

CHAPTER 46**DETERMINATION OF ELIGIBILITY AND CONTRIBUTION TO CARE AND MAINTENANCE REQUIREMENTS****Authority**

N.J.S.A. 30:4-23, 30:4-25.2 and 30:6D-23 et seq.

Source and Effective Date

R.2000 d.361, effective August 4, 2000.
See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

Executive Order No. 66(1978) Expiration Date

Chapter 46, Determination of Eligibility and Contribution to Care and Maintenance Requirements, expires on August 4, 2005.

Chapter Historical Note

Chapter 46, Application and Admission to Functional Services, was adopted and became effective prior to September 1, 1969.

Chapter 46, Application and Admission to Functional Services, was repealed and Chapter 46, Determination of Eligibility, was adopted as new rules by R.1990 d.409, effective September 17, 1990. See: 21 N.J.R. 3712(a), 22 N.J.R. 3030(a).

Pursuant to Executive Order No. 66(1978), Chapter 46, Determination of Eligibility, was readopted as R.1995 d.511, effective August 17, 1995. See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Subchapter 5, Offers by the Division, Subchapter 6, Termination, and Subchapter 7, Appeals Process, were adopted as new rules by R.1998 d.468, effective September 8, 1998. See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Pursuant to Executive Order No. 66(1978), Chapter 46, Determination of Eligibility and Contribution to Care and Maintenance Requirements, was readopted as R.2000 d.361, effective August 4, 2000. See: Source and Effective Date. See, also, section annotations.

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APPENDIX. NEW JERSEY DEPARTMENT OF HUMAN SERVICES CALENDAR YEAR 1998**SUBCHAPTER 1. GENERAL PROVISIONS****10:46-1.1 Purpose; authority**

Pursuant to N.J.S.A. 30:1-12, 30:4-27.2, 30:4-25.2, Application for determination of eligibility, N.J.S.A. 30:4-25.9, 30:6D-1 et seq. (P.L. 1985, c.145) and 30:4-60 et seq. (P.L. 1995, c.155), the Division of Developmental Disabilities, Department of Human Services (Division), intends this chapter to establish guidelines and criteria for determinations of eligibility for services, to individuals with developmental disabilities and their financial ability and that of their legally responsible relatives to contribute to the cost of care and maintenance in providing residential services.

Amended by R.1998 d.468, effective September 8, 1998.
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Rewrote the section.

10:46-1.2 Scope

The provisions of this chapter shall apply to all individuals making application to the Division for services under N.J.S.A. 30:4-165.1 et seq. The requirement of an assessment for financial ability to pay shall apply only to those eligible individuals receiving services who have been residentially placed by the Division. This does not include individuals residing in supported living arrangements, in private ICF/MR placements not funded by the Division, or those receiving Challenge Grants or participating in self-determination.

Amended by R.1998 d.468, effective September 8, 1998.
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Added the second and third sentences.

Amended by R.2000 d.361, effective September 5, 2000.
See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

Administrative change.

10:46-1.3 Definitions

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

"Application" means the form available at Division offices (see N.J.A.C. 10:46-3.2(a)). The term includes any supporting documentation necessary to the making of an informed determination with regard to applicant eligibility, including medical information. Supporting documentation may include, but is not limited to, educational, psychiatric, psychological, vocational, rehabilitation or social service records.

"Appropriate program of training" means that program of training which at a minimum includes orientation and instruction in identification of developmental disabilities, use of evaluation tools and interaction techniques.

"Assets or resources" means, but is not limited to, cash, trusts, bank accounts, certificates of deposit, stocks, bonds, mutual funds, real estate and savings bonds and personal property pursuant to N.J.S.A. 30:4-25.1a(8).

"Assignment" means the written agreement of the individual to give the Department of Human Services the right to receive and collect any and all proceeds due to the individual from such items as insurance policies, annuities and law suit settlements.

