

CHAPTER 46

DETERMINATION OF ELIGIBILITY AND CONTRIBUTION TO CARE AND MAINTENANCE REQUIREMENTS

Authority

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

Source and Effective Date

R.1995 d.511, effective August 17, 1995.
See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Executive Order No. 66(1978) Expiration Date

Chapter 46, Determination of Eligibility, expires on August 17, 2000.

Chapter Historical Note

Chapter 46, Application and Admission to Functional Services, was originally filed and became effective prior to September 1, 1969. A new rule, N.J.A.C. 10:46-4.3 was adopted by R.1975 d.158, effective July 1, 1975. See: 7 N.J.R. 226(b), 7 N.J.R. 328(b). Chapter 46 was repealed and replaced by R.1990 d.409, effective September 17, 1990.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. See: Source and Effective Date. See, also, section annotations.

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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 the self-determination project.

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.

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 in-

struction 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.

“Counseling” 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.

“Fixed income” means that the person is retired, receiving disability benefits, receiving public assistance or is not otherwise actively employed.

“Guardianship services” means those services and programs provided by the Division for the purpose of implementing its responsibility toward the individual with developmental disabilities for whom it is performing the services of guardianship of the person.

“Home adaptation” means renovations to the home within resources available to the Division to accommodate a person’s physical or sensory disability.

“Income” means wages, benefits, interest earned, pensions, annuity payments, and support from a third party pursuant to statute, rule or order or by contract or any other receipt pursuant to N.J.S.A. 30:4-25.1a(7). Income does not include income earned by an individual receiving services which is below the minimum wage rate.

“Intake team” means at least two staff members, one who is the intake worker and one who is a psychologist, who are responsible to determine if the eligibility criteria contained in N.J.A.C. 10:46 have been met.

“Intake worker” means a professional employee of the Division who completes an appropriate program of training as provided by the Division. The program of training at a minimum includes orientation and instruction in identification of developmental disabilities, use of evaluation tools and interaction techniques.

“Legally responsible relative (LRR)” means a spouse, mother, father or adult child of an individual receiving services who is statutorily responsible for the cost of care and maintenance pursuant to N.J.S.A. 30:4-66.

“Marginal income” means the total amount remaining after the cost of the FMS is subtracted from the disposable income.

“Medical cost standard (MCS)” means the minimum amount needed to meet a family’s medical costs. The MCS establishes a maximum limit on the charges to be included in the FMS. See N.J.A.C. 10:46-2.5.

“Medical information” means reports that have been provided by licensed practitioners which demonstrate the existence of a developmental disability as well as the individual’s current physical condition and significant medical history.

“Mental illness” means a current substantial disturbance of thought, mood, perception or orientation which significantly impairs judgement, behavior or capacity to recognize reality but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome or developmental disability. (P.L. 1987, c.116.)

“Mental impairment” means impairment in cognitive, neurological, sensory or cerebral functioning resulting from other than mental illness.

“Mental or physical impairment” means impairment in cognitive, neurological, sensory, cerebral or motor functioning resulting from other than mental illness.

“Other responsible party” means representative payee, trustee or executor, or guardian of the property, as applicable.

“Personal care” means assistance in essential daily activities such as bathing, dressing, transferring, toileting, feeding, grooming and hygiene.

“Physical impairment” means an impairment in motor functioning resulting from other than mental illness.

“Plan to achieve self support (PASS)” means a written course of action approved by the Social Security Administration in accordance with 20 C.F.R. § 416.1226. A PASS allows an individual to set aside income and/or resources for a specified period of time for a work goal. Resources set aside under a PASS are not counted toward the \$2,000 resource limit for SSI eligibility purposes. If income is set aside under a PASS, it is not counted in determining the SSI benefit payment amount. A PASS may be used to set aside money for education, vocational training, or starting a business.

