

## CHAPTER 140

## PERSONAL ASSISTANCE SERVICES PROGRAM

## Authority

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

## Source and Effective Date

R.1997 d.361, effective August 11, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

## Executive Order No. 66(1978) Expiration Date

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

## Chapter Historical Note

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

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

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

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 10:140-1.1 Purpose

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Designated the existing paragraph as (a); in the first sentence, substituted "within their community" for "and assure quality of service"; rewrote the second sentence; and added clauses 1 and 2.

## 10:140-1.2 Scope

These rules apply to all activities and persons participating in the Personal Assistance Services Program, including, but not limited to, the designated State contracting agency, applicants, consumers, personal assistants, and county agen-

cies administering the program, and subcontracted provider agencies.

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Substituted "Personal Assistance Services Program" for "Personal Attendant Services Program", "consumers" for "recipients" and "personal assistants" for "personal attendants".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Changed the section name; in (a)14, substituted "Shall dismiss" for "To terminate" and "assistants who" for "attendants that"; and substituted "shall" for "to" and "personal assistants" for "personal attendants" throughout the section.

### 10:140-1.4 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Department” means the Department of Human Services.

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

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

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

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

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

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

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

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

with mobility, including driving and the use of public or para-transportation systems.

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

“Program” means the Personal Assistance Services Program.

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

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

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

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

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Added definitions for “Administrative hearing”, “Administrative review”, “Adverse agency action”, “Community-based independent living”. “County designated agency”, “Designated training agency”, “Direct services”, “Education or training”, “Emancipated minor”, “State Program Administrator”, “Time Sheets”, and “Training”; amended definitions for “Advisory Council”, “Applicant”, “Assessor”, “Available”, “Commissioner”, “Consumer”, “Department”, “Designated State agency”, “Employment”, “Personal assistant”, “Personal assistance service”, “Program”, “Relative”, “Resident”, “Self-directing or self-directed”; and deleted definitions for “Designated county agency”, “Eligible individual”, “Program administrator” and “Values of the applicant or consumer”.

Amended by R.2002 d.163, effective June 3, 2002.  
See: 34 N.J.R. 11(a), 34 N.J.R. 1929(a).

In “Designated State Agency”, substituted “Division of” for “State Office on” preceding “Disability Services”.

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

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

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Rewrote (a) and (b); and inserted (b)1, (b)2, and (c).

**SUBCHAPTER 2. ELIGIBILITY****10:140-2.1 Eligibility standards**

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

1. An eligible applicant or consumer shall be from the age of 18 through the age of 65 and shall have a chronic physical disability;
2. An eligible applicant or consumer shall be a resident of the State of New Jersey;
3. An eligible applicant or consumer shall be in need of personal assistance services pursuant to a written personal assistance services plan, prepared by the applicant or consumer, and approved by the staff of the county designated agency;
4. An eligible applicant or consumer shall be one who is self-directed and capable of managing and supervising his or her personal assistance services, as determined by an assessment conducted by an assessor;
5. A relative or other informal caregiver shall not be available to provide the services that the eligible applicant or consumer needs;

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

In (a), added the exception; in (a)4, inserted "self-directed and"; rewrote (a)6; and substituted "applicant or consumer" for "individual" and "personal assistance" for "personal attendant" throughout the section.

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

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

1. The applicant or consumer must initiate the request for an exception;
2. The county designated agency shall review the request on a case-by-case basis and make a recommendation to the State Program Administrator as to whether such exception should be allowed; and
3. The State Program Administrator shall make the determination whether to allow the exception. Upon receiving notice from the State Program Administrator, the county designated agency shall notify the applicant or consumer of the determination.

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

1. Give consideration to the request presented by the applicant or consumer;
2. Require a showing of unusual or emergent circumstances;

3. Give consideration based on funding available;
4. Give consideration to other services received by the consumer or applicant through other funding sources; and
5. Give consideration to the facts presented on a case-by-case basis.

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Inserted internal and N.J.A.C. references; and substituted "personal assistance" for "personal attendants", "consumer" for "individual", and "county designated agency" for "designated county agency" throughout the section.

### 10:140-3.5 Services

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

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

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

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

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

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Rewrote (b)2; inserted (b)4, (c) and (d); and substituted "Personal Assistance Services" for "Personal Attendant Services", and "consumer" for "individual" throughout the section.