"Assistive devices" mean supports provided to aid in moving and positioning an individual while personal care is given, or which aid in communication.

"Burial fund" means an identifiable fund which is clearly designated and set aside for an individual's burial expenses.

"Case management" means the linking and coordination of services across family, agency and professional lines to develop and attain goals and objectives embodied in the Individual Habilitation Plan. It involves monitoring of and advocating for the individual's needs with individual and family participation.

"Challenge grant" refers to a program in which the Division provides funds to an agency, which may be used in combination with other resources available to the individual, which will meet the individual's needs sufficiently to allow the individual to be removed from the waiting list.

"Child" means a person under 18 years of age.

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

"Consumer price index (CPI)" means the measure of the average change in prices over time in a fixed group of goods and services, as issued by the U.S. Department of Labor.

"Cost of care and maintenance" means the daily rate set by the State Board of Human Services for the residential placement of the individual or the daily rate set by the Commissioner of the Department of Human Services for community care homes (except respite homes) regulated under N.J.A.C. 10:44B multiplied by the number of days the individual is/or was in the placement.

"Counselling" means advice or guidance provided by a person knowledgeable about services to persons with developmental disabilities.

"Dependent" means an individual who meets the State and Federal income tax requirements for being claimed by the client or the LRR(s) on State and Federal income tax forms.

"Developmental disability" means a severe chronic disability of a person which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations before the age of 22 in three or more of the following areas of major life actively, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self sufficiency; and
5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.
6. Developmental disability includes, but is not limited to, severe disabilities attributable to mental retardation, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairment where the above criteria are met.

"Director" means the Director of the Division of Developmental Disabilities.

"Disposable income" means the total income from any and all sources, less Federal and State income taxes, FICA and deductions allowable in accordance with N.J.A.C. 10:46-2.5.

"Division" means the Division of Developmental Disabilities.

"Educational and related services" means those programs and/or therapies that are provided to a pupil in association with a free appropriate education.

"Family" means the LRR(s), any dependent minors and any other person(s) who are claimed on the LRR(s)' income tax forms, and the individual receiving Division services.

"Family maintenance standard (FMS)" means the income needed to meet a family's minimum needs. The FMS establishes the lower limit on the charges to the individual and/or the LRR for the individual's care and maintenance. See N.J.A.C. 10:46-2.5.

"Family support" means those services described under N.J.A.C. 10:46C.

1. The annual calendar year increases to Social Security benefits and other periodic increases to benefits shall not be grounds for a revision to the annual budget for expenses. No request for a revision of the assessed contribution for the cost of care and maintenance may be made under this circumstance. This increase shall be considered at the time of the next annual IHP.

2. The individual, legal guardian, family, and/or other interested parties shall be invited to the annual IHP meeting. The scheduling of the IHP meeting shall facilitate the fullest possible participation of the individual, legal guardian, family and/or other interested parties. The Division shall accommodate reasonable requests in scheduling the date of the annual IHP meeting. If attendance is not possible at the meeting, requests for expenses may be submitted in writing prior to the meeting. If the individual, legal guardian, family and/or other interested party chooses not to participate in the IHP meeting, this lack of participation shall not be the grounds to request a revision of the annual budget for expenses. No request for a revision of the assessed contribution of care and maintenance shall be made under this circumstance.

3. If the individual, legal guardian, family and/or interested parties do not use the entire amount potentially available at the time of the annual IHP meeting, that remainder shall not be the grounds to request a revision of the annual budget for expenses. No request for a revision of the assessed contribution for the cost of care and maintenance shall be made under this circumstance. The expenses shall be recalculated at the time of the next annual IHP.

(p) The individual shall remain liable for the unpaid balance of the cost of care and maintenance. The LRR(s) shall remain liable for any unpaid portion of the assessed amount.

New Rule, R.1998 d.468, effective September 8, 1998.

See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Amended by R.1999 d.405, effective November 15, 1999.