“Primary residence” means the individual’s living arrangement as follows: if he or she lives independently; if the individual resides with his or her family; or the residence of his or her family that is the home of record for official purposes (that is, voter registration, income tax, census, etc.). Second homes or privately made residential placements cannot be considered to be a primary residence.

“Regional Administrator” means the staff member with administrative authority over community operations within several counties who oversee intake teams.

“Rehabilitation technology” means services which provide a systematic application of engineering methodology or scientific principles to meet the needs of, and address the barriers confronted by, individuals in areas that include education, employment, transportation, independent living, and recreation.

“Resident” means a person who is a domiciliary of New Jersey for other than a temporary purpose and who has expressed an intention to have his or her primary residence in the state.

“Respite services” means a short-term arrangement to provide relief to the primary care giver(s) from continuous care of the person.

“Self-determination” means the Division’s pilot program which allows an individual with developmental disabilities, in connection with his or her legal guardian, if any, family and selected friends to select appropriate services and supports and determine how an individual budget, as well as individu-

al, family and community resources, can be used to develop a living arrangement, such as shared living, supported living and other individualized housing options, and allow the individual to be a greater part of their community.

“Supported employment” means paid employment for persons with developmental disabilities who, because of his or her disability, need ongoing support to perform in a work setting. Supported employment is conducted in work sites in which people without a disability are employed.

“Supported living” means a form of community residence as defined at N.J.A.C. 10:44A-1.3 in which the individual is responsible to pay for his or her room and board.

“Support services” mean services provided to developmentally disabled persons and their families that are generally of short term duration or are a specific type of care, treatment, training, assistance or device that will help the individual avoid the need for more intensive care which would require coordination of a sequence of generic or specialized services.

“Team” means two or more Division employees and/or professionals holding appropriate certification and/or licensure in their respective fields who review recommendations regarding eligibility. The professions represented on the team may vary according to the presenting need for services. At least one member of the team shall have the following qualifications:

1. A doctor of medicine or osteopathy;
2. A registered nurse; or
3. A professional program staff person who is licensed, certified or registered, as applicable. If the professional program staff do not fall under the jurisdiction of State licensure, certification or registration requirements, he or she shall meet the following qualifications.
 - i. To be designated as an occupational therapist, an individual shall be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body;
 - ii. To be eligible as an occupational therapy assistant, an individual shall be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or other comparable body;
 - iii. To be eligible as a physical therapist, the individual shall be eligible for certification as a physical therapist by the American Physical Therapy Association or other comparable body;
 - iv. To be eligible as a physical therapy assistant, an individual shall be eligible for registration by the American Physical Therapy Association or be a graduate of a two-year college level program approved by the American Physical Therapy Association or other comparable body;

v. To be designated as a psychologist, an individual shall have at least a master’s degree in psychology from an accredited school;

vi. To be designated as a social worker, an individual must:

A. Hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or

B. Hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body;

vii. To be designated as a speech language pathologist or audiologist, an individual shall:

A. Be eligible for a certificate of clinical competence in Speech Language Pathology or Audiology granted by the American Speech Language Hearing Association or other comparable body; or

B. Meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification;

viii. To be designated as a professional recreation staff, an individual shall have a bachelor’s degree in recreation or in a specialty area such as art, dance, music or physical education;

ix. To be designated as a professional dietician, an individual shall be eligible for registration by the American Dietetics Association;

x. To be designated as a human services professional, an individual must have at least a bachelor’s degree in a human services field (including, but not limited to: sociology, special education, rehabilitation counselling and psychology).

“Termination of services” means action taken by the Division under the circumstances set forth in N.J.A.C. 10:46-6 when an individual, LRR(s) or any other responsible party fails to make the assessed payment.

“Treasury Formula-DDD” means the method of determining the financial ability of an individual or LRR(s) to pay for care and maintenance for an individual receiving services, in accordance with N.J.A.C. 10:46-2.5.

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.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).

