(b) Seventy-five percent of the disposable monthly income shall be contributed to the cost of care and maintenance. If the monthly contribution is less than $20.00, the contribution shall be waived.

(c) The individual or his or her representative payee is responsible to keep his or her accumulated funds under $2,000 to ensure continued eligibility for the Medicaid DDD Community Care Waiver benefits.

(d) Where an individual is required to contribute to a HUD rental, or otherwise pays directly for his or her housing costs as indicated in the Division's contract with the provider agency, that amount shall be deducted from the amount contributed to the cost of care and maintenance.

(e) A one-time allowance of up to $2,000 may be deducted from the contribution for the cost associated with the appointment of a private guardian. A copy of the court order shall be provided to the Division by the guardian, once the guardian has been appointed. If, for any reason, any part of the allowance is not used for the appointment of a guardian, the unused amount of the allowance may be collected in one sum at a time established by the Division.

(f) The individual may utilize up to six percent of his or her total gross annual income for the provision of private guardianship without court order. The six percent may be exceeded under court order for an additional percentage. This expense shall not be permitted where the Division provides guardianship through the Bureau of Guardianship Services.

(g) Any request to retain funds beyond 25 percent shall be based exclusively on the following circumstances. The request to retain additional funds shall be made to the case manager, be reviewed by the IDT team and approved by the assigned State business office. Retention of additional funds is subject to the annual reassessment. The individual or representative payee shall provide verification of the extraordinary need which shall be limited to the following circumstances:

1. The individual's reasonable costs related to food or shelter, including heat and utilities in a supervised apartment that exceed the amount provided in the agency contract;

2. Major "unavoidable" medical costs that are covered by Medicaid but exceed the frequency of service established by Medicaid or other unavoidable medical costs as reviewed and approved by the Division;

3. Replacement of personal items due to destructive behavior based upon documentation in a specific behavior plan and not covered by the contract or third party;

4. For individuals who do not already have one, establishment of an irrevocable burial fund. The individual shall be permitted to retain no more than an additional 10 percent per month of the disposable income until such time as the burial contract is paid in full; and

5. For individuals who will move from a residential placement to independent living within six months, the individual may retain up to $2,000 to establish his or her household. Once the individual lives independently, he or she will have all his or her funds available; no contribution is required. The $2,000 must be spent as it is needed; the individual cannot accumulate these funds.

(h) All earnings from employment below minimum wage shall be exempt from determining an individual's available income and shall not be considered part of the individual's disposable income. Contributions to the cost of care and maintenance from employment earnings at or above minimum wage shall be computed similar to the way in which the Social Security Administration counts earned income for Supplemental Security Income purposes. Contributions shall be determined as follows:

1. The first $85.00 of wages earned each month shall be exempt from any contribution requirements;

2. After the first $85.00, one half of all wages earned will be excluded;

3. After one half of all wages earned are excluded, an additional one half of earnings are excluded because the individual's Supplemental Security Income cash benefit is reduced by one dollar for every two dollars earned; and

4. After this second exclusion, 30 percent of all wages earned will be contributed toward the cost of care and maintenance. If the monthly payment is less than $20.00, the contribution requirement shall be waived.

(i) The individual or his or her representative payee may utilize the funds from earned income as he or she determines appropriate, however, he or she is responsible to maintain continued eligibility for the Medicaid DDD Community Care Waiver benefits.

10:46D–3.2 DDD Formula B–DDD (B) for individuals under age 18

(a) This section shall apply to the individual under age 18 being served, LRR(s) or any other person responsible for the estate of such individual and/or LRR(s). The family maintenance standard (for a family of four, for calendar year 2005, is $25,550), the medical cost standard (for a family of four is $5,875) and the tuition deduction should be revised annually, using the Consumer Price index figures then applicable and the cost for in-State tuition at Rutgers, the State University, ($6,793 for school year 2004–05). These revisions shall be published annually by the Department as public notices in the New Jersey Register. Additionally, the Department shall publish in the New Jersey Register, the cost of care and maintenance rates as established by the State Board of Human Services.

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

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

(d) The family maintenance standard shall be calculated by the Department in the following manner.

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

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

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

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

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

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

(f) The deduction for college tuition shall be the actual college tuition cost paid, but shall not exceed the maximum of the annual in-State tuition expenses for Rutgers University. The deduction shall be the net of any scholarships, awards or grants, and shall cover tuition paid but shall not cover such items as room, board, books and lab fees. The maximum college tuition deduction for school year 2004–2005 is $6,793. This shall be revised annually as required by (a) above.

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

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

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

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

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

5. Catastrophic events.

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

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

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

(j) Individuals with financial dependents, below, and LRR(s) shall contribute in accordance with the following Treasury Formula–DDD(B):

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

Disposable Income less Family Maintenance Standard = Marginal Income

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

Administrative change.
See: 37 N.J.R. 80(a).

10:46D-3.3 DDD Formula A–DDD(A) for married persons over age 18

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