See: 31 N.J.R. 1890(a), 31 N.J.R. 3632(a).

Rewrote (o).

Recodified from N.J.A.C. 10:46-2.4 and amended by R.2000 d.315, effective August 7, 2000.

See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).

In (e), (f) and (o), inserted references to N.J.A.C. 10:46-2.6. Former N.J.A.C. 10:46-2.5, Treasury Formula-DDD, recodified to N.J.A.C. 10:46-2.6.

10:46-2.6 Treasury Formula-DDD

(a) The purpose of this section is to set forth the assessment methodology used by the Department of Human Services for determining the financial ability to contribute toward the cost of care and maintenance of an individual with a developmental disability, and the procedure for the collection of such contribution. This section shall apply to the individual being served, LRR(s) or any other person responsible for the estate of such individual and/or LRR(s). The family maintenance standard, the medical cost standard and the tuition deduction shall be revised annually, using

the Consumer Price Index figures then applicable and the cost for in-State tuition at Rutgers, the State University. These revisions shall be published annually by the Department as a public notice 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(A) 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 (l) 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 which 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. (See Examples 1 and 2 below.)

(d) The family maintenance standard shall be calculated by the Department in the following manner. (The steps listed below coincide to the numbered instructions shown in Example 2 below.)

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.

6. Step 6—Determine the FMS for smaller and larger families. Multiply the FMS calculated in Step 5 by the Equivalence Standards indicated in the Table in Example 2 below.

(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. (See Example 1 below.)

(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 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 calendar year 1999 is \$4,762. This shall be revised annually as required by (a) above.

(g) The Treasury Formula-DDD(A) 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, as defined in (l) below, and LRR(s) shall contribute in accordance with the following Treasury Formula-DDD(A):

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

(k) Individuals without financial dependents and those required by (l) below to use this formula shall contribute in accordance with the following Treasury Formula-DDD(B):

1. Total Monthly Net Income less PNA and, where documented, a plan to achieve self support (PASS) = Disposable Monthly Income.

- i. Where an individual has a PASS, as defined at 20 C.F.R. § 416.1226, and approved by the Social Security Administration, that amount shall be deducted from the Total Monthly Net Income.

- ii. A copy of the PASS as approved by the Social Security Administration shall be provided to the Division by the individual.

- iii. The PASS may be in effect for 18 months and may be extended for another 18 months up to an overall limit of 48 months, as approved by the Social Security Administration.

- iv. The resources excluded under the PASS shall be deducted from the Total Monthly Net Income for the term of the plan, or until there is evidence that the time schedule has been completed, or the goal has been achieved, or the plan is not followed or the plan has been abandoned.

2. Fifty percent of Disposable Monthly Income shall be automatically contributed to cost of care and maintenance. If the monthly payment is less than \$20.00, the contribution shall be waived.

- i. 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 50 percent contributed to the cost of care and maintenance.

ii. If an agency wishes to collect room and board directly from the individual served, the agency may request to amend its contract with the Division by the amount it expects to collect. The amount collected shall be deducted from the 50 percent contributed to the cost of care and maintenance.

iii. A one-time allowance of up to \$1,500 may be taken for the cost associated with the appointment of a private guardian. This allowance may be deducted from the 50 percent automatically contributed for the cost of care and maintenance. 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.

3. The 50 percent remainder of disposable income shall be potentially available for other expenses as specified in (k)3i through vi below if recommended by IHP team and approved by the assigned State business office of the Division, as being determined to be reasonable, programmaticaly appropriate, consistent with individual need and not otherwise provided by the Division. The approved expenses shall be considered an annual budget to be approved once a year unless there have been changes in the person's circumstances.

i. Clothing allowances;

ii. Medical and dental expenses not covered by other sources;

iii. Transportation costs when they are program related or an individual's family member(s) is unable to visit otherwise as determined by (r) below;

iv. Leisure and/or recreation activities as programmaticaly determined to be appropriate by the IHP Team;

v. Burial fund. The amount, which may be accumulated, shall be subject to any dollar amount limitation established by any statute, rule, order or contract, which applies to the individual including Federal benefits; and

vi. Private guardianship expenses of up to six percent of the annual income of the individual, 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.

