, and the consumer’s acceptance of the same.

“State Program Administrator” means the professional employee of the designated State agency charged with the administration of the Personal Assistance Services Program.

“Time sheets” means a form that is issued by the service provider agency and used by the consumer to verify the number of hours received under the program.

“Training” means the attendance and participation of a consumer or personal assistant in an established statewide educational program or equivalent, as described in N.J.A.C. 10:140-6.

**10:140-1.5 Target population and priority for services**

(a) For the purposes of the Personal Assistance Services Program, the target population includes those persons who meet the eligibility standards established in N.J.A.C. 10:140-2.1.

(b) Prioritization for service delivery shall be determined by the county designated agency in the following order of priority, for consumers who are:

1. Employed in a paid occupation;
2. Receiving training or education related to employment; or
3. Actively participating in community-based independent living.

(c) The county designated agency shall provide needed services to eligible consumers within the limits of State appropriations and subject to the availability of personal assistants.

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**SUBCHAPTER 2. ELIGIBILITY**

**10:140-2.1 Eligibility standards**

(a) For the purposes of the Personal Assistance Services Program, an eligible applicant or consumer shall meet the following standards, except as noted in N.J.A.C. 10:140-2.2:

1. An eligible applicant or consumer shall be from the age of 18 through the age of 65 and shall have a chronic physical disability;
2. An eligible applicant or consumer shall be a resident of the State of New Jersey;
3. An eligible applicant or consumer shall be in need of personal assistance services pursuant to a written personal assistance services plan, prepared by the applicant or consumer, and approved by the staff of the county designated agency;
4. An eligible applicant or consumer shall be one who is self-directed and capable of managing and supervising

his or her personal assistance services, as determined by an assessment conducted by an assessor;

5. A relative or other informal caregiver shall not be available to provide the services that the eligible applicant or consumer needs;

6. An eligible applicant or consumer shall live, or plan to live upon becoming eligible, in a private house or apartment, group home, educational facility (for example, dormitory or campus apartment), rooming or boarding house, residential health care facility, or an alternative housing arrangement acceptable to the county designated agency for the purposes of the Personal Assistance Services Program; and the personal assistance services that the eligible applicant or consumer receives are supplemental to, and not duplicative of, services provided to the person in the rooming or boarding house, group home, educational facility or residential health care facility pursuant to licensure requirements;

7. The attending physician for the eligible applicant or consumer shall confirm in writing that he or she has a chronic physical disability and requires no assistance in the coordination of therapeutic regimes, and that the personal assistance services will be appropriate to meet the eligible applicant or consumer's needs; and

8. The eligible applicant or consumer shall utilize no more than 40 hours per week of personal assistance services from the program.

#### 10:140-2.2 Exceptions to eligibility standards

(a) Exceptions to the eligibility standards in N.J.A.C. 10:140-2.1(a)1, 5 and 8 above may be granted as follows:

1. The applicant or consumer must initiate the request for an exception;

2. The county designated agency shall review the request on a case-by-case basis and make a recommendation to the State Program Administrator as to whether such exception should be allowed; and

3. The State Program Administrator shall make the determination whether to allow the exception. Upon receiving notice from the State Program Administrator, the county designated agency shall notify the applicant or consumer of the determination.

(b) In making the recommendations and determinations on exception requests under (a) above, the county designated agency and the State Program Administrator shall:

1. Give consideration to the request presented by the applicant or consumer;

2. Require a showing of unusual or emergent circumstances;

3. Give consideration based on funding available;

4. Give consideration to other services received by the consumer or applicant through other funding sources; and

5. Give consideration to the facts presented on a case-by-case basis.

(c) In granting an exception to N.J.A.C. 10:140-2.1(a)1, the following standards shall be applied for applicants who are under age 18:

1. The applicant shall be employed or attending a post-secondary educational or training program, or shall demonstrate active participation as a volunteer or in community service; and

2. The applicant shall provide written consent from his or her parent or guardian unless the applicant is determined to be an emancipated minor.

(d) In granting an exception to N.J.A.C. 10:140-2.1(a)1, the following standards shall be applied for consumers who are over age 65:

1. The consumer shall be employed or attending a post-secondary educational or training program, or shall demonstrate active participation as a volunteer or in community service;

2. The consumer shall provide documentation of his or her application and the results of that application, when available, for other similar services for which the consumer may be eligible;

3. The consumer shall be a current recipient of services under the Personal Assistance Services Program.

(e) In situations in which the request for an exception under N.J.A.C. 10:140-2.1(a)8 is made, and personal assistance services are provided to a consumer through a personal assistant who resides with the consumer, an exception shall not be granted.

#### 10:140-2.3 Procedures for requesting and granting exceptions to eligibility standards

(a) Eligible applicants or consumers requesting exceptions shall adhere to the following procedures:

1. Requests for exceptions pursuant to N.J.A.C. 10:140-2.2(a) shall be made in writing, or, where appropriate, verbally or through alternative communication methods;

2. The written request for an exception shall be made to the director of the county designated agency and shall indicate the specific exception requested and provide justification; and

3. Applicants or consumers who are unable to communicate in English or have a communication handicap may make arrangements with county designated agency for an alternative means for verifying their request for an exception. All other persons are required to verify their request in writing to the director of the county designated agency.

(b) The director of the county designated agency shall review the request and make a written recommendation to the State Program Administrator. The State Program Administrator shall make a determination and inform the county designated agency of the results within 30 days from the date that the request was received by the county designated agency.

### SUBCHAPTER 3. SCREENING, SERVICES AND APPEALS

#### 10:140-3.1 Screening

(a) Upon applicant inquiry to the county designated agency regarding the Personal Assistance Services Program, county designated agency staff shall elicit information necessary to conduct pre-application screening and shall complete the screening within five working days of applicant inquiry.

(b) The applicant shall be notified in writing within five working days after completion of the county screening as to the results of the applicant's inquiry regarding participation in the Personal Assistance Services Program.

1. If the applicant is determined to be ineligible, the applicant shall be informed in writing of this determination and the right to appeal (see N.J.A.C. 10:120).

2. If the applicant appears eligible as a result of the screening, staff from the county designated agency shall inform the applicant in writing of this determination and if funding under the Personal Assistance Services Program is available to provide services to the applicant (see (c) below), shall enclose all documents necessary to process the application. The disposition letter shall also advise the applicant that the determination of initial eligibility does not guarantee services under this program.