### Case Notes

Updating financial records not personal services; filing overdue tax returns warranted additional hours. C.D. v. Morris County Department of Human Services' Personal Attendant Services Program, 93 N.J.A.R.2d (DYF) 1.

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

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

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

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

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

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

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

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

1. Personal assistance services in the form of maintaining essential communications, advocacy, household, and home maintenance services shall be continued on a limited basis only when other relatives or informal caregivers are not available.

2. Personal care services shall not be provided under the Personal Assistance Services Program during a period of hospitalization.

3. In granting an exception, a temporary modification of the consumer plan of service shall be made with the county designated agency to reflect current needs.

Amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Inserted N.J.A.C. references; in (a)3, added the second sentence; inserted new (b); recodified (b) as (c); and added (d).

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

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

1. Requests for exceptions to N.J.A.C. 10:140-3.5(a) through (d) shall be made in writing.

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

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Inserted N.J.A.C. references; added (c) and (d); and substituted "county designated agency" for "designated county agency" throughout the section.

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

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

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

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

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

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

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

New Rule, R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Former N.J.A.C. 10:123A-3.8, "Termination of service", recodified to N.J.A.C. 10:123A-3.9.

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

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

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

1. County designated agencies shall implement an initial suspension period, not to exceed 60 days, based on a request by an eligible consumer.

2. Prior to completion of the initial suspension period, the eligible consumer may request an extension, not to exceed a total of 90 days.

3. The county designated agency shall review the request for an extension and shall make a determination on whether to grant an extended suspension beyond the initial period or to terminate services. All decisions will be made on a case-by-case basis.

4. At the end of a 90-day suspension period, the county designated agency shall determine whether the consumer's services are to be resumed or terminated, and provide appropriate written notification to the consumer regarding the decision rendered.

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

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

1. In determining whether services will be involuntarily suspended or involuntarily terminated, the county designated agency shall consider the current and future availability of alternative means of funding the services.

2. Consumers shall receive written notice of involuntary suspensions or terminations due to State mandated reductions in program funding, in accordance with N.J.A.C. 10:140-3.9(c).

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

1. Failure to submit information necessary to determine or reaffirm social and financial program eligibility in a timely fashion in accordance with N.J.A.C. 10:140-3.2 and 3.3(d);

2. Failure to pay the appropriate consumer fee or to sign time sheets as specified in N.J.A.C. 10:140-4.3(b) and (g), respectively;

3. Failure to comply with the training requirements specified in N.J.A.C. 10:140-6.1;

4. Abuse or misuse of personal assistance services or personal assistants as verified by the county designated agency;

5. Continued non-acceptance and/or dismissal of personal assistants without proper justification;

6. Failure to meet program eligibility requirements pursuant to N.J.A.C. 10:140-2.1, unless an exception has

been granted in accordance with N.J.A.C. 10:140-2.2 and 2.3;

7. Failure of the consumer to manage personal situations which result in placing the health or welfare of a personal assistant at increased risk, as determined by the county designated agency; or

8. Duplication of personal assistance services through other service programs or funding sources as verified by the county designated agency.

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

1. The severity of the situation;

2. Any recurrences or patterns in the situation; and

3. The effort and willingness demonstrated by the consumer to resolve the issue or to mediate the problem.

Recodified from 10:123A-3.8 and amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Inserted new (b) and (d); recodified (b) as (c) and (c) as (e); and added (f). Former N.J.A.C. 10:123A-3.9, "Adverse agency actions", recodified to N.J.A.C. 10:123A-3.10.

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

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

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

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

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

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

claim of inaccuracy or misapplication by the county designated agency.

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

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

State Program Administrator  
Personal Assistance Services Program  
Division of Disability Services  
PO Box 700  
Trenton, New Jersey 08625-0700  
1-888-285-3036

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

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

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

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

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

Recodified from 10:123A-3.9 and amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

In (a), inserted “, suspension”, and substituted “prescribed time frames” for “a reasonable time”; in (b), inserted “, suspended” and “unless waived in accordance with N.J.A.C. 10:140-3.9(c)”, and substituted “county designated agency” for “county office”; rewrote (d) and (e); inserted new (f); and recodified (f) and (g) as (g) and (h). Former N.J.A.C. 10:123A-3.10, “Hearings and appeals”, recodified to N.J.A.C. 10:123A-3.11.