4. 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 determined as follows:

i. The first \$65.00 earned shall be exempt from any contribution requirements.

ii. After the first \$65.00 earned, 30 percent of all wages earned will be contributed towards the cost of care and maintenance. If the monthly payment is less than \$20.00, the contribution requirement shall be waived.

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

1. If two individuals who are married have no dependents and are living together or separately in Division residential placements, each individual shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

2. If an individual is residentially placed by the Division and has a spouse and/or dependents who live elsewhere and the spouse and dependents receive public assistance and/or other Federal or State benefits for themselves only, the spouse and/or dependents shall have no financial responsibility for the cost of the individual's care and maintenance. The individual shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

3. If an individual is residentially placed by the Division, and has a spouse who resides elsewhere and the spouse has income and the dependents may or may not receive public assistance or benefits, the spouse's income shall be assessed pursuant to (j) above. The individual's income and benefits shall also be reviewed to determine past financial support to the dependents. If there is no evidence that support has been provided by the individual to dependents, the individual's income and benefits shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

4. If an individual is residentially placed by the Division and has a spouse who resides elsewhere, and the spouse has an income and there are no dependents, the spouse's income shall be assessed pursuant to (j) above. The individual shall be assessed as an individual without dependents pursuant to Treasury Formula-DDD(B) in (k) above.

5. If an individual is residentially placed by the Division and is financially responsible for a dependent and no public assistance or benefits are received on behalf of the dependent, the individual's income and benefits shall be assessed pursuant to Treasury Formula-DDD(A) in (j) above.

(m) Assets shall be reported as such by the individual and LRR(s). The Department shall place a lien against the individual's assets for the unpaid cost of care and maintenance. A lien shall be placed against the assets of an LRR(s) for any unpaid portion of the LRR's required payments.

(n) The individual and/or the LRR(s) shall supply information to the Department or its agent regarding current and former residences and financial circumstances. Financial information shall include a full disclosure of income, assets, resources and benefits. The individual and/or the LRR(s) shall supply to the Department information regarding insurance coverage, including name and address of any insurance company(s) providing coverage, and the identification number(s) applicable to the individual.

1. The data required by (n) above shall be the primary source of information for the Department's investigation into legal settlement and the ability to contribute toward the care and maintenance of the individual. Where appropriate, the Department shall review other records, such as property tax records and any other source related to the information required.

2. The required information shall be updated annually by the individual and/or his or her LRR(s), or guardian or other person acting on behalf of the individual, using forms provided by the Department. The completed forms shall be returned to the Department or its agent within 20 days of the date mailed.

(o) The individual, his or her LRR(s), legal guardian or other person acting on behalf of the individual shall notify the Department in writing of any change in the information submitted in accordance with (n)2 above.

(p) The individual shall receive a minimum personal needs allowance of \$40.00 per month from the funds received by the representative payee or from the individual's income. The personal needs allowance shall be used by the individual for his or her personal spending.

(q) Purchases made with the individual's funds shall be the personal property of that individual and shall be reserved for that individual's use.

(r) Any family member who is on a fixed income may request to have the travel expenses which he or she incurs to visit the individual residentially placed by the Division covered pursuant to (k) above.

EXAMPLE 1

New Jersey Department of Human Services
Treasury Formula for the Assessment of Charges to Clients and Legally Responsible Relatives
Calculation of the Medical Cost Standard
(Effective January 1, 2000)

COMPUTATION

The Medical Cost Standards computed on this page are to be used for all CY 2000 assessments.