(c) In the event the applicant appears to be eligible as a result of the screening, and Personal Assistance Services Program funding in the county designated agency is not presently available to provide services to the applicant, the applicant's name shall be placed on the waiting list maintained by the county designated agency. The social and financial assessments, under N.J.A.C. 10:140-3.2, shall not be conducted at this time. Staff from the county designated agency shall inform the applicant in writing of this determination and advise the applicant that the documents necessary to process the application will be forwarded to the applicant when funding is available as determined by the county designated agency. The social and financial assessments will be performed following completion of the application documents by the applicant. The position of the applicant's name on the county designated agency's waiting list shall be determined by the county designated agency in accordance with the service priorities established under N.J.A.C. 10:140-1.5(b).

#### 10:140-3.2 Assessment

(a) A member of the staff of the county designated agency shall perform an assessment within 30 days upon notification from the applicant to the county designated agency of completion of the application package which includes the following:

1. An Application and Statement of Understanding;
2. An Income Declaration with proof of income;
3. A Physician's Certification; and
4. A Consumer Plan of Service.

(b) Within 30 days of notification from the applicant of the completion of the application package, the county designated assessor shall perform a social assessment of the applicant to determine if the applicant meets the eligibility criteria.

(c) Within 30 days of notification from the applicant of the completion of the application package, a member of the staff of the county designated agency shall perform a financial assessment to determine the ability of the person or the person's spouse to pay for personal assistance services according to the sliding fee scale established pursuant to N.J.A.C. 10:140-4.3.

#### 10:140-3.3 Individual personal assistance services plan

(a) The individual personal assistance services plan shall be designed by the consumer to meet his or her specific needs for personal assistance services and negotiated and approved by the consumer and county designated agency.

(b) A personal assistance services plan shall include both of the following:

1. A list of the personal assistance services to be provided; and
2. An estimate of the time needed and frequency of personal assistance services.

(c) The consumer and the county designated agency shall review the plan within 90 days after start-up of services and revise the plan upon request of the consumer or the county designated agency.

(d) The county designated agency shall perform a social and financial reassessment at 12-month intervals, commencing with the date of eligibility. The social and financial reassessment shall be completed as follows:

1. The social reassessment shall be completed to determine if the consumer continues to meet the eligibility criteria pursuant to N.J.A.C. 10:140-2.1;
2. The financial reassessment shall be completed to determine if the consumer is liable for cost share responsibilities, pursuant to N.J.A.C. 10:140-4.3; and

3. Within 30 days from the date of the completed social and financial reassessments, the consumer's plan of service and liability for cost share responsibilities shall be reviewed by the staff of the county designated agency and, if necessary, revised.

(e) The consumer shall use no more than the number of hours, in a given week, authorized by the county designated agency under an approved plan of services pursuant to (a) and (b) above. Program service hours awarded to a consumer that are unused shall not accrue to the future use or benefit of that consumer.

(f) Adjustments to the consumer plan of service shall be considered upon request by a consumer, or shall be initiated upon the authorization of the county designated agency, subject to the availability of funding within the county designated agency.

#### 10:140-3.4 Disposition of application

(a) The county designated agency shall notify the applicant in writing within 15 days from the date of completion of the assessment regarding the finding of the social and financial assessments performed pursuant to N.J.A.C. 10:140-3.2 and the applicant's right to appeal.

(b) If an applicant is determined eligible, in addition to (a) above the notification shall include the following:

1. An approved plan of service listing the services to be provided including an estimate of the time needed and frequency of personal assistance services;
2. An estimate of the total cost of the personal assistance services; and
3. If applicable, an estimate of the amount of money that the eligible consumer or that consumer's spouse is required to pay toward personal assistance services.

(c) In the event an applicant is determined eligible for the Personal Assistance Services Program and funding prohibits the start-up of services within 30 days from the date of the county designated agency notification to the applicant, pursuant to (a) and (b) above regarding the results of the social and financial assessments performed, such applicant shall be placed on a waiting list for services. An applicant's position on a waiting list shall be determined by the county designated agency in accordance with N.J.A.C. 10:140-1.5(b).

#### 10:140-3.5 Services

(a) Services provided to eligible consumers shall be supplemental to and not duplicative of services available through relatives, other informal caregivers or other service programs.

(b) For the purposes of the Personal Assistance Services Program, the following service standards shall be met:

1. Program funds shall not be used for medically related services, including the supervision of registered nurses. It is not the responsibility of the Personal Assistance Services Program to arrange for or provide skilled nursing, therapy, or related medical care and treatment services which the eligible consumer may need.

2. Using a personal assistant as a personal driver may be allowed. In no instance shall any person serving as a personal assistant under the Personal Assistance Services Program provide driving or transportation services using his or her own vehicle. In addition, written verification shall be provided to the county designated agency indicating that the personal assistant is a fully covered driver under the eligible consumer's motor vehicle insurance policy. The verification of insurance coverage as described above shall be updated with the county designated agency every 12 months, at a minimum. Failure to comply with this requirement shall result in suspension or termination of driving or transportation services, as determined by the county designated agency based on the effort and willingness of the consumer to provide the required verification.

3. Personal assistance services provided for the purpose of receiving training or education shall not replace or duplicate those services provided by an educational institution as mandated by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

4. Personal assistance services provided during employment shall not replace or duplicate those services or accommodations provided by an employer as mandated by the Americans With Disabilities Act of 1990, P.L. 101-336, 42 U.S.C. § 12111.

(c) Personal assistance services shall be suspended during a period of hospitalization and resumed automatically once the consumer is discharged to the consumer's community residence.

(d) Personal assistance services received by an eligible consumer, and paid for by funds under the Personal Assistance Services Program, shall be provided by a non-relative who is employed as a personal assistant under the program.

#### 10:140-3.6 Exceptions to service standards

(a) Exceptions to the service standards in N.J.A.C. 10:140-3.5(a), (b)3 and (b)4 shall be:

1. Initiated by the applicant or consumer;
2. Reviewed on a case-by-case basis by the county designated agency; and
3. Determined by the county designated agency. Upon making the final determination on exception requests, the county designated agency shall provide written notification of the results to the State Program Administrator.

(b) Exceptions to the service standards in N.J.A.C. 10:140-3.5(c) and (d) shall be:

1. Initiated by the applicant or consumer;
2. Reviewed on a case-by-case basis by the county designated agency. The county designated agency shall make a recommendation to the State Program Administrator as to whether an exception should be allowed; and
3. The State Program Administrator shall notify the county designated agency of the determination. Upon receipt of the determination, the county designated agency shall then notify the applicant or consumer regarding the results of the decision rendered by the State Program Administrator.

(c) In making the recommendations and determinations on exception requests, the county designated agency and State Program Administrator shall:

1. Give consideration to the request presented by the applicant or consumer;
2. Require a showing of unusual or emergent circumstances;
3. Give consideration based on funding available;
4. Give consideration to other services received by the consumer or applicant through other funding sources; and
5. Give consideration to the facts presented on a case-by-case basis.