Amended by R.2002 d.163, effective June 3, 2002.

See: 34 N.J.R. 11(a), 34 N.J.R. 1929(a).

In (d), substituted “Division of” for “State Office on” preceding “Disability Services” in the address.

### 10:140-3.11 Hearings and appeals

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

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

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

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

State Program Administrator  
Personal Assistance Services Program  
Division of Disability Services  
PO Box 700  
Trenton, New Jersey 08625-0700  
1-888-285-3036

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

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

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

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

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

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

Recodified from 10:123A-3.10 and amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Inserted (a)1 and (a)2; in (b), amended the Division's address; added (d) through (g); and substituted "administrative hearings" for "hearings" throughout the section. Former N.J.A.C. 10:123A-3.11, "Confidentiality and disclosure of information", recodified to N.J.A.C. 10:123A-3.12.

Amended by R.2002 d.163, effective June 3, 2002.

See: 34 N.J.R. 11(a), 34 N.J.R. 1929(a).

In (b), substituted "Division of" for "State Office on" preceding "Disability Services" in the address.

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

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

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

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

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

1. The release of statistical or summary data or information in which applicants or consumers cannot be identified;
2. The release to the Attorney General or other legal representative of this State of information or files relating

to the claim of any applicant, consumer or his or her authorized agent challenging the Program's statutory or regulatory authority or a determination made pursuant thereto; or

3. The release of information or files to the State Treasurer or to his or her duly authorized representatives for an audit, review of expenditures, or similar activity authorized by law.

Recodified from 10:123A-3.11 and amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

In (a), substituted "identifiable personal" for "personally identifiable", and added N.J.A.C. reference; in (b), added "Such purposes shall include, but not be limited to, the following:"; and inserted (b)1 through (b)4.

## SUBCHAPTER 4. CONTRACTING AND FEES

### 10:140-4.1 Contracting for services

(a) The county designated agency shall either:

1. Contract with other service providers, including, but not limited to, private individuals, for the provision of personal assistance services; or

2. Employ individuals as personal assistants where appropriate and develop employment policies consistent with N.J.A.C. 10:140-5 for individuals working as personal assistants.

Amended by R.1997 d.361, effective September 2, 1997.

See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Substituted "county designated agency" for "designated county agency", "personal assistance services" for "personal attendant services", and "personal assistants" for "personal attendants" throughout the section.

### 10:140-4.2 Provider fees

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

(b) The reimbursement for personal assistance services shall not exceed \$13.00 per hour on weekdays and \$15.00 per hour on weekends and holidays.

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Rewrote (a) through (c); and added (d).  
Amended by R.1999 d.368, effective October 18, 1999.  
See: 31 N.J.R. 1439(a), 31 N.J.R. 3089(b).

In (b), increased the maximum weekday reimbursement from \$11.00 to \$12.00 per hour.

Amended by R.2002 d.163, effective June 3, 2002.

See: 34 N.J.R. 11(a), 34 N.J.R. 1929(a).

In (b), substituted "\$13.00" for "\$12.00" and "\$15.00" for "\$14.00".

**10:140-4.3 Consumer fees**

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

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

(c) The consumer sliding fee scale schedule at (d) below shall be applied to eligible consumers. For the purposes of assessing consumer fees under this scale, the county designated agency shall calculate family size and annual gross income pursuant to the Social Services Block Grant Act (P.L. 97-35, 42 U.S.C. §§ 1397 et seq.). The percentage column indicated on the fee scale denotes the percentage of the total cost of the service to be paid by the consumer.