Inserted “Assets or resources”, “Assignment”, “Burial fund”, “Challenge grant”, “Consumer price index (CPI)”, “Cost of care and maintenance”, “Dependent”, “Disposable income”, “Family”, “Family maintenance standard (FMS)”, “Income”, “Legally responsible relative (LRR)”, “Marginal income”, “Medical cost standard (MCS)”, “Other responsible party”, “Self-determination”, “Supported living”, “Termination of services” and “Treasury Formula-DDD”.

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

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

Inserted "Assistive devices", "Family support", "Home adaptation", "Personal care", "Regional Administrator", "Rehabilitation technology", "Respite services", and "Supported employment".

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

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

Inserted "Fixed income" and "Plan to achieve self support (PASS)".

Amended by R.2000 d.315, effective August 7, 2000.

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

Inserted "Primary residence".

Case Notes

Division of Developmental Disabilities should have promulgated a rule about eligibility standards before using the standards. T.L. v. Division of Developmental Disabilities, Dept. of Human Services, 243 N.J.Super. 476, 580 A.2d 272 (A.D.1990).

Disability was "chronic" despite the fact that the question about the man's ability was recent. T.L. v. Division of Developmental Disabilities, Dept. of Human Services, 243 N.J.Super. 476, 580 A.2d 272 (A.D.1990).

Applicant whose IQ exceeded cutoff level was ineligible for developmental disability services. R.S. v. Department of Human Services, 96 N.J.A.R.2d (DDD) 66.

Profoundly retarded and multiply handicapped man whose day program placement was insufficient to meet his needs would be allowed to transfer to more suitable program. S.G. v. Division of Developmental Disabilities, 96 N.J.A.R.2d (DDD) 51.

Applicant for services qualified as developmentally disabled and thus was entitled to those services. J.D. v. Division of Developmental Disabilities, 96 N.J.A.R.2d (DDD) 32.

Profoundly retarded man could not change domicile. K.H. v. Division of Developmental Disabilities Department of Human Resources, 93 N.J.A.R.2d (DDD) 1.

mental retardation shall be an IQ score of less than 70, demonstrated as follows:

1. The person has an IQ score of 60 to 69; and
 - i. There is an impairment in adaptive behavior; and/or
 - ii. There is a chronic medical problem; and/or
 - iii. There is an impairment in behavioral, sensory or motor function and in the ability to perform basic skills; or
2. The person has an IQ score of 59 or below.

(f) At the time of application, the individual, legal guardian and/or his or her LRR(s) shall be advised by Division staff that the Division shall conduct an investigation into the ability of the individual and/or LRR(s) to pay for services, if the individual is ultimately determined eligible and offered a residential placement. Individuals applying for support services only, in accordance with N.J.A.C. 10:46-2.3(b) through (d), shall not be required to submit financial information or pay a fee.

1. The application shall clearly advise the individual, legal guardian, LRR(s) and other responsible parties that a determination of the ability to pay and agreement to pay shall be part of the eligibility process.

2. The application shall clearly advise that if it is determined that there is no ability to pay but all other eligibility criteria are met, eligibility shall not be denied.

3. The application shall clearly advise the individual, legal guardian, LRR(s) and other responsible parties that the ability to pay shall be reevaluated no less than annually, unless changed circumstances warrant more frequent evaluation, as set forth at N.J.A.C. 10:46-2.4(o).

4. The regional office of the Division shall provide to the individual and/or legal guardian, as part of the application, a financial information sheet with appropriate instructions at the time of application.

5. The individual, legal guardian, or other responsible parties shall provide all documents requested, including tax returns.

(g) An investigation into the ability of the individual and/or his or her LRR(s) and other responsible parties to pay for services shall occur after the Division has determined that the criteria for eligibility for functional services have been met and an offer of residential placement has been made. The individual, LRR(s) or other interested parties shall be notified in writing of their financial obligation by the Division, as set forth in (a) and (f) above.