(d) For the purposes of granting exceptions to N.J.A.C. 10:140-3.5(c), the following standards apply:

1. Personal assistance services in the form of maintaining essential communications, advocacy, household, and home maintenance services shall be continued on a limited basis only when other relatives or informal caregivers are not available.
2. Personal care services shall not be provided under the Personal Assistance Services Program during a period of hospitalization.
3. In granting an exception, a temporary modification of the consumer plan of service shall be made with the county designated agency to reflect current needs.

#### **10:140-3.7 Procedures for requesting and granting exceptions to service standards**

(a) Eligible applicants or consumers requesting exceptions shall follow the procedures listed below:

1. Requests for exceptions to N.J.A.C. 10:140-3.5(a) through (d) shall be made in writing.
2. The written request for an exception shall be made to the director of the county designated agency and shall indicate the specific exception requested and provide justification.

(b) The director of the county designated agency shall review the request and respond to the request within 30 days.

(c) If the request is for an exception to N.J.A.C. 10:140-3.5(c) and the situation is an emergency, this request may be made verbally and the response of the director of the county designated agency shall be immediate.

(d) If the request is for an exception under N.J.A.C. 10:140-3.5(c) and not an emergency, or under N.J.A.C. 10:140-3.5(d), the director of the county designated agency shall forward his or her recommendation to the State Program Administrator, who shall review the request and respond to the request within 30 days.

#### **10:140-3.8 Transfer of services to another county**

(a) Once eligibility for the Personal Assistance Services Program has been established, the consumer retains that eligibility when moving to another county within New Jersey, unless services are terminated pursuant to N.J.A.C. 10:140-3.9.

(b) In order to effect a transfer of personal assistance services, the eligible consumer shall notify, in writing, or, where appropriate, verbally or through alternative communication methods, the director of the county designated agency of both the county of origin and the destination county, of his or her intention to move. Upon receipt of the notification, the destination county shall make a determination as to whether funding is available to provide services, and provide the consumer with the results of that determination in writing.

1. Applicants or consumers who are unable to communicate in English or have a communication handicap may make arrangements with the county designated agency for an alternative means for verifying their notification of a move to another county. All other persons must provide notification of a move in writing to the director of the county designated agency.

(c) In the event an eligible consumer moves to another county and wants to retain his or her personal assistance services, and the destination county has determined that there are insufficient funds, the county of origin will continue to pay for those services for a transitional period of no more than six months.

(d) If it has been determined by the destination county that there are insufficient funds, the eligible consumer shall immediately be placed on the destination county's waiting list in accordance with the priorities set forth in N.J.A.C. 10:140-1.5(b).

(e) Following the transition period pursuant to (c) above, the eligible consumer shall be granted services from the destination county in accordance with his or her position on the waiting list in (d) above.

**10:140-3.9 Suspension of service and termination of service**

(a) Suspension of service and termination of service may be either voluntary or involuntary. Voluntary suspensions and terminations involve situations in which eligible consumers agree to the temporary suspension or permanent cessation of services. All other suspensions and terminations are considered to be involuntary.

(b) Voluntary suspension of service shall not exceed a total of 90 days, and shall be implemented as follows:

1. County designated agencies shall implement an initial suspension period, not to exceed 60 days, based on a request by an eligible consumer.
2. Prior to completion of the initial suspension period, the eligible consumer may request an extension, not to exceed a total of 90 days.
3. The county designated agency shall review the request for an extension and shall make a determination on whether to grant an extended suspension beyond the initial period or to terminate services. All decisions will be made on a case-by-case basis.
4. At the end of a 90-day suspension period, the county designated agency shall determine whether the consumer's services are to be resumed or terminated, and provide appropriate written notification to the consumer regarding the decision rendered.

(c) Consumers who are involuntarily suspended or terminated from services shall receive written notice from the county designated agency at least 30 days prior to the effective date of the suspension or termination. Consumers may receive notice of an involuntary suspension or termination in less than 30 days at the discretion of the county designated agency in those situations described in (e)4, 7 and 8 below.

(d) Involuntary suspensions or terminations may be the result of State mandated reductions in program funding to the county designated agency when the county designated agency has no alternative means of supplementing funding for the services.

1. In determining whether services will be involuntarily suspended or involuntarily terminated, the county designated agency shall consider the current and future availability of alternative means of funding the services.
2. Consumers shall receive written notice of involuntary suspensions or terminations due to State mandated reductions in program funding, in accordance with N.J.A.C. 10:140-3.9(c).

(e) Involuntary suspensions and terminations shall be a result of non-compliance with program regulations and procedures which include, but are not limited to:

1. Failure to submit information necessary to determine or reaffirm social and financial program eligibility in a timely fashion in accordance with N.J.A.C. 10:140-3.2 and 3.3(d);
2. Failure to pay the appropriate consumer fee or to sign time sheets as specified in N.J.A.C. 10:140-4.3(b) and (g), respectively;
3. Failure to comply with the training requirements specified in N.J.A.C. 10:140-6.1;
4. Abuse or misuse of personal assistance services or personal assistants as verified by the county designated agency;
5. Continued non-acceptance and/or dismissal of personal assistants without proper justification;
6. Failure to meet program eligibility requirements pursuant to N.J.A.C. 10:140-2.1, unless an exception has been granted in accordance with N.J.A.C. 10:140-2.2 and 2.3;
7. Failure of the consumer to manage personal situations which result in placing the health or welfare of a personal assistant at increased risk, as determined by the county designated agency; or
8. Duplication of personal assistance services through other service programs or funding sources as verified by the county designated agency.

(f) In determining whether services will be involuntarily suspended or involuntarily terminated as described in (e) above, the county designated agency shall consider the specifics of the situation, on a case-by-case basis, including, but not limited to, the following factors:

1. The severity of the situation;
2. Any recurrences or patterns in the situation; and
3. The effort and willingness demonstrated by the consumer to resolve the issue or to mediate the problem.

**10:140-3.10 Adverse agency actions**

(a) An applicant or consumer may request an administrative review of an agency denial, reduction, suspension or termination of services, denial of a request for an exception, or a failure to act upon a request for services within prescribed time frames.

(b) If services received or requested are to be denied, reduced, suspended or terminated, the county designated agency shall provide written notice and, if appropriate, oral notice to the applicant or consumer at least 30 days prior to such action. Consumers may receive notice in less than 30 days in accordance with N.J.A.C. 10:140-3.9(c).