1. Adjustment Months		October, 1998 and October, 1999	
2. Consumer Price Index for Urban Wage Earners and Clerical Workers—Medical Care.			
ADJUSTMENT			
MONTHS			
NEW YORK/ NORTHEASTERN N.J.		PHILADELPHIA METROPOLITAN	
October, 1998:	258.4	252.0	
October, 1999:	266.6	263.5	
Difference:	8.2	11.5	
3. Percentage Change:			
NEW YORK/NORTHEASTERN N.J.		3.17% Increase	
PHILADELPHIA METROPOLITAN		4.56% Increase	
4. Average Regional Percentage Change:		3.87% Increase	
5. Adjustment of Medical Cost Standard (Family of Four):		\$4,486 x 1.0387 = \$4,660	
6. Determination of Medical Cost Standard for Various Family Sizes:			
Family Size	Equivalence Factor	Base (Family of Four)	MCS
2	.68	\$4,660	\$3,169
3	.84	\$4,660	\$3,914
4	1.00	\$4,660	\$4,660
5	1.16	\$4,660	\$5,406
6	1.32	\$4,660	\$6,151
7	1.35	\$4,660	\$6,291

NOTE: To calculate the Medical Cost Standard for family sizes larger than seven members, the Equivalence Factor should be increased by three hundredths (.03) for each additional family member and multiplied by the Medical Cost Standard for a family of four.

EXAMPLE 2

New Jersey Department of Human Services
Treasury Formula for the Assessment of Charges to Clients and Legally Responsible Relatives
Calculation of the Family Maintenance Standard
(Effective January 1, 2000)

COMPUTATION

The Family Maintenance Standards computed on this page are to be used for all CY 2000 assessments.

1. Adjustment Months	October, 1998 and October, 1999
2. Consumer Price Index for Urban Wage Earners and Clerical Workers—All Items.	
ADJUSTMENT	NEW YORK/ NORTHEASTERN N.J.
MONTHS	PHILADELPHIA METROPOLITAN
October, 1998:	170.5
	169.3

October, 1999:	174.5	174.3
Difference:	4.0	5.0
3. Percentage Change:		
NEW YORK/NORTHEASTERN N.J.	2.35% Increase	
PHILADELPHIA METROPOLITAN	2.95% Increase	
4. Average Regional Percentage Change:	2.65% Increase	
5. Adjustment of Medical Cost Standard (Family of Four):	\$21,609 x 1.0265 = \$22,182	
6. Determination of Family Maintenance Standard for Various Family Sizes:		
Family Size	Equivalence Factor	Base (Family of Four) FMS
2	.68	\$22,182 = \$15,084
3	.84	\$22,182 = \$18,633
4	1.00	\$22,182 = \$22,182
5	1.16	\$22,182 = \$25,731
6	1.32	\$22,182 = \$29,280
7	1.35	\$22,182 = \$29,946

NOTE: To calculate the Family Maintenance Standard for family sizes larger than seven members, the Equivalence Factor should be increased by three hundredths (.03) for each additional family member and multiplied by the Family Maintenance Standard for a family of four.

New Rule, R.1998 d.468, effective September 8, 1998.
 See: 30 N.J.R. 1737(a), 30 N.J.R. 2169(a), 30 N.J.R. 3271(a).
 Administrative change.
 See: 30 N.J.R. 4376(a).
 Amended by R.1999 d.405, effective November 15, 1999.
 See: 31 N.J.R. 1890(a), 31 N.J.R. 3632(a).
 Rewrote (k).
 Administrative change.
 See: 31 N.J.R. 4260(a).
 Recodified from N.J.A.C. 10:46-2.5 by R.2000 d.315, effective August 7, 2000.
 See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).

10:46-3.2 Where to apply

(a) Application shall be made to the regional offices of the Division. The initial contact may be made to an intake worker by telephone, in writing or by appearing in person.

(b) If the intake worker determines that the request is for the services of the Division, he or she shall send the person an application.