(h) Whenever possible, the determination of the ability to pay and the assessed amount shall be completed before the individual is residentially placed by the Division.

SUBCHAPTER 2. ELIGIBILITY CRITERIA

10:46-2.1 General eligibility

(a) An individual determined to be developmentally disabled as defined in N.J.A.C. 10:46-1.2, and who is a resident of the State of New Jersey, shall be eligible for services of the Division contingent upon cooperation with the financial assessment investigation and payment of any fees assessed.

(b) With regard to a child, the substantial functional limitation(s) shall be evaluated according to expectations based upon the child's chronological age.

(c) With regard to an individual who has entitlements to a free public education pursuant to N.J.S.A. 18A:1-1 et seq., who is otherwise eligible, the expenses of educational and related services shall not be borne by the Division.

(d) If a determination has been made by a local district board of education that an individual's educational needs can only be appropriately served in a living situation other than the individual's home, then the expenses of that residential placement shall not be borne by the Division.

(e) For applicants who present documentation of mental retardation, the criteria for establishing the presence of

(i) Individuals assigned to a waiting list for Division residential services and/or their legal guardians shall complete the financial information sheet included in the application. While an individual is on the waiting list, no one shall be required to pay the cost of care and maintenance. On the date the individual is residentially placed by the Division, the requirement to pay begins. Once a residential placement is offered, and prior to actual placement, the individual, legal guardian and/or LRR(s) shall complete the Client Financial Data Packet (CFDP) and/or Legally Responsible Relative Financial Data Packet (LRRFDP), pursuant to N.J.A.C. 10:46-5.1. A specific financial assessment shall be completed no more than 120 days from receipt of the CFDP and/or LRRFDP and required documentation.

(j) Should an individual be residentially placed by the Division on an emergency basis, the CFDP and/or LRRFDP required for a financial determination is due at the regional office for the area in which the placement is located no more than 28 days following the date of placement. If the information is not provided within the required time frames, the Division may consider the individual's circumstances on a case-by-case basis. Failure to provide the required documentation may result in the Department seeking any of the remedies set forth in N.J.A.C. 10:46-6.1.

(k) For individuals already admitted to Division residential services prior to September 8, 1998, the Division shall review available financial data and request additional financial information as necessary. Should a request for additional information be made, the time frames contained in N.J.A.C. 10:46-5.1(a) 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.1998 d.468, effective September 8, 1998.
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

In (a), added "contingent upon cooperation with the financial assessment investigation and payment of any fees assessed" at the end; and added (f) through (k).

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).

Profoundly retarded man could not change domicile. K.H. v. Division of Developmental Disabilities Department of Human Resources, 93 N.J.A.R.2d (DDD) 1.

10:46-2.2 Residency

(a) It shall be the responsibility of the individual applying for eligibility, or his or her legal guardian, to establish residency in the State of New Jersey. Residency shall be determined in the following manner:

1. A competent individual applying for eligibility shall be a resident of the State if he or she lives in the State as his or her primary residence.

2. For minors, who are under 18 years of age, the place where the parents or legal guardian live shall determine the residence of the minor.

3. For adults, who are 18 years and older, incapacitated and have a general guardianship, the incapacitated individual's residence will be that of the legal guardian unless the conditions listed in (a)3i below have been met. This paragraph also applies to persons placed as minors upon reaching 18 years of age.

i. For incapacitated individuals applying for services whose legal guardian lives outside New Jersey, the guardian shall document that the incapacitated individual has established residency by establishing:

(1) That the incapacitated individual lives in New Jersey;

(2) That the incapacitated individual did not relocate to New Jersey for the purpose of obtaining services from the State of New Jersey; and

(3) Through good faith, that the incapacitated individual applying for services intends to live in New Jersey. Objective factors that provide evidence of good faith include:

(A) The length and likely duration of the incapacitated individual's residence in New Jersey (that is, the individual has resided in New Jersey for more than two years and he or she expresses no plans to move from New Jersey);

(B) The incapacitated individual's financial or other connections to the locale (that is, the individual is employed locally, has local bank accounts, attends religious services); and

(C) The incapacitated individual's subjective attachment to his or her living arrangements (that is, friends in the area, use of community recreational facilities).