(c) The written notice of such adverse action shall indicate the reason(s) for the action to be taken, citing the basis for the decision.

(d) In addition, all written notices of such adverse action shall contain the following statement:

“An applicant to or eligible consumer of the Personal Assistance Services Program, who is dissatisfied with any decision regarding an eligibility determination or other matters pertaining to participation in the Personal Assistance Services Program, may file a request for an administrative review of that decision. The applicant or eligible consumer shall not be afforded an administrative review when the adverse agency action is due to State mandated reductions in funding, unless the request for a review is based on a claim of inaccuracy or misapplication by the county designated agency.

A request for an administrative review must be made within 30 days of the date of written notice of an adverse agency action.

Request for an administrative review may be made by telephone or letter to the:

State Program Administrator  
Personal Assistance Services Program  
Division of Disability Services  
PO Box 700  
Trenton, New Jersey 08625-0700

1-888-285-3036”

(e) A request for a review will operate as a stay of any adverse agency action pending the outcome of the administrative review or any subsequent appeal. A stay of an adverse action may be denied either at the discretion of the county designated agency based on a case-by-case determination of severity in one of those situations described in N.J.A.C. 10:140-3.9(e)4 and 7, or because the request for a review based on a State mandated reduction in funding does not claim an incorrect computation or misapplication by the county designated agency.

(f) Once a stay of the adverse agency action is applied, personal assistance services to a consumer shall not be suspended, reduced or terminated prior to the completion of the administrative review and the rendering of the decision, except when:

1. The sole issue is one of a State mandated reduction in funding and the consumer’s claim of inaccuracy or misapplication is invalid; or
2. A change in the consumer’s circumstances occurs, affecting eligibility or award of services under the Program, while the decision of the administrative review is still pending and the consumer does not request an additional administrative review related to the subsequent adverse agency action.

(g) Within 30 days from the completion of the administrative review, the State Program Administrator shall render a decision and that decision shall be sent in writing to the applicant or consumer.

(h) Applicants or consumers who disagree with the decision of the administrative review may request a hearing before an Administrative Law Judge pursuant to N.J.A.C. 10:140-3.11. Instructions for such requests shall be incorporated into the written results noted in (g) above.

**10:140-3.11 Hearings and appeals**

(a) Administrative hearings under this chapter shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. A request for an administrative hearing shall be denied to a consumer who disputes an involuntary suspension, involuntary termination or reduction of services resulting from a State mandated reduction in funds to the county designated agency, unless the request is based on a claim of incorrect computation or misapplication by the county designated agency.

2. In the event that an administrative hearing request is based on a claim that the level of services awarded was computed incorrectly or misapplied as a result of a State mandated reduction in funds, the consumer shall be permitted a stay of an adverse agency action pursuant to N.J.A.C. 10:140-3.10(e).

(b) An administrative hearing may be requested by calling or writing to the:

State Program Administrator  
Personal Assistance Services Program  
Division of Disability Services  
PO Box 700  
Trenton, New Jersey 08625-0700

1-888-285-3036

(c) In all cases, an administrative hearing must be requested within 30 days of receiving the adverse agency decision noted in N.J.A.C. 10:140-3.10.

(d) Upon receipt of a request for an administrative hearing, the Administrative Hearings Coordinator will then forward the request to the Office of Administrative Law, the State agency responsible for conducting the administrative hearings process.

(e) Upon completion of the administrative hearings process, a final decision regarding the matter in dispute shall be rendered by the director of the designated State agency.

(f) If the applicant or eligible consumer objects to the final decision made in accordance with (e) above, a notice of appeal may be filed by the applicant or eligible consumer with the Appellate Division of the Superior Court of New Jersey. Such appeals shall be made within 45 days of the date of the final decision.

(g) Further information about filing a notice of appeal may be obtained by calling or writing the:

Appellate Division of the Superior Court of New Jersey  
Richard J. Hughes Justice Complex  
PO Box 006  
Trenton, New Jersey 08625-0006  
(609) 292-4822

#### 10:140-3.12 Confidentiality and disclosure of information

(a) All identifiable personal information regarding applicants or consumers under this program obtained or maintained under this program shall be confidential and shall not be released without the written consent of the applicant or consumer or their authorized agent except as noted in (b) and (c) below. In the case of applicants or consumers who have AIDS or are HIV positive, release of any information shall also be subject to the provisions of N.J.S.A. 26:5C-5 et seq. and N.J.A.C. 8:61-4.1.

(b) Disclosure of information without the consent of the applicant, consumer, or his or her authorized agent shall be limited to purposes directly connected with the Program pursuant to State law and regulations. Such purposes shall include, but not be limited to, the following:

1. The determination or reaffirmation of eligibility;
2. The provision of services;
3. The determination of cost share liabilities; and/or
4. Compliance with training requirements.

(c) The prohibition of (a) above against unauthorized disclosure shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or consumers cannot be identified;
2. The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, consumer or his or her authorized agent challenging the Program's statutory or regulatory authority or a determination made pursuant thereto; or
3. The release of information or files to the State Treasurer or to his or her duly authorized representatives for an audit, review of expenditures, or similar activity authorized by law.

## SUBCHAPTER 4. CONTRACTING AND FEES

### 10:140-4.1 Contracting for services

(a) The county designated agency shall either:

1. Contract with other service providers, including, but not limited to, private individuals, for the provision of personal assistance services; or
2. Employ individuals as personal assistants where appropriate and develop employment policies consistent with N.J.A.C. 10:140-5 for individuals working as personal assistants.

### 10:140-4.2 Provider fees

(a) Fees for services under the Personal Assistance Services Program shall be based on an hourly rate to be paid to the contracting service provider agency or contracting individual personal assistant for each hour of personal assistance service provided under this program. The fees for each hour of personal assistance service authorized by the county designated agency shall be paid to the contracting service provider agency or individual personal assistant.

(b) The reimbursement for personal assistance services shall not exceed \$13.26 per hour on weekdays and \$15.30 per hour on weekends and holidays.

(c) The fee for assessments of applicants and as appropriate, eligible consumers shall be \$100.00 for each initial assessment authorized by the county designated agency; \$50.00 for annual reassessments; and \$25.00 for each follow-up assessment authorized by the county designated agency.

(d) The fees for reimbursement of personal assistance services and assessments described in (b) and (c) above shall be reviewed by the Advisory Council every two years.

### 10:140-4.3 Consumer fees

(a) The consumer fee for personal assistance services shall be based on the ability of the consumer and/or the consumer's spouse to pay for these services. The consumer fee shall apply only to a consumer and that consumer's spouse whose combined annual gross income exceeds the State's applicable income eligibility limit for social services established pursuant to the Social Services Block Grant Act (P.L. 97-35, 42 U.S.C. §§ 1397 et seq.) and set forth at (d) below.