(c) If the intake worker determines that the request is for services not offered by the Division, the intake worker shall offer to refer the person to an appropriate agency. If the person wishes to pursue the services of the Division, the intake worker shall send an application and information concerning services.

(d) Applications shall be made to a regional office of the Division. Forms and instructions may be obtained by writing to or calling:

Regional Office: Northern Regional Office 973-927-2600 1B Laurel Drive Flanders, NJ 07836	Counties of Jurisdiction: Sussex, Morris, Warren, Passaic, Bergen, Hudson
Upper Central Reg. Office 973-324-2000 59 Main Street West Orange, NJ 07052	Essex, Somerset, Union
Lower Central Regional Office 609-292-4500 240 West State Street PO Box 700 Trenton, NJ 08625-0700	Middlesex, Monmouth, Mercer, Ocean, Hunterdon
Southern Regional Office 856-614-3400 101 Haddon Ave. Suite 17 Camden, NJ 08103-1485	Camden, Atlantic, Gloucester, Cumberland, Salem, Cape May, Burlington

SUBCHAPTER 3. APPLICATION

10:46-3.1 Who may apply

(a) Application for services under this chapter may be made by the following persons:

1. An adult on his or her own behalf;
2. The parents or guardian of a minor;
3. An agency, public or private, on behalf of a minor of whom it has care and custody;
4. A court having jurisdiction over a minor;
5. The guardian of an adjudicated incompetent adult; or
6. A court of competent jurisdiction on behalf of an adult person who appears to be developmentally disabled.

(b) For applicants who apply for Family Support, the requirements of N.J.A.C. 10:46A shall apply.

Amended by R.1995 d.511, effective September 18, 1995.
 See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Case Notes

Court must undertake to determine appropriate disposition, other than incarceration, of developmentally disabled juvenile, and should require the Division of Developmental Disabilities, and others, to assist in the formulation of a treatment plan. State in Interest of R.M., 141 N.J. 434, 661 A.2d 1277 (1995).

(e) If the person for whom eligibility is sought does not live in New Jersey at the time of the application, the applicant shall indicate if they presently receive services from a state agency in the state where the individual resides. To apply for services from the State of New Jersey under

the Interstate Compact on Mental Health (N.J.S.A. 30:7B-1 et seq.), the request shall be sent to the Regional Assistant Director c/o Division of Developmental Disabilities, PO Box 726, Trenton, NJ 08625-0726. The request shall be forwarded to the appropriate regional office for a determination of eligibility. All information required in N.J.A.C. 10:46-3 shall be provided. All notice requirements contained in N.J.A.C. 10:46-4.2 shall be followed.

Amended by R.1995 d.511, effective September 18, 1995.

See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Amended by R.2000 d.361, effective September 5, 2000.

See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

In (d), changed addresses and telephone numbers; and in (e), substituted a reference to the Regional Assistant Director for a reference to the Administrative Practice Officer.

10:46-3.3 How to apply

(a) Application shall be made on forms supplied by the Division.

(b) Minimum information submitted shall include, but not be limited to:

1. Social data, such as name, address, telephone number, social security number, and present living arrangement;
2. Medical information;
3. Present program or employment type;
4. Name, address and telephone number of the individual, if someone other than the person on whose behalf application is being made;
5. Presenting request, such as the specific service(s) that may be desired if known by the individual; and
6. Information for the individual's financial information sheet, including basic information such as social security number and the amount and type of benefits received, and those documents as required in N.J.A.C. 10:46-2.1(f).

(c) Accommodations shall be made available by the Division for applicants who cannot complete the application by him or herself. Applications may be taken in sites other than the regional office. Applications may be taken at any site which will facilitate the determination of eligibility.

(d) It is the responsibility of the applicant to cooperate with the Division in obtaining required records by signing consent to release of information forms and identifying persons or agencies known by the applicant to be in possession of the needed records.

