

Appellate Division of the Superior Court of New Jersey

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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.

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 \$11.00 per hour on weekdays and \$14.00 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).

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

| Single (One Person) | Family (Size 2) | Family (Size 3) | Family (Size 4) | Family (Size 5) | Percentage |
|------------------------|-----------------|-----------------|-----------------|-----------------|------------|
| 0-15,162 | 0-19,827 | 0-24,493 | 0-29,158 | 0- 33,823 | 0% |
| 15,163-18,163 | 19,828-22,828 | 24,494-27,494 | 29,159-32,159 | 33,824- 36,824 | 1% |
| 18,164-21,164 | 22,829-25,829 | 27,495-30,495 | 32,160-35,160 | 36,825- 39,825 | 2% |
| 21,165-24,165 | 25,830-28,830 | 30,496-33,496 | 35,161-38,161 | 39,826- 42,826 | 3% |
| 24,166-27,166 | 28,831-31,831 | 33,497-36,497 | 38,162-41,162 | 42,827- 45,827 | 4% |
| 27,167-29,167 | 31,832-33,832 | 36,498-38,498 | 41,163-43,163 | 45,828- 47,828 | 5% |
| 29,168-31,168 | 33,833-35,833 | 38,499-40,499 | 43,164-45,164 | 47,829- 49,829 | 6% |
| 31,169-33,169 | 35,834-37,834 | 40,500-42,500 | 45,165-47,165 | 49,830- 51,830 | 7% |
| 33,170-35,170 | 37,835-39,835 | 42,501-44,501 | 47,166-49,166 | 51,831- 53,831 | 8% |
| 35,171-36,171 | 39,836-40,836 | 44,502-45,502 | 49,167-50,167 | 53,832- 54,832 | 9% |
| 36,172-37,172 | 40,837-41,837 | 45,503-46,503 | 50,168-51,168 | 54,833- 55,833 | 10% |
| 37,173-38,173 | 41,838-42,838 | 46,504-47,504 | 51,169-52,169 | 55,834- 56,834 | 11% |
| 38,174-39,174 | 42,839-43,839 | 47,505-48,505 | 52,170-53,170 | 56,835- 57,835 | 12% |
| 39,175-39,675 | 43,840-44,340 | 48,506-49,006 | 53,171-53,671 | 57,836- 58,336 | 13% |
| 39,676-40,176 | 44,341-44,841 | 49,007-49,507 | 53,672-54,172 | 58,337- 58,837 | 14% |
| 40,177-40,677 | 44,842-45,342 | 49,508-50,008 | 54,173-54,673 | 58,838- 59,338 | 15% |
| 40,678-41,178 | 45,343-45,843 | 50,009-50,509 | 54,674-55,174 | 59,339- 59,839 | 16% |
| 41,179-41,679 | 45,844-46,344 | 50,510-51,010 | 55,175-55,675 | 59,840- 60,340 | 17% |
| 41,680-42,180 | 46,345-46,845 | 51,011-51,511 | 55,676-56,176 | 60,341- 60,841 | 18% |
| 42,181-42,681 | 46,846-47,346 | 51,512-52,012 | 56,177-56,677 | 60,842- 61,342 | 19% |
| 42,682-43,182 | 47,347-47,847 | 52,013-52,513 | 56,678-57,178 | 61,343- 61,843 | 20% |
| 43,183-43,683 | 47,848-48,348 | 52,514-53,014 | 57,179-57,679 | 61,844- 62,344 | 21% |
| 43,684-44,184 | 48,349-48,849 | 53,015-53,515 | 57,680-58,180 | 62,345- 62,845 | 22% |
| 44,185-44,685 | 48,850-49,350 | 53,516-54,016 | 58,181-58,681 | 62,846- 63,346 | 23% |
| 44,686-45,186 | 49,351-49,851 | 54,017-54,517 | 58,682-59,182 | 63,347- 63,847 | 24% |
| 45,187-45,687 | 49,852-50,352 | 54,518-55,018 | 59,183-59,683 | 63,848- 64,348 | 25% |
| 45,688-46,188 | 50,353-50,853 | 55,019-55,519 | 59,684-60,184 | 64,349- 64,849 | 26% |
| 46,189-46,689 | 50,854-51,354 | 55,520-56,020 | 60,185-60,685 | 64,850- 65,350 | 27% |
| 46,690-47,190 | 51,355-51,855 | 56,021-56,521 | 60,686-61,186 | 65,351- 65,851 | 28% |
| 47,191-47,691 | 51,856-52,356 | 56,522-57,022 | 61,187-61,687 | 65,852- 66,352 | 29% |
| 47,692-48,192 | 52,357-52,857 | 57,023-57,523 | 61,688-62,188 | 66,353- 66,853 | 30% |
| 48,193-48,693 | 52,858-53,358 | 57,524-58,024 | 62,189-62,689 | 66,854- 67,354 | 31% |
| 48,694-49,194 | 53,359-53,859 | 58,025-58,525 | 62,690-63,190 | 67,355- 67,855 | 32% |
| 49,195-49,695 | 53,860-54,360 | 58,526-59,026 | 63,191-63,691 | 67,856- 68,356 | 33% |
| 49,696-50,196 | 54,361-54,861 | 59,027-59,527 | 63,692-64,192 | 68,357- 68,857 | 34% |
| 50,197-50,697 | 54,862-55,362 | 59,528-60,028 | 64,193-64,693 | 68,858- 69,358 | 35% |
| 50,698-51,198 | 55,363-55,863 | 60,029-60,529 | 64,694-65,194 | 69,359- 69,859 | 36% |
| 51,199-51,699 | 55,864-56,364 | 60,530-61,030 | 65,195-65,695 | 69,860- 70,360 | 37% |
| 51,700-52,200 | 56,365-56,865 | 61,031-61,531 | 65,696-66,196 | 70,361- 70,861 | 38% |
| 52,201-52,701 | 56,866-57,366 | 61,532-62,032 | 66,197-66,697 | 70,862- 71,362 | 39% |
| 52,702-53,202 | 57,367-57,867 | 62,033-62,533 | 66,698-67,198 | 71,363- 71,863 | 40% |
| 53,203-53,703 | 57,868-58,368 | 62,534-63,034 | 67,199-67,699 | 71,864- 72,364 | 41% |
| 53,704-54,204 | 58,369-58,869 | 63,035-63,535 | 67,700-68,200 | 72,365- 72,865 | 42% |
| 54,205-54,705 | 58,870-59,370 | 63,536-64,036 | 68,201-68,701 | 72,866- 73,366 | 43% |