(b) If the incapacitated individual is admitted to services and the guardian moves out-of-State, the incapacitated individual may remain in Division services. Additionally, the legal guardian is free to request a discharge from services or an interstate transfer.

(c) If any person has been placed in the State of New Jersey and that placement has been funded totally or partially by a public or private agency in another state, that person shall not be considered a resident of New Jersey.

(d) For persons applying for services whose legal guardian is in the U.S. military service, residency may be established when the guardian declares his or her home of record to be New Jersey.

(e) For individuals applying for services who are not U.S. citizens, the following must be satisfied to establish residency:

1. The individual must be a permanent alien resident, or his or her legal guardian must be a U.S. citizen or a permanent alien resident; and

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, programatically 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 programatically 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.

(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.

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.

(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.

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.

(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	NEW YORK/ NORTHEASTERN N.J.	PHILADELPHIA METROPOLITAN
MONTHS		
October, 1998:	258.4	252.0
October, 1999:	266.6	263.5
Difference:	<u>8.2</u>	<u>11.5</u>
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.	PHILADELPHIA METROPOLITAN
MONTHS		
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:			
5. Adjustment of Medical Cost Standard (Family of Four):			
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 201-927-2600 1B Laurel Drive Flanders, NJ 07836	Counties of Jurisdiction: Sussex, Morris, Warren, Passaic, Bergen, Hudson
Upper Central Reg. Office 201-379-1700 65 Springfield Avenue Springfield, NJ 07081	Essex, Somerset, Union
Lower Central Reg. Office 609-292-4500 222 S. Warren St. Trenton, NJ 08625	Middlesex, Monmouth, Mercer, Ocean, Hunterdon
Southern Regional Office 609-757-4700 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 Administrative Practice Officer, Division of Developmental Disabilities, PO Box 726, Trenton, New Jersey 08625. The request shall be forwarded to the appropriate regional office for a determination of eligibility. All information required in N.J.A.C. 10:46-3.3 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).

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 after initial contact with the intake worker.

(b) If the eligibility decision cannot be made within 60 days after the initial contact, 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.

1. If the most appropriate service as determined by the Intake worker or the Intake team is not immediately available, the Division shall provide an alternate service.

2. The Division shall also place the eligible persons name on a waiting list in accordance with N.J.A.C. 10:46C.

(d) If the individual is determined ineligible, the Division shall notify the individual in writing within 14 days of the determination. Such notification shall include specific criteria that were not met by the individual, and shall also include information regarding the individual's right to appeal the determination pursuant to N.J.A.C. 10:48-1. The individual shall bear the burden of proof and the burden of persuasion.

(e) The statement of eligibility shall advise the individual, legal guardian and other responsible parties that payments for the cost of care and maintenance shall be required by the individual and/or LRR(s) depending on their financial ability to pay pursuant to the Treasury Formula-DDD.

(f) The statement of eligibility shall indicate that admission to residential services shall be contingent upon the completion of the financial evaluation to determine the required contribution towards the cost of care and maintenance based upon the financial ability to pay as determined by the Treasury Formula-DDD in accordance with N.J.A.C. 10:46-2.5.

(g) The specific amount to be paid shall be contained in a separate written notice which shall inform the individual, legal guardian and LRR(s) of the figures used and how the amount due was calculated.

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.1998 d.468, effective September 8, 1998.

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

In (d), substituted references to individuals for references to applicants throughout, and substituted a reference to 14 days for a reference to 10 working days in the first sentence; and added (e) through (g). Amended by R.1999 d.311, effective September 7, 1999.