(e) An application shall be deemed complete when there is sufficient information to make a determination of eligibility.

Amended by R.1998 d.468, effective September 8, 1998.

See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

In (b), substituted references to individuals for references to applicants in 4 and 5, and added 6.

SUBCHAPTER 4. DETERMINATION PROCESS

10:46-4.1 Determination

(a) A Division intake worker shall begin a case file upon receipt of an application for determination of eligibility for services.

(b) The intake worker shall assist in completion of the application upon request of the applicant.

(c) Upon receipt of an application, including all necessary documentation, the intake team shall make a recommendation, in writing, based upon specific findings regarding eligibility pursuant to N.J.A.C. 10:46-2.

(d) The intake team may make a decision concerning eligibility. If there is a question of eligibility, the intake team may:

1. Conduct a face to face interview within 30 days; or
2. Refer the matter to a second intake team, when there is disagreement among the first team concerning eligibility.

(e) The determination of the intake team(s) shall be made in writing within 10 working days and shall be based on specific findings.

(f) In cases where the matter is referred for further review, the intake team shall present the case record to the second team. The second team shall review the record and shall make a final determination.

Amended by R.1995 d.511, effective September 18, 1995.

See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Amended by R.1999 d.311, effective September 7, 1999.

See: 31 N.J.R. 95(a), 31 N.J.R. 2633(b).

Rewrote (c) and (d), in (e), deleted "Intake worker or" preceding "intake team(s)", and in (f), substituted "team" for "worker".

10:46-4.2 Notice requirements

(a) Division staff shall notify the applicant, in writing, of the status of the eligibility determination no more than 60 days from receipt of an application for determination of eligibility for services.

(b) If the eligibility decision cannot be made within 60 days from receipt of an application for determination of eligibility for services, the applicant shall be advised, in writing, as to the specific reasons why a determination cannot be made, and shall be informed of the status of the application at least every 30 days. The written notice shall include the name and telephone number of a Division staff member for the person to contact regarding services.

(c) If the applicant is determined eligible, Division staff shall notify the applicant, in writing, within 10 days of the determination and such notice shall include information regarding the service(s) deemed most suitable by the intake worker or the intake team.

i. If the individual is receiving residential services, he or she or the LRR(s) shall be responsible to begin to pay the assessed amount unless otherwise agreed to by the Division. The disputed portion of the assessed amount shall be placed into an escrow account by Department staff until the appeal procedure is complete.

ii. The request for an appeal shall be sent to:

Administrative Practice Officer
Division of Developmental Disabilities
PO Box 708
Trenton, NJ 08625-0708

2. All termination proceedings shall be suspended during the pendency of the appeal process.

3. The Department, or its contracted agent, shall have 30 days from receipt of the request for an appeal to determine if the amount of the financial assessment was properly calculated based upon the documentation and facts presented in the request for an appeal in (b)1 above.

(c) Where an appeal request appears to set forth disputed material facts, the Director may require the individual, legal guardian or LRR(s) and his or her attorney, if any, to attend a pre-transmittal conference conducted by a designated employee of the Division.

1. The Division shall notify the individual, legal guardian or LRR(s) of the date, time and place of the pre-transmittal conference scheduled pursuant to this subchapter. The pre-transmittal conference shall be held no later than 45 days following the recalculation of the assessed amount by the Department or its contracted agent.

2. The purpose of the pre-transmittal conference shall be to clarify disputed material facts and legal issues raised in the appeal request; to review the evidence upon which the individual, legal guardian or LRR(s) bases his or her claim; to answer questions on how the amount due was calculated; and to attempt to resolve the dispute.

3. Where the Division and an individual, legal guardian or LRR(s) cannot reach a resolution of the dispute and the Division representative determines that disputed material facts do exist, the appeal shall be transmitted to the Office of Administrative Law as a contested case. The Division may choose to notify the Office of Administrative Law that it will not be sending a representative to the hearing.