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

**CONSUMER SLIDING FEE SCALE**

<u>Single (One Person)</u>	<u>Family (Size 2)</u>	<u>Family (Size 3)</u>	<u>Family (Size 4)</u>	<u>Family (Size 5)</u>	<u>Percentage</u>
0-15,162	0-19,827	0-24,493	0-29,158	0-33,823	0%
15,163-19,663	19,828-23,828	24,494-29,494	29,159-33,659	33,824-37,824	1%
19,664-24,164	23,829-27,829	29,495-34,495	33,660-38,160	37,825-41,825	2%
24,165-28,665	27,830-31,830	34,496-38,496	38,161-42,661	41,826-45,826	3%
28,666-31,666	31,831-35,831	38,497-42,497	42,662-47,162	45,827-48,827	4%
31,667-34,667	35,832-39,832	42,498-45,498	47,163-50,163	48,828-51,828	5%
34,668-37,168	39,833-42,833	45,499-48,499	50,164-53,164	51,829-54,829	6%
37,169-39,669	42,834-45,834	48,500-50,500	53,165-55,165	54,830-56,830	7%
39,670-41,670	45,835-47,835	50,501-52,501	55,166-57,166	56,831-58,831	8%
41,671-43,671	47,836-49,836	52,502-54,002	57,167-58,667	58,832-60,832	9%
43,672-45,172	49,837-50,837	54,003-55,503	58,668-60,168	60,833-62,333	10%
45,173-46,673	50,838-51,838	55,504-56,504	60,169-61,169	62,334-63,834	11%
46,674-47,674	51,839-52,839	56,505-57,505	61,170-62,170	63,835-64,835	12%
47,675-48,675	52,840-53,840	57,506-58,506	62,171-63,171	64,836-65,836	13%
48,676-49,426	53,841-54,841	58,507-59,257	63,172-64,172	65,837-66,837	14%
49,427-50,177	54,842-55,842	59,258-60,008	64,173-65,173	66,838-67,838	15%
50,178-50,928	55,843-56,843	60,009-60,759	65,174-66,174	67,839-68,839	16%
50,929-51,679	56,844-57,844	60,760-61,510	66,175-67,175	68,840-69,840	17%
51,680-52,430	57,845-58,595	61,511-62,261	67,176-68,176	69,841-70,841	18%
52,431-53,181	58,596-59,346	62,262-63,012	68,177-68,927	70,842-71,842	19%
53,182-53,983	59,347-60,097	63,013-63,763	68,928-69,678	71,843-72,593	20%
53,933-54,683	60,098-60,848	63,764-64,514	66,679-70,429	72,594-73,344	21%
54,684-55,434	60,849-61,599	64,515-65,265	70,430-70,930	73,345-74,095	22%
55,435-56,185	61,600-62,350	65,266-65,766	70,931-71,431	74,096-74,846	23%
56,186-56,686	62,351-63,101	65,767-66,267	71,432-71,932	74,847-75,597	24%
56,687-57,187	63,102-63,852	66,268-66,768	71,933-72,433	75,598-76,098	25%
57,188-57,688	63,853-64,603	66,769-67,269	72,434-72,934	76,099-76,599	26%
57,689-58,189	64,604-65,354	67,270-67,770	72,935-73,435	76,600-77,100	27%
58,190-58,690	65,355-65,855	67,771-68,271	73,436-73,936	77,101-77,601	28%
58,691-59,191	65,856-66,356	68,272-68,772	73,937-74,437	77,602-78,102	29%
59,192-59,692	66,357-66,857	68,773-69,273	74,438-74,938	78,103-78,603	30%
59,693-60,193	66,858-67,358	69,274-69,774	74,939-75,439	78,604-79,104	31%
60,194-60,694	67,359-67,859	69,775-70,275	75,440-75,940	79,105-79,605	32%
60,695-61,195	67,860-68,360	70,276-70,776	75,941-76,441	79,606-80,106	33%
61,196-61,696	68,361-68,861	70,777-71,277	76,442-76,942	80,107-80,607	34%
61,697-62,197	68,862-69,362	71,278-71,778	76,943-77,443	80,608-81,108	35%
62,198-62,698	69,363-69,863	71,779-72,279	77,444-77,944	81,109-81,609	36%
62,699-63,199	69,864-70,364	72,280-72,780	77,945-78,445	81,610-82,110	37%
63,200-63,700	70,365-70,865	72,781-73,281	78,446-78,946	82,111-82,611	38%
63,701-64,201	70,866-71,366	73,282-73,782	78,947-79,447	82,612-83,112	39%
64,202-64,702	71,367-71,867	73,783-74,283	79,448-79,948	83,113-83,613	40%