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

In (b), added a second sentence.

Case Notes

Eligibility application may be signed by anyone providing for care and custody of a child if the parent or guardian is not available. In re: Guardianship Services Regulations, 198 N.J.Super. 132, 486 A.2d 888 (App.Div.1984), affirmed as modified 103 N.J. 619, 512 A.2d 453 (1986).

SUBCHAPTER 5. OFFERS BY THE DIVISION

Authority

N.J.S.A. 30:1-12, 30:4-25 et seq., 30:4-25.9, 30:4-60 et seq. and P.L. 1995, c.155.

Source and Effective Date

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

10:46-5.1 Offer of placement

(a) At the time an offer of residential placement is made, the Client Financial Data Packet (CFDP) and/or Legally Responsible Relative Financial Data Packet (LRRFDP) shall be provided to the individual, legal guardian, LRR(s) and/or other responsible parties. If the completed CFDP and/or LRRFDP is not received within 28 days of the date of the request, the Division shall send, in writing, a reminder for the requested information. The reminder shall indicate that if no response is provided within 14 days, the offer shall be deemed to be rejected.

(b) If an individual is placed on an emergency basis, the CFDP and/or LRRFDP required for a financial determination shall be provided to the regional office in which the placement is located no more than 28 days following the date of placement.

(c) The Division or its agent will check the CFDP and/or LRRFDP for completeness and advise the preparer of any required additional documentation. Such documentation shall be provided to the Division within seven days of the date of notification of the required additional documentation.

(d) When a completed CFDP and/or LRRFDP is received, the individual, legal guardian, LRR(s) and/or other responsible parties shall be notified in writing of the specific amount to be paid monthly no later than 120 days following receipt of a completed CFDP and/or LRRFDP.

SUBCHAPTER 6. TERMINATION

Authority

N.J.S.A. 30:1-12, 30:4-25 et seq., 30:4-25.9, 30:4-60 et seq. and P.L. 1995, c.155.

Source and Effective Date

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

10:46-6.1 Notice of termination

(a) While N.J.S.A. 30:4-25.9 provides the Division with the ability to terminate any services to the eligible individual within 60 days if the conditions of eligibility are not complied with, when the assessed contribution to the cost of care and maintenance is not received in a timely fashion, in all instances the Division will take a number of interim steps prior to initiating such final action as delineated in this section.

(b) When the required monthly payment has not been received by 60 days past the due date, the Division shall notify, in writing, the individual, LRR(s), other responsible parties and, if different, the individual's legal guardian, that the payment is at least 60 days past due.

1. The Division shall require all payments to be made within 10 days of the date of the notification or negotiate a schedule of repayments.

2. If all payments due are not received within the 10 day or negotiated period, the Division shall notify, in writing, the individual, his or her LRR(s), other responsible parties and, if different, his or her legal guardian that the Division may initiate termination, collection or other appropriate action. The notice shall include information regarding the right to appeal this determination in accordance with N.J.A.C. 10:46-7.

(c) A notice shall be sent within 30 days of the date specified by the Division in accordance with (b) above to the provider of the placement, consistent with the terms of this subchapter, indicating that the Division may initiate termination, collection or other appropriate action due to the lack of payment.

(d) When there is a representative payee who has not paid the assessed amount, a notice shall be sent to the Social Security Administration or other agency or person administering benefits that the individual is in jeopardy of having his or her placement terminated. The agency or person administering benefits shall be advised that the representative payee has not made payment for services, including food and shelter.

(e) If the full or negotiated payment is received prior to termination of placement, placement shall continue uninterrupted.

(f) Should the individual and/or LRR(s) request a revision of the amount to be paid or notify the Division of an inability to pay in accordance with N.J.A.C. 10:46-2.4(n), the Division shall investigate the circumstances.

1. The notice that the Division may initiate termination, collection or other appropriate action shall remain in effect while the Division conducts the investigation.