4. If it is apparent to the Division representative that no material facts are in dispute as alleged, the representative shall detail the lack of disputed material facts in writing and ask the Director to decide the appeal based upon a summary review of the record as set forth in (e) below. The Director shall allow the individual, legal guardian or LRR(s) to respond in writing to specify all

disputed material facts and the reasons why a hearing is necessary.

5. No pre-transmittal conference shall be adjourned from the scheduled pre-transmittal conference date except for good cause and upon order of the Director or an employee designated by the Director. All requests for adjournment must be made in writing, with the reasons specified therein, no later than seven days before the date scheduled for the pre-transmittal conference. All requests shall be sent to the following address:

Administrative Practice Officer
Division of Developmental Disabilities
PO Box 708
Trenton, NJ 08625-0708

6. In the event an individual, legal guardian or LRR(s) fails to attend a pre-transmittal conference wherein an adjournment has not been granted, the Division shall determine that the individual, legal guardian or LRR(s) has abandoned the request for a hearing and shall decide the appeal pursuant to (e) below.

(d) Where an appeal request fails to set forth any disputed material fact and fails to set forth any legal issue or any argument on those issues, the request for a hearing or further review shall be denied. The Division shall notify the individual, legal guardian or LRR(s) of this denial and the grounds thereof, and shall notify the individual, legal guardian or LRR(s) that the proposed action shall become effective on such date as the Division shall specify. Such notice shall constitute the final agency decision in the matter.

(e) Where there are no disputed material facts and an appeal request sets forth one or more disputed legal issues and presents arguments on these issues, the Director may consider those legal issues and arguments in a paper review of the written record. There shall be no discovery, but the individual, legal guardian or LRR(s) shall have the opportunity to submit written arguments. The Director shall consider these arguments, if any, the materials presented at the pre-transmittal conference, if any, and all prior documents regarding the determination of fees. The Director shall render a written determination which shall constitute the final agency decision in the matter.

Amended by R.1999 d.405, effective November 15, 1999.
See: 31 N.J.R. 1890(a), 31 N.J.R. 3632(a).

In (b)1, rewrote the first sentence of the introductory paragraph.

APPENDIX

NEW JERSEY DEPARTMENT OF HUMAN SERVICES CALENDAR YEAR 1999

PATIENT PAYMENT RATES FOR STATE INSTITUTIONS AND PROGRAMS (Pursuant to N.J.S.A. 30:4-23 et seq.)

NEW JERSEY DEPARTMENT OF HUMAN SERVICES

CALENDAR YEAR 2000
 PATIENT PAYMENT RATES FOR
 STATE INSTITUTIONS AND PROGRAMS
 (Pursuant to N.J.S.A. 30:4-23 et seq.)

STATE PSYCHIATRIC HOSPITALS

Greystone Park Psychiatric Hospital
 Trenton Psychiatric Hospital
 Ancora Psychiatric Hospital
 Senator Garrett Hagedorn Center for Geriatrics

Arthur Brisbane Child Treatment Ctr.
 Forensic Psychiatric Hospital

STATE DEVELOPMENT CENTERS

Vineland Developmental Center

PATIENT
 RATE
 (PER DIEM)

Blended Rate
 per diem
 Average
 \$382.87

Individual Rate
 \$851.88
 \$368.56

Greenbrook Regional Center
 North Jersey Developmental Ctr.
 Woodbine Developmental Center
 New Lisbon Developmental Ctr.
 Woodbridge Developmental Center
 Hunterdon Developmental Center

Blended
 Rate
 per diem
 Average
 \$313.47

Individual Rate
 \$186.40

SPECIAL RESIDENTIAL SERVICES

New Rule, R.1998 d.468, effective September 8, 1998.
 See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).
 Administrative change.
 See: 30 N.J.R. 4376(a).
 Administrative change.
 See: 31 N.J.R. 4260(a).