(b) Failure of the consumer to pay the appropriate consumer fee within 60 days of the date of billing pursuant to the consumer sliding fee scale at (d) below, without good cause, shall be grounds for termination or suspension from the Personal Assistance Services Program.

(c) The consumer sliding fee scale schedule at (d) below shall be applied to eligible consumers. For the purposes of assessing consumer fees under this scale, the county designated agency shall calculate family size and annual gross income pursuant to the Social Services Block Grant Act

(P.L. 97-35, 42 U.S.C. §§ 1397 et seq.). The percentage column indicated on the fee scale denotes the percentage of the total cost of the service to be paid by the consumer.

(d) The consumer sliding fee scale is as follows:

**CONSUMER SLIDING FEE SCALE**

<u>Single (One Person)</u>	<u>Family (Size 2)</u>	<u>Family (Size 3)</u>	<u>Family (Size 4)</u>	<u>Family (Size 5)</u>	<u>Percentage</u>
0-15,162	0-19,827	0-24,493	0- 29,158	0- 33,823	0%
15,163-19,663	19,828-23,828	24,494-29,494	29,159- 33,659	33,824-37,824	1%
19,664-24,164	23,829-27,829	29,495-34,495	33,660- 38,160	37,825- 41,825	2%
24,165-28,665	27,830-31,830	34,496-38,496	38,161- 42,661	41,826- 45,826	3%
28,666-31,666	31,831-35,831	38,497-42,497	42,662- 47,162	45,827- 48,827	4%
31,667-34,667	35,832-39,832	42,498-45,498	47,163- 50,163	48,828- 51,828	5%
34,668-37,168	39,833-42,833	45,499-48,499	50,164- 53,164	51,829- 54,829	6%
37,169-39,669	42,834-45,834	48,500-50,500	53,165- 55,165	54,830- 56,830	7%
39,670-41,670	45,835-47,835	50,501-52,501	55,166- 57,166	56,831- 58,831	8%
41,671-43,671	47,836-49,836	52,502-54,002	57,167- 58,667	58,832- 60,832	9%
43,672-45,172	49,837-50,837	54,003-55,503	58,668- 60,168	60,833- 62,333	10%
45,173-46,673	50,838-51,838	55,504-56,504	60,169- 61,169	62,334- 63,834	11%
46,674-47,674	51,839-52,839	56,505-57,505	61,170- 62,170	63,835- 64,835	12%
47,675-48,675	52,840-53,840	57,506-58,506	62,171- 63,171	64,836- 65,836	13%
48,676-49,426	53,841-54,841	58,507-59,257	63,172- 64,172	65,837- 66,837	14%
49,427-50,177	54,842-55,842	59,258-60,008	64,173- 65,173	66,838- 67,838	15%
50,178-50,928	55,843-56,843	60,009-60,759	65,174- 66,174	67,839- 68,839	16%
50,929-51,679	56,844-57,844	60,760-61,510	66,175- 67,175	68,840- 69,840	17%
51,680-52,430	57,845-58,595	61,511-62,261	67,176- 68,176	69,841- 70,841	18%
52,431-53,181	58,596-59,346	62,262-63,012	68,177- 68,927	70,842- 71,842	19%
53,182-53,983	59,347-60,097	63,013-63,763	68,928- 69,678	71,843- 72,593	20%
53,933-54,683	60,098-60,848	63,764-64,514	66,679- 70,429	72,594- 73,344	21%
54,684-55,434	60,849-61,599	64,515-65,265	70,430- 70,930	73,345- 74,095	22%
55,435-56,185	61,600-62,350	65,266-65,766	70,931- 71,431	74,096- 74,846	23%
56,186-56,686	62,351-63,101	65,767-66,267	71,432- 71,932	74,847- 75,597	24%
56,687-57,187	63,102-63,852	66,268-66,768	71,933- 72,433	75,598- 76,098	25%
57,188-57,688	63,853-64,603	66,769-67,269	72,434- 72,934	76,099- 76,599	26%
57,689-58,189	64,604-65,354	67,270-67,770	72,935- 73,435	76,600- 77,100	27%
58,190-58,690	65,355-65,855	67,771-68,271	73,436- 73,936	77,101- 77,601	28%
58,691-59,191	65,856-66,356	68,272-68,772	73,937- 74,437	77,602- 78,102	29%
59,192-59,692	66,357-66,857	68,773-69,273	74,438- 74,938	78,103- 78,603	30%
59,693-60,193	66,858-67,358	69,274-69,774	74,939- 75,439	78,604- 79,104	31%
60,194-60,694	67,359-67,859	69,775-70,275	75,440- 75,940	79,105- 79,605	32%
60,695-61,195	67,860-68,360	70,276-70,776	75,941- 76,441	79,606- 80,106	33%
61,196-61,696	68,361-68,861	70,777-71,277	76,442- 76,942	80,107- 80,607	34%
61,697-62,197	68,862-69,362	71,278-71,778	76,943- 77,443	80,608- 81,108	35%
62,198-62,698	69,363-69,863	71,779-72,279	77,444- 77,944	81,109- 81,609	36%
62,699-63,199	69,864-70,364	72,280-72,780	77,945- 78,445	81,610- 82,110	37%
63,200-63,700	70,365-70,865	72,781-73,281	78,446- 78,946	82,111- 82,611	38%
63,701-64,201	70,866-71,366	73,282-73,782	78,947- 79,447	82,612- 83,112	39%
64,202-64,702	71,367-71,867	73,783-74,283	79,448- 79,948	83,113- 83,613	40%
64,703-65,203	71,868-72,368	74,284-74,784	79,949- 80,449	83,614- 84,114	41%
65,204-65,704	72,369-72,869	74,785-75,285	80,450- 80,950	84,115- 84,615	42%
65,705-66,205	72,870-73,370	75,286-75,786	80,951- 81,451	84,616- 85,116	43%
66,206-66,706	73,371-73,871	75,787-76,287	81,452- 81,952	85,117- 85,617	44%
66,707-67,207	73,872-74,372	76,288-76,788	81,953- 82,453	85,618- 86,118	45%
67,208-67,708	74,373-74,873	76,789-77,289	82,454- 82,954	86,119- 86,619	46%
67,709-68,209	74,874-75,374	77,290-77,790	82,955- 83,455	86,620- 87,120	47%
68,210-68,710	75,375-75,875	77,791-78,291	83,456- 83,956	87,121- 87,621	48%
68,711-69,211	75,876-76,376	78,292-78,792	83,957- 84,457	87,622- 88,122	49%
69,212-69,712	76,377-76,877	78,793-79,293	84,458- 84,958	88,123- 88,623	50%
69,713-70,213	76,878-77,378	79,294-79,794	84,959- 85,459	88,624- 89,124	51%
70,124-70,714	77,379-77,879	79,795-80,295	85,460- 85,960	89,125- 89,625	52%
70,715-71,215	77,880-78,380	80,296-80,796	85,961- 86,461	89,626- 90,126	53%
71,216-71,716	78,381-78,881	80,797-81,297	86,462- 86,962	90,127- 90,627	54%
71,717-72,217	78,882-79,382	81,298-81,798	86,963- 87,463	90,628- 91,128	55%