2. While the Division is conducting the investigation, the Division shall continue funding the placement until a determination whether an adjustment in the amount to be paid is made.

(g) If the individual is in a residential placement and the individual is capable of paying for the cost of care and maintenance but has refused to do so, a notice shall be sent by the Division establishing a date certain upon which funding of that program shall cease.

1. If the individual is incapable of paying and the LRR(s) refuses to pay the assessed amount, the Department shall file a collection or other appropriate action to recover the portion of cost which the LRR(s) is responsible to pay.

(h) If a competent individual is in a residential placement and is refusing to pay the assessed amount, the regional staff shall meet with the individual and other interested parties no fewer than 30 days before the scheduled date for services to end to discuss the individual's future living arrangements. The individual and other interested parties shall again be requested to make full payment at that meeting. If the competent individual who is capable of paying for the cost of services will not make payment, the Division may seek appropriate relief, including, but not limited to, a court order of removal, collection, wage garnishment and/or other appropriate action for failure to make payments.

(i) If the LRR(s) will not make payment, the Division shall, if appropriate, seek to return a minor child to the LRR(s) residence. If returning the individual home is deemed not feasible by the Division due to the risk of abuse, neglect or exploitation, the Division shall initiate proceedings in Superior Court to obtain payment from the LRR(s) in addition to other available actions.

(j) Termination procedures shall be deferred, if appropriate, when there is an unavoidable change of representative payees or other responsible parties. Examples of this would be the death of a LRR or representative payee, the transfer of representative payee, or the appointment of or change in a legal guardian. In such instances, the Division shall be notified of this change as soon as possible.

(k) Where the individual receiving services has a court appointed legal guardian, but controls his or her own funds and refuses to make the assessed payments, the Division may seek, in addition to other available remedies, to have a guardian of the property appointed.

SUBCHAPTER 7. APPEALS PROCESS

Authority

N.J.S.A. 30:1-12, 30:4-25 et seq., 30:4-25.9, 30:4-60 et seq. and P.L. 1995, c.155.

Source and Effective Date

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

10:46-7.1 Appeals

(a) If the individual is determined by the Division not to meet the criteria for eligibility prior to the financial determination, the Division shall notify the individual in writing within 30 working days of the determination.

1. The notice shall include specific criteria which were not met by the individual.

2. The notice shall include information regarding the individual's right to appeal the determination of ineligibility pursuant to N.J.A.C. 10:48-1. Such appeals shall be deemed to be contested matters.

(b) If the individual is determined by the Division to be eligible for functional services but the individual, LRR(s) or other responsible party disagrees with the amount that the Division determines shall be paid, the individual or his or her legal guardian or LRR(s) shall appeal within 30 days from the date of the letter notifying him or her of the calculated amount in accordance with the procedure set forth below.

1. The request for an appeal shall clearly identify the individual receiving services, the provider agency or devel-

opmental center where the individual resides and the specific issue under appeal. In addition, the appeal shall specify all material facts which the individual, legal guardian or LRR(s) or his or her attorney disputes. Requests for an appeal shall also set forth all legal issues which the individual, legal guardian or LRR(s) is raising on appeal and shall present all arguments on those issues which the individual, legal guardian or LRR(s) wishes the Division to consider. The individual, legal guardian or LRR(s) shall explain in detail why the calculated amount is inaccurate.

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

**PATIENT
RATE
(PER DIEM)
Blended Rate
per diem**

Ancora Psychiatric Hospital
Senator Garrett Hagedorn Center for Geriatrics

Average
\$382.87
Individual Rate
\$851.88
\$368.56

Arthur Brisbane Child Treatment Ctr.
Forensic Psychiatric Hospital
STATE DEVELOPMENT CENTERS

Vineland Developmental Center
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

SPECIAL RESIDENTIAL SERVICES

Individual Rate
\$186.40

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).