Single (One Person)	Family (Size 2)	Family (Size 3)	Family (Size 4)	Family (Size 5)	Percentage
64,703-65,203	71,868-72,368	74,284-74,784	79,949-80,449	83,614-84,114	41%
65,204-65,704	72,369-72,869	74,785-75,285	80,450-80,950	84,115-84,615	42%
65,705-66,205	72,870-73,370	75,286-75,786	80,951-81,451	84,616-85,116	43%
66,206-66,706	73,371-73,871	75,787-76,287	81,452-81,952	85,117-85,617	44%
66,707-67,207	73,872-74,372	76,288-76,788	81,953-82,453	85,618-86,118	45%
67,208-67,708	74,373-74,873	76,789-77,289	82,454-82,954	86,119-86,619	46%
67,709-68,209	74,874-75,374	77,290-77,790	82,955-83,455	86,620-87,120	47%
68,210-68,710	75,375-75,875	77,791-78,291	83,456-83,956	87,121-87,621	48%
68,711-69,211	75,876-76,376	78,292-78,792	83,957-84,457	87,622-88,122	49%
69,212-69,712	76,377-76,877	78,793-79,293	84,458-84,958	88,123-88,623	50%
69,713-70,213	76,878-77,378	79,294-79,794	84,959-85,459	88,624-89,124	51%
70,214-70,714	77,379-77,879	79,795-80,295	85,460-85,960	89,125-89,625	52%
70,715-71,215	77,880-78,380	80,296-80,796	85,961-86,461	89,626-90,126	53%
71,216-71,716	78,381-78,881	80,797-81,297	86,462-86,962	90,127-90,627	54%
71,717-72,217	78,882-79,382	81,298-81,798	86,963-87,463	90,628-91,128	55%
72,218-72,718	79,383-79,633	81,799-82,299	87,464-87,964	91,129-91,629	56%
72,719-73,219	79,634-79,884	82,300-82,800	87,965-88,465	91,630-92,130	57%
73,220-73,720	79,885-80,135	82,801-83,301	88,466-88,966	92,131-92,631	58%
73,721-74,221	80,136-80,386	83,302-83,802	88,967-89,467	92,632-93,132	59%
74,222-74,722	80,387-80,637	83,803-84,303	89,468-89,968	93,133-93,633	60%
74,723-75,223	80,638-80,888	84,304-84,804	89,969-90,469	93,634-94,134	61%
75,224-75,724	80,889-81,139	84,805-85,305	90,470-90,970	94,135-94,635	62%
75,725-76,225	81,140-81,390	85,306-85,806	90,971-91,221	94,636-95,136	63%
76,226-76,726	81,391-81,641	85,807-86,307	91,222-91,472	95,137-95,637	64%
76,727-77,227	81,642-81,892	86,308-86,808	91,473-91,723	95,638-96,138	65%
77,228-77,728	81,893-82,143	86,809-87,309	91,724-91,974	96,139-96,639	66%
77,729-77,979	82,144-82,394	87,310-87,560	91,975-92,225	96,640-97,140	67%
77,980-78,230	82,395-82,645	87,561-87,811	92,226-92,476	97,141-97,641	68%
78,231-78,481	82,646-82,896	87,812-88,062	92,477-92,727	97,642-98,142	69%
78,482-78,732	82,897-83,147	88,063-88,313	92,728-92,978	98,143-98,393	70%
78,733-78,983	83,148-83,398	88,314-88,564	92,979-93,229	98,394-98,644	71%
78,984-79,234	83,399-83,649	88,565-88,815	93,230-93,480	98,645-98,895	72%
79,235-79,485	83,650-83,900	88,816-89,066	93,481-93,731	98,896-99,146	73%
79,486-79,736	83,901-84,151	89,067-89,317	93,732-93,982	99,147-99,397	74%
79,737-79,987	84,152-84,402	89,318-89,568	93,983-94,233	99,398-99,648	75%
79,988-80,238	84,403-84,653	89,569-89,819	94,234-94,484	99,649-99,899	76%
80,239-80,489	84,654-84,904	89,820-90,070	94,485-94,735	99,900-100,150	77%
80,490-80,740	84,905-85,155	90,071-90,321	94,736-94,986	100,151-100,401	78%
80,741-80,991	85,156-85,406	90,322-90,572	94,987-95,237	100,402-100,652	79%
80,992-81,242	85,407-85,657	90,573-90,823	95,238-95,488	100,653-100,903	80%
81,243-81,493	85,658-85,908	90,824-91,074	95,489-95,739	100,904-101,154	81%
81,494-81,744	85,909-86,159	91,075-91,325	95,740-95,990	101,155-101,405	82%
81,745-81,995	86,160-86,410	91,326-91,576	95,991-96,241	101,406-101,656	83%
81,996-82,246	86,411-86,661	91,577-91,827	96,242-96,492	101,657-101,907	84%
82,247-82,497	86,662-86,912	91,828-92,078	96,493-96,743	101,908-102,158	85%
82,498-82,748	86,913-87,163	92,079-92,329	96,744-96,994	102,159-102,409	86%
82,749-82,999	87,164-87,414	92,330-92,580	96,995-97,245	102,410-102,660	87%
83,000-83,250	87,415-87,665	92,581-92,831	97,246-97,496	102,661-102,911	88%
83,251-83,501	87,666-87,916	92,832-93,082	97,497-97,747	102,912-103,162	89%
83,502-83,752	87,917-88,167	93,083-93,333	97,748-97,998	103,163-103,413	90%
83,753-84,003	88,168-88,418	93,334-93,584	97,999-98,249	102,414-103,664	91%
84,004-84,254	88,419-88,669	93,585-93,835	98,250-98,500	103,655-103,915	92%
84,255-84,505	88,670-88,920	93,836-94,086	98,501-98,751	103,916-104,166	93%
84,506-84,756	88,921-89,171	94,087-94,337	98,752-99,002	104,167-104,417	94%
84,757-85,007	89,172-89,422	94,338-94,588	99,003-99,253	104,418-104,668	95%
85,008-85,258	89,423-89,673	94,589-94,839	99,254-99,504	104,669-104,919	96%
85,259-85,509	89,674-89,924	94,840-95,090	99,505-99,755	104,920-105,170	97%
85,510-85,760	89,925-90,175	95,091-95,341	99,756-100,006	105,171-105,421	98%
85,761-86,011	90,176-90,426	95,342-95,592	100,007-100,257	105,422-105,672	99%
86,012-86,262	90,427-90,677	95,593-95,843	100,258-100,508	105,673-105,923	100%