| Single (One Person) | Family (Size 2) | Family (Size 3) | Family (Size 4) | Family (Size 5) | Percentage |
|------------------------|-----------------|-----------------|-----------------|-----------------|------------|
| 54,706-55,206 | 59,371-59,871 | 64,037-64,537 | 68,702-69,202 | 73,367- 73,867 | 44% |
| 55,207-55,707 | 59,872-60,372 | 64,538-65,038 | 69,203-69,703 | 73,868- 74,368 | 45% |
| 55,708-56,208 | 60,373-60,873 | 65,039-65,539 | 69,704-70,204 | 74,369- 74,869 | 46% |
| 56,209-56,709 | 60,874-61,374 | 65,540-66,040 | 70,205-70,705 | 74,870- 75,370 | 47% |
| 56,710-57,210 | 61,375-61,875 | 66,041-66,541 | 70,706-71,206 | 75,371- 75,871 | 48% |
| 57,211-57,711 | 61,876-62,376 | 66,542-67,042 | 71,207-71,707 | 75,872- 76,372 | 49% |
| 57,712-58,212 | 62,377-62,877 | 67,043-67,543 | 71,708-72,208 | 76,373- 76,873 | 50% |
| 58,213-58,713 | 62,878-63,378 | 67,544-68,044 | 72,209-72,709 | 76,874- 77,374 | 51% |
| 58,714-59,214 | 63,379-63,879 | 68,045-68,545 | 72,710-73,210 | 77,375- 77,875 | 52% |
| 59,215-59,715 | 63,880-64,380 | 68,546-69,046 | 73,211-73,711 | 77,876- 78,376 | 53% |
| 59,716-60,216 | 64,381-64,881 | 69,047-69,547 | 73,712-74,212 | 78,377- 78,877 | 54% |
| 60,217-60,717 | 64,882-65,382 | 69,548-70,048 | 74,213-74,713 | 78,878- 79,378 | 55% |
| 60,718-61,218 | 65,383-65,883 | 70,049-70,549 | 74,714-75,214 | 79,379- 79,879 | 56% |
| 61,219-61,719 | 65,884-66,384 | 70,550-71,050 | 75,215-75,715 | 79,880- 80,380 | 57% |
| 61,720-62,220 | 66,385-66,885 | 71,051-71,551 | 75,716-76,216 | 80,381- 80,881 | 58% |
| 62,221-62,721 | 66,886-67,386 | 71,552-72,052 | 76,217-76,717 | 80,882- 81,382 | 59% |
| 62,722-63,222 | 67,387-67,887 | 72,053-72,553 | 76,718-77,218 | 81,383- 81,883 | 60% |
| 63,223-63,723 | 67,888-68,388 | 72,554-73,054 | 77,219-77,719 | 81,884- 82,384 | 61% |
| 63,724-64,224 | 68,389-68,889 | 73,055-73,555 | 77,720-78,220 | 82,385- 82,885 | 62% |
| 64,225-64,725 | 68,890-69,390 | 73,556-74,056 | 78,221-78,721 | 82,886- 83,386 | 63% |
| 64,726-65,226 | 69,391-69,891 | 74,057-74,557 | 78,722-79,222 | 83,387- 83,887 | 64% |
| 65,227-65,727 | 69,892-70,392 | 74,558-75,058 | 79,223-79,723 | 83,888- 84,388 | 65% |
| 65,728-66,228 | 70,393-70,893 | 75,059-75,559 | 79,724-80,224 | 84,389- 84,889 | 66% |
| 66,229-66,729 | 70,894-71,394 | 75,560-76,060 | 80,225-80,725 | 84,890- 85,390 | 67% |
| 66,730-67,230 | 71,395-71,895 | 76,061-76,561 | 80,726-81,226 | 85,391- 85,891 | 68% |
| 67,231-67,731 | 71,896-72,396 | 76,562-77,062 | 81,227-81,727 | 85,892- 86,392 | 69% |
| 67,732-68,232 | 72,397-72,897 | 77,063-77,563 | 81,728-82,228 | 86,393- 86,893 | 70% |
| 68,233-68,733 | 72,898-73,398 | 77,564-78,064 | 82,229-82,729 | 86,894- 87,394 | 71% |
