

CHAPTER 46D
CONTRIBUTION TO CARE AND MAINTENANCE
REQUIREMENTS

Authority

N.J.S.A. 30:1-12 et seq., 30:4-6 et seq. and 30:6D-5(b);
and P.L. 2005, c. 55.

Source and Effective Date

R.2009 d.183, effective May 5, 2009.
See: 41 N.J.R. 363(a), 41 N.J.R. 2268(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 46D, Contribution to Care and Maintenance Requirements, expires on May 5, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 46D, Contribution to Care and Maintenance Requirements, was adopted as R.2003 d.477, effective December 15, 2003. See: 35 N.J.R. 3020(a), 35 N.J.R. 3785(a), 35 N.J.R. 5560(a).

Chapter 46D, Contribution to Care and Maintenance Requirements, was readopted as R.2009 d.183, effective May 5, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:46D-1.1 Purpose; authority

(a) Pursuant to N.J.S.A. 30:6D-1 (P.L. 1995, c.155), the Division of Developmental Disabilities, Department of Human Services, (Division) has established guidelines and cri-

teria for determining the financial ability of persons served and that of their legally responsible relatives to contribute to the cost of care and maintenance when the individual receives residential services from the Division. The individual is also required to apply for all benefits, primarily the Medicaid DDD Community Care Waiver, for which they are eligible and comply with the requirements of this program prior to residential placement by the Division. He or she is also required to maintain eligibility for these benefits in compliance with the requirements of this chapter.

(b) The individual is responsible to maintain those benefits. Generally, to remain eligible, the individual cannot have more than \$2,000 in cash assets that are not excludable as a resource. The Division's Community Care Waiver is a Medicaid program, which provides Federal financial participation for services. It is, therefore, necessary for individuals to apply for the Medicaid DDD Community Care Waiver prior to the receipt of these services, to maximize Federal funds for program expansion for individuals not yet being offered services.

10:46D-1.2 Scope

(a) The provisions of this chapter shall apply to all individuals before they are provided residential services from the Division. The individual is responsible to make application for the Medicaid DDD Community Care Waiver and all other benefits for which they are entitled, and to submit financial information to determine their ability to contribute toward the cost of that placement.

(b) An individual must be determined eligible for services under N.J.A.C. 10:46 before the Division can provide residential services. For persons over 18 years of age, the individual shall be responsible to provide his or her financial information to the Division. For children under 18, the parents, otherwise referred to as the legally responsible relatives in this rule, shall be responsible to provide financial information to the Division or its agent.

(c) A determination of the ability to contribute is not required for individuals residing in supported living arrangements, in private intermediate care facilities for the mentally retarded/developmentally disabled (ICF/MR) placements not funded by the Division, or those receiving challenge grants or participating in the self-determination project. These individuals are required to apply for and maintain eligibility for the Medicaid DDD Community Care Waiver and all other benefits and will be required to directly use those benefits for expenses of daily living.

10:46D-1.3 Definitions

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

“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 lawsuit settlements.

“Benefits” means all current and future sources of cash and health assistance from Federal, State or private entities, including, but not limited to, Medicare, Medicaid, the Medicaid DDD Community Care Waiver, State and Federal funds and any third party support pursuant to statute, rule, order or by contract.

“Burial fund” means an identifiable fund that is clearly designated and set aside for an individual’s burial expenses.

“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 an individual 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.

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

“Director” means the Director of the Division of Developmental Disabilities.

“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 estab-

lishes the lower limit on the charges to the individual and/or the LRR for the individual’s care and maintenance.

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

“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.

“Interdisciplinary team” means an individually constituted group responsible for the development of a single, integrated plan for the individual. The team shall consist of the individual receiving services; the legal guardian, the parents or family member (if the adult desires that the parent or family member be present); those persons who work most directly with the individual served; and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and the design and evaluation of programs to meet them.

“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.

“Medicaid DDD Community Care Waiver” means the Community Care Waiver, which is a Medicaid program that allows the State to waive certain Federal Medicaid eligibility criteria for individuals who meet eligibility for Division of Developmental Disabilities services and require an ICR/MR level of care.

“Medical cost standard (MCS)” means the minimum amount needed to meet a family’s medical cost. The MCS establishes a maximum limit on the charges to be included in the FMS.

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

“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.