Single (One Person)	Family (Size 2)	Family (Size 3)	Family (Size 4)	Family (Size 5)	Percentage
72,218-72,718	79,383-79,633	81,799-82,299	87,464- 87,964	91,129- 91,629	56%
72,719-73,219	79,634-79,884	82,300-82,800	87,965- 88,465	91,630- 92,130	57%
73,220-73,720	79,885-80,135	82,801-83,301	88,466- 88,966	92,131- 92,631	58%
73,721-74,221	80,136-80,386	83,302-83,802	88,967- 89,467	92,632- 93,132	59%
74,222-74,722	80,387-80,637	83,803-84,303	89,468- 89,968	93,133- 93,633	60%
74,723-75,223	80,638-80,888	84,304-84,804	89,969- 90,469	93,634- 94,134	61%
75,224-75,724	80,889-81,139	84,805-85,305	90,470- 90,970	94,135- 94,635	62%
75,725-76,225	81,140-81,390	85,306-85,806	90,971- 91,221	94,636- 95,136	63%
76,226-76,726	81,391-81,641	85,807-86,307	91,222- 91,472	95,137- 95,637	64%
76,727-77,227	81,642-81,892	86,308-86,808	91,473- 91,723	95,638- 96,138	65%
77,228-77,728	81,893-82,143	86,809-87,309	91,724- 91,974	96,139- 96,639	66%
77,729-77,979	82,144-82,394	87,310-87,560	91,975- 92,225	96,640- 97,140	67%
77,980-78,230	82,395-82,645	87,561-87,811	92,226- 92,476	97,141- 97,641	68%
78,231-78,481	82,646-82,896	87,812-88,062	92,477- 92,727	97,642- 98,142	69%
78,482-78,732	82,897-83,147	88,063-88,313	92,728- 92,978	98,143- 98,393	70%
78,733-78,983	83,148-83,398	88,314-88,564	92,979- 93,229	98,394- 98,644	71%
78,984-79,234	83,399-83,649	88,565-88,815	93,230- 93,480	98,645- 98,895	72%
79,235-79,485	83,650-83,900	88,816-89,066	93,481- 93,731	98,896- 99,146	73%
79,486-79,736	83,901-84,151	89,067-89,317	93,732- 93,982	99,147- 99,397	74%
79,737-79,987	84,152-84,402	89,318-89,568	93,983- 94,233	99,398- 99,648	75%
79,988-80,238	84,403-84,653	89,569-89,819	94,234- 94,484	99,649- 99,899	76%
80,239-80,489	84,654-84,904	89,820-90,070	94,485- 94,735	99,900-100,150	77%
80,490-80,740	84,905-85,155	90,071-90,321	94,736- 94,986	100,151-100,401	78%
80,741-80,991	85,156-85,406	90,322-90,572	94,987- 95,237	100,402-100,652	79%
80,992-81,242	85,407-85,657	90,573-90,823	95,238- 95,488	100,653-100,903	80%
81,243-81,493	85,658-85,908	90,824-91,074	95,489- 95,739	100,904-101,154	81%
81,494-81,744	85,909-86,159	91,075-91,325	95,740- 95,990	101,155-101,405	82%
81,745-81,995	86,160-86,410	91,326-91,576	95,991- 96,241	101,406-101,656	83%
81,996-82,246	86,411-86,661	91,577-91,827	96,242- 96,492	101,657-101,907	84%
82,247-82,497	86,662-86,912	91,828-92,078	96,493- 96,743	101,908-102,158	85%
82,498-82,748	86,913-87,163	92,079-92,329	96,744- 96,994	102,159-102,409	86%
82,749-82,999	87,164-87,414	92,330-92,580	96,995- 97,245	102,410-102,660	87%
83,000-83,250	87,415-87,665	92,581-92,831	97,246- 97,496	102,661-102,911	88%
83,251-83,501	87,666-87,916	92,832-93,082	97,497- 97,747	102,912-103,162	89%
83,502-83,752	87,917-88,167	93,083-93,333	97,748- 97,998	103,163-103,413	90%
83,753-84,003	88,168-88,418	93,334-93,584	97,999- 98,249	102,414-103,664	91%
84,004-84,254	88,419-88,669	93,585-93,835	98,250- 98,500	103,655-103,915	92%
84,255-84,505	88,670-88,920	93,836-94,086	98,501- 98,751	103,916-104,166	93%
84,506-84,756	88,921-89,171	94,087-94,337	98,752- 99,002	104,167-104,417	94%
84,757-85,007	89,172-89,422	94,338-94,588	99,003- 99,253	104,418-104,668	95%
85,008-85,258	89,423-89,673	94,589-94,839	99,254- 99,504	104,669-104,919	96%
85,259-85,509	89,674-89,924	94,840-95,090	99,505- 99,755	104,920-105,170	97%
85,510-85,760	89,925-90,175	95,091-95,341	99,756-100,006	105,171-105,421	98%
85,761-86,011	90,176-90,426	95,342-95,592	100,007-100,257	105,422-105,672	99%
86,012-86,262	90,427-90,677	95,593-95,843	100,258-100,508	105,673-105,923	100%

(e) Each consumer and that consumer's spouse shall provide verification of annual gross family income for determination of applicable fees upon application to the Personal Assistance Services Program and every 12 months thereafter. The determination of applicable fees shall be made by the county designated agency and redetermined every 12 months.

1. Acceptable verification includes, but is not limited to, pay stubs, W-2 forms or photostatic copies of the actual 1040 form filed with the Internal Revenue Service, business records, pension statements and/or correspondence from employers or agencies (for example, Social Security Administration, State employment agencies).

(f) If the costs of an eligible consumer's personal assistance services are covered in whole or in part by another State or Federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the Personal Assistance Services Program shall be the secondary payer.

(g) The consumer receiving personal assistance services shall sign time sheets attesting to the hours of service rendered, and the individual personal assistant or provider agency shall then be paid by the county designated agency.