(e) Each consumer and that consumer's spouse shall provide verification of annual gross family income for determination of applicable fees upon application to the Personal

Assistance Services Program and every 12 months thereafter. The determination of applicable fees shall be made by

the county designated agency and redetermined every 12 months.

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

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

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

In (b), substituted "Failure of the consumer" for "Consumer failure"; in (c), substituted "consumers" for "individuals and their spouses", and inserted the second sentence; in (d), substituted "consumer sliding fee scale" for "client sliding fee scale"; in (e), substituted "annual gross family income" for "his or her income", and added the second sentence; in (g), substituted "time sheets" for "weekly vouchers"; added (h) and (i); and substituted "consumer's" for "individual's", "Personal Assistance Services" for "Personal Attendant Services", "personal assistance" for "personal attendant"; and "county designated agency" for "designated county agency" throughout the section.

Amended by R.2002 d.163, effective June 3, 2002.  
See: 34 N.J.R. 11(a), 34 N.J.R. 1929(a).

Rewrote (d).

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

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

1. Unreimbursed or unreimbursable medical expenses;
2. Transportation expenses;
3. Adaptations to home or vehicle that are related to the consumer's disability; or

4. Unreimbursed or unreimbursable additional hours of personal assistance services over and above those hours authorized to the consumer by this program, if certified as necessary by the county designated agency and if paid for by the consumer out of pocket.

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

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

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

Amended by R.1997 d.361, effective September 2, 1997.  
See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

In (a)3, added "that are related to the consumer's disability"; in (a)4, added "and if paid for by the consumer out of pocket"; in (c) added "in order to redetermine the eligible consumer's ability to pay for services"; and substituted "personal assistance" for "personal attendant", and "county designated agency" for "designated county agency" throughout the section.

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

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

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

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

(d) Upon receipt of a decision by the county designated agency from the State Program Administrator, the county designated agency shall provide the consumer with written notice regarding the disposition of the request for an adjustment in consumer fee.

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

(f) A consumer requesting adjustment in his or her consumer fee shall continue to pay the original percentage of the total cost of service assessed pursuant to N.J.A.C. 10:140-4.3(a), (b), (c), and (d), pending the consumer's

submission of written justification and verification of expenses under N.J.A.C. 10:140-4.5(a) and (b) and approval by the State Program Administrator of the consumer's request for an adjustment under N.J.A.C. 10:140-4.5(c).