| 68,734-69,234 | 73,399-73,899 | 78,065-78,565 | 82,730-83,230 | 87,395- 87,895 | 72% |
| 69,235-69,735 | 73,900-74,400 | 78,566-79,066 | 83,231-83,731 | 87,896- 88,396 | 73% |
| 69,736-70,236 | 74,401-74,901 | 79,067-79,567 | 83,732-84,232 | 88,397- 88,897 | 74% |
| 70,237-70,737 | 74,902-75,402 | 79,568-80,068 | 84,233-84,733 | 88,898- 89,398 | 75% |
| 70,738-71,238 | 75,403-75,903 | 80,069-80,569 | 84,734-85,234 | 89,399- 89,899 | 76% |
| 71,239-71,739 | 75,904-76,404 | 80,570-81,070 | 85,235-85,735 | 89,900- 90,400 | 77% |
| 71,740-72,240 | 76,405-76,905 | 81,071-81,571 | 85,736-86,236 | 90,401- 90,901 | 78% |
| 72,241-72,741 | 76,906-77,406 | 81,572-82,072 | 86,237-86,737 | 90,902- 91,402 | 79% |
| 72,742-73,242 | 77,407-77,907 | 82,073-82,573 | 86,738-87,238 | 91,403- 91,903 | 80% |
| 73,243-73,743 | 77,908-78,408 | 82,574-83,074 | 87,239-87,739 | 91,904- 92,404 | 81% |
| 73,744-74,244 | 78,409-78,909 | 83,075-83,575 | 87,740-88,240 | 92,405- 92,905 | 82% |
| 74,245-74,745 | 78,910-79,410 | 83,576-84,076 | 88,241-88,741 | 92,906- 93,406 | 83% |
| 74,746-75,246 | 79,411-79,911 | 84,077-84,577 | 88,742-89,242 | 93,407- 93,907 | 84% |
| 75,247-75,747 | 79,912-80,412 | 84,578-85,078 | 89,243-89,743 | 93,908- 94,408 | 85% |
| 75,748-76,248 | 80,413-80,913 | 85,079-85,579 | 89,744-90,244 | 94,409- 94,909 | 86% |
| 76,249-76,749 | 80,914-81,414 | 85,580-86,080 | 90,245-90,745 | 94,910- 95,410 | 87% |
| 76,750-77,250 | 81,415-81,915 | 86,081-86,581 | 90,746-91,246 | 95,411- 95,911 | 88% |
| 77,251-77,751 | 81,916-82,416 | 86,582-87,082 | 91,247-91,747 | 95,912- 96,412 | 89% |
| 77,752-78,252 | 82,417-82,917 | 87,083-87,583 | 91,748-92,248 | 96,413- 96,913 | 90% |
| 78,253-78,753 | 82,918-83,418 | 87,584-88,084 | 92,249-92,749 | 96,914- 97,414 | 91% |
| 78,754-79,254 | 83,419-83,919 | 88,085-88,585 | 92,750-93,250 | 97,415- 97,915 | 92% |
| 79,255-79,755 | 83,920-84,420 | 88,586-89,086 | 93,251-93,751 | 97,916- 98,416 | 93% |
| 79,756-80,256 | 84,421-84,921 | 89,087-89,587 | 93,752-94,252 | 98,417- 98,917 | 94% |
| 80,257-80,757 | 84,922-85,422 | 89,588-90,088 | 94,253-94,753 | 98,918- 99,418 | 95% |
| 80,758-81,258 | 85,423-85,923 | 90,089-90,589 | 94,754-95,254 | 99,419- 99,919 | 96% |
| 81,259-81,759 | 85,924-86,424 | 90,590-91,090 | 95,255-95,755 | 99,920-100,420 | 97% |
| 81,760-82,260 | 86,425-86,925 | 91,091-91,591 | 95,756-96,256 | 100,421-100,921 | 98% |
| 82,261-82,761 | 86,926-87,426 | 91,592-92,092 | 96,257-96,757 | 100,922-101,422 | 99% |
| 82,762-83,262 | 87,427-87,927 | 92,093-92,593 | 96,758-97,258 | 101,423-101,923 | 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.

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).