(h) Upon determination of the applicable consumer fees pursuant to this section, the county designated agency shall provide the consumer with a billing of the cost of personal assistance services to be paid by the consumer on a monthly basis.

(i) All collected consumer fees shall be retained by the county designated agency for the provision of personal assistance services.

**10:140-4.4 Standards for adjustments in consumer fees**

(a) Adjustments in consumer fees shall be based on verifiable increased or decreased expenses which result from the consumer's disability which may include, but are not limited to, items such as:

1. Unreimbursed or unreimbursable medical expenses;
2. Transportation expenses;
3. Adaptations to home or vehicle that are related to the consumer's disability; or
4. Unreimbursed or unreimbursable additional hours of personal assistance services over and above those hours authorized to the consumer by this program, if certified as necessary by the county designated agency and if paid for by the consumer out of pocket.

(b) Adjustments in consumer fees may also be considered when the following verifiable expenses are increased or decreased:

1. College tuition;
2. Alimony/child support; or
3. Emergency home repair expenses.

(c) Adjustments in consumer fees shall be re-evaluated annually or more frequently if necessary in order to redetermine the eligible consumer's ability to pay for services.

**10:140-4.5 Procedures for requesting adjustments in consumer fees**

(a) A consumer requesting adjustments in consumer fees shall submit a written request and justification to the county designated agency. Within 60 days following the date that the required forms for completing the adjustment are received by the consumer from the county designated agency, the consumer shall submit verification of expenses pursuant to N.J.A.C. 10:140-4.4.

(b) Upon receipt of a written request and justification for a consumer fee adjustment, the county designated agency shall review the request and submit to the State Program Administrator materials pertaining to the request along with a recommendation regarding the appropriateness of the request and the amount of the adjustment.

(c) Upon receipt of the information described in N.J.A.C. 10:140-4.5(b), the State Program Administrator shall review the request and recommendation and render a decision based on the facts presented.

(d) Upon receipt of a decision by the county designated agency from the State Program Administrator, the county

designated agency shall provide the consumer with written notice regarding the disposition of the request for an adjustment in consumer fee.

(e) Adjustments in consumer fee which are approved shall be effective as of the first day of the calendar month succeeding the month in which the written request is received by the county designated agency.

(f) A consumer requesting adjustment in his or her consumer fee shall continue to pay the original percentage of the total cost of service assessed pursuant to N.J.A.C. 10:140-4.3(a), (b), (c) and (d), pending the consumer's submission of written justification and verification of expenses under N.J.A.C. 10:140-4.5(a) and (b) and approval by the State Program Administrator of the consumer's request for an adjustment under N.J.A.C. 10:140-4.5(c).

(g) The designated State agency shall deny an adjustment in the consumer's fee when the consumer fails to submit a written request, justification and appropriate verification of expenses within the time frame specified in (a) above.

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**SUBCHAPTER 5. PERSONAL ASSISTANTS**

**10:140-5.1 Requirements for personal assistants**

(a) All persons desiring to serve as personal assistants under the Personal Assistance Services Program shall be at least 18 years of age and shall meet at least one of the following requirements:

1. The personal assistant shall complete an approved training course authorized by the State Board of Nursing as a homemaker/home health aide, or a long-term facility nurse aide course authorized by the Department of Health;
2. The personal assistant shall complete a certified training program in a hospital, rehabilitation facility, or a long-term care facility as an aide or personal assistant;
3. The personal assistant shall complete a training course offered by the designated State agency for personal assistants, pursuant to requirements under N.J.A.C. 10:140-6.1; or
4. The personal assistant shall have at least one year of experience in the provision of personal assistance services for adults.

(b) Personal assistants who have met the requirements for employment as a personal assistant under (a)1, 2, or 4 above shall be required to complete additional training requirements as described under N.J.A.C. 10:140-6.1.

(c) Each personal assistant shall have a current liability policy which covers personal injury and/or property damage,

prior to employment as a personal assistant under this program. This liability policy shall be paid for by the personal assistant, when he or she is under an independent vendor contract with the county designated agency, or by the provider agency, when the personal assistant is an agency employee.

## SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

### 10:140-6.1 Training requirements

(a) All eligible consumers under the Personal Assistance Services Program shall complete two training courses offered by the designated training agency, under contract with the designated State agency, as follows:

1. One course on the Orientation and Philosophy of the Personal Assistance Services Program, and one additional course of their choice, after consultation with the county designated agency.

(b) All personal assistants shall complete two training courses offered by the designated training agency, under contract with the designated State agency: Orientation and Philosophy of the Personal Assistance Services Program, and Basic Techniques of Personal Assistance Services.

(c) Consumers and personal assistants may complete required training courses as described in (a) and (b) above, in any order of choice.

(d) Consumer requests to receive in-home training sessions on required training courses shall be considered on a case-by-case basis.

(e) The county designated agency shall provide necessary information on consumers to the designated training agency to enable compliance with (a) above. Such information shall be furnished upon request by the designated training agency, as approved by the State Program Administrator, and shall include, but is not limited to, names, addresses and telephone numbers of consumers.

(f) The county designated agency shall provide or ensure the provision of necessary information on personal assistants to the designated training agency to enable compliance with (b) above. Such information shall be furnished upon request by the designated training agency, as approved by the State Program Administrator, and shall include, but is not limited to, names, addresses and telephone numbers of personal assistants, and as appropriate, written requests for a waiver of the Basic Techniques of Personal Assistance Services course, pursuant to N.J.A.C. 10:140-6.2(a)2 and (b).

### 10:140-6.2 Waivers to training requirements for personal assistants

(a) Waivers to mandated training requirements for personal assistants, as described in N.J.A.C. 10:140-6.1(a) and (b), are as follows:

1. Waiver requests for the Orientation and Philosophy of the Personal Assistance Services Program course shall not be accepted.

2. Waiver requests for Basic Techniques of Personal Assistance Services may be granted for personal assistants on a case-by-case basis. Documentation of prior training or education comparable to Basic Techniques of Personal Assistance Services shall be provided, in order for a waiver to be granted. This training or education shall have been completed within five years of the date of the waiver request made by the personal assistant.

(b) Personal assistants requesting a waiver under (a)2 above shall follow all of the procedures listed below:

1. Requests for a waiver shall be made in writing;

2. The written request for a waiver shall be made to the county designated agency, and shall indicate the specific waiver request and provide verification of completed training or education as required in (a)2 above; and

3. The county designated agency shall review the request and make a determination on the waiver request within 30 days of the receipt of the request. The county designated agency shall notify the State Program Administrator of this determination in writing.

### 10:140-6.3 Penalties for noncompliance with training requirements

(a) Consumers who fail to complete required courses without good cause, which may include, but is not limited to, illness or hospitalization, attendance at school, or employment duties, shall have their personal assistance services suspended and/or terminated, pursuant to N.J.A.C. 10:140-3.9.

(b) Personal assistants who fail to complete required courses or who request a waiver pursuant to N.J.A.C. 10:140-6.2 without good cause, which may include, but is not limited to, illness or hospitalization, attendance at school, or employment duties, shall be suspended and/or terminated from employment as a personal assistant under the Program, at the discretion of the county designated agency in consideration of course availability and the personal assistant's willingness to participate.

### 10:140-6.4 Compensation for attendance at training courses

(a) The rates of compensation for attendance at all training courses offered under the Personal Assistance Services Program shall be established by the designated State agency at a standardized rate.

(b) Personal assistants shall be issued a stipend upon completion of training at the rate of \$9.00 per hour by the designated training agency responsible for the administration of the Statewide training program under contract with the designated State agency.

**SUBCHAPTER 7. COMPLIANCE WITH LAWS**

**10:140-7.1 Requirements of county designated agency**

(a) All county designated agencies shall abide by all laws and regulations concerning employment of persons hired to administer or work in the Personal Assistance Services Program including, but not limited to, the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., and the Immigration Reform and Control Act of 1986 (P.L. 99-603).

(b) All county designated agencies shall conduct a check, or form an agreement with providers with whom they contract to conduct a check, that satisfies them as to the appropriateness of each personal assistant. The check as described in this subsection shall include, at a minimum, a personal reference check.

(c) All county designated agencies shall establish a separate accounting regarding receipt and use of cost share fees collected to ensure that cost share funds are used to expand or enhance program services in that county. These funds shall not supplant any existing allocation. This separate accounting and supporting documentation shall be made available to the designated State agency.

(d) All county designated agencies shall establish a local advisory council of which at least 51 percent of the members are persons with disabilities. This advisory council shall serve as a resource to the county designated agency on matters pertaining to the local administration of the Personal Assistance Services Program.

(e) All county designated agencies shall expend no more than 15 percent of their funding allocation towards the costs to administer the Personal Assistance Services Program. All other program funding shall be used towards direct services.

**10:140-7.2 Duties of county designated agency**

(a) Under the direction of the designated State agency, the county designated agency shall perform the following duties:

1. Ensure that the operation and performance of the county's personal assistance program is in compliance with law and rules as specified by the designated State agency;
2. Provide information and outreach for the Personal Assistance Services Program;

3. Complete the necessary forms to determine eligibility of applicants and provide appropriate assistance to applicants and consumers in completing all necessary forms;

4. Determine cost share amount when applicable;
5. Maintain and update individual consumer files;

6. Designate a staff person to serve as primary contact person for applicants, eligible consumers and personal assistants involved in the program and document such contacts;

7. At the request of eligible consumers, arrange for personal assistance services and provide individual assistance in arranging for back-up personal assistance services. The back-up plan shall be coordinated and mutually agreed upon by the consumer and the county designated agency;

8. Refer applicants and eligible consumers to other agencies, programs and services for which they may be eligible and request that they make application where appropriate;

9. Maintain fiscal and program records for the program;

10. Prepare monthly reports for timely submission to the designated State agency;

11. Serve as liaison to the designated State agency for the Program;

12. Oversee the local program including verification of time sheets signed by eligible consumers and personal assistants attesting to hours of services rendered; and

13. Coordinate activities with the designated training agency to ensure completion of mandatory training requirements for consumers and personal assistants, according to N.J.A.C. 10:140-6.1.

**10:140-7.3 State Consumer Advisory Council on Personal Assistance Services**

(a) The duties of the State Consumer Advisory Council on Personal Assistance Services shall consist of the following:

1. Serve as a resource to the Commissioner on matters pertaining to personal assistance services, and the development, implementation and evaluation of such services;
2. Advise the designated State agency on issues relevant to the development, implementation and evaluation of the Personal Assistance Services Program;
3. Evaluate the effectiveness of the Personal Assistance Services Program in meeting its objectives and share that evaluation with the Commissioner;

4. Actively explore innovative service delivery models to enhance the consumer-driven nature of the Personal Assistance Services Program; and

5. Implement the above through utilization of stenographic and clerical staff, administrative assistants, and such professional staff as provided by the Department.

(b) The State Consumer Advisory Council on Personal Assistance Services shall adhere to the following requirements regarding membership:

1. The Advisory Council shall consist of 21 members appointed by the Commissioner, one from each county in New Jersey and at least 75 percent of whom are consumers of personal assistance services;

2. Vacancies in the membership shall be filled in the same manner provided for the original appointments;

3. The Advisory Council shall select a chairperson from among its members and a secretary who need not be a member of the Advisory Council; and

4. Members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

#### 10:140-7.4 County designated agency disqualification

(a) A county designated agency may be disqualified from participation in Personal Assistance Service Program funding for good cause including, but not limited to, the following:

1. Failure or refusal to comply with program rules and/or contract requirements; or

2. Refusal to furnish the designated State agency with required reports, or to make available for review such files and records as required.

(b) If a county designated agency is not in compliance with program requirements pursuant to (a)1 and 2 above, as determined by the designated State agency, the following actions shall be implemented:

1. Upon a determination of noncompliance in the administration of the Program, the designated State agency shall provide a written notice to the county designated agency and require the completion of a written corrective action plan. The notice shall specify the designated State agency's reason(s) for requiring such a plan, indicate the corrective actions required to achieve compliance, and the time frames for submission;

2. The designated State agency shall review the written corrective action plan as completed by the county designated agency, and render a decision as to its appropriateness in addressing the identified noncompliance with program requirements;

3. In the event the county designated agency fails to provide an appropriate corrective action plan, or fails to implement corrective actions in accordance with an approved plan, resulting in continued noncompliance, the county designated agency shall be disqualified, unless the county designated agency demonstrates good cause as determined by the designated State agency; and

4. The designated State agency shall provide a 60-day written notice to the county designated agency if it intends to pursue disqualification. A copy of this notice shall also be sent to the State Consumer Advisory Council on Personal Assistance Services.

(c) The process of county designated agency disqualification should not result in loss or interruption of services to those eligible consumers currently receiving services.

#### 10:140-7.5 Disqualification appeal process

If the designated State agency seeks to disqualify a county designated agency from participation in the Personal Assistance Services Program for failure to comply with N.J.A.C. 10:140-7.4(a)1 and 2, said county designated agency shall be afforded an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.