

CHAPTER 133

INITIAL RESPONSE AND SERVICE DELIVERY
GENERAL PROVISIONS

Authority

N.J.S.A. 30:4C-44 and 9:6-8.15.

Source and Effective Date

R.1993 d.19, effective January 4, 1993 (operative July 1, 1993).
See: 23 N.J.R. 3714(a), 25 N.J.R. 132(a).

Executive Order No. 66(1978) Expiration Date

Chapter 10:133, Initial Response and Service Delivery General Provisions, was adopted on January 4, 1998.

Chapter Historical Note

Chapter 10:133, Initial Response and Service Delivery General Provisions, was adopted as new rules by R.1993 d.19. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:133-1.1 Purpose

(a) The purpose of the series of chapters on initial response and service delivery is to describe certain services provided by the Division, the processes used by the Division to determine what actions to take in response to a referral or application for those services, what applicants and clients may expect of the Division, and any standards and requirements for applicants, clients, and the Division related to those services.

(b) The purpose of this chapter is to provide certain general provisions and to define certain words and terms to be used throughout the chapters on initial response from the Division and service delivery by the Division which follow, so as to provide standardization and ease of accessibility to the user of the New Jersey Administrative Code.

10:133-1.2 Scope

The provisions of this chapter and this series of chapters apply to all Division representatives, all applicants for services from the Division, all clients receiving services from the Division, all persons referred for Division services, and all persons making referrals to the Division.

10:133-1.3 Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Abused or neglected child” means a child:

1. Less than 18 years of age:

i. Whose parent or guardian inflicts, or allows to be inflicted upon such child, physical injury by other than accidental means, which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;

ii. Whose parent or guardian creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ;

iii. Whose parent or guardian commits or allows to be committed an act of sexual abuse against the child;

iv. Whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his or her parent or guardian to exercise a minimum degree of care:

(1) In supplying the child with adequate food, clothing, shelter, education, medical or surgical care, though financially able to do so, or though offered financial or other reasonable means to do so; or

(2) In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court;

v. Who has been willfully abandoned by his or her parent or guardian;

vi. Upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to herself or himself, others or property; or

vii. Who is in an institution other than a day school, and:

(1) Has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being; or

(2) Has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

2. No child who in good faith is under treatment by spiritual means alone, through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall for this reason alone be considered to be abused or neglected.

"Adoption" means the legal transfer of all parental rights and responsibilities from the parent to a person willing to assume those rights and responsibilities.

"Adoption subsidy" means financial payments made for the care, maintenance and medical and surgical expenses of a hard-to-place child to the person with whom the child has been placed for adoption or by whom the child has been adopted or to a medical provider when such medical and surgical payments are applied for prior to adoption.

"Applicant" means a person, either adult or minor, who requests services from the Division, for himself or herself or his or her family; or a person referred by another person or agency for non-protective services. For the purposes of N.J.A.C. 10:133 through 133G, the term "applicant" does not include those people who request or need information only, nor does it include persons applying to become foster parents, adoptive parents or other providers of service.

"Assessment" means the gathering of information, evaluation of the information gathered to determine the client's service needs, and the determination of who shall provide the needed services.

"Camp" means a set of recreational and developmental activities on either a day or residential basis for limited duration during the summer months.

"Case Assessment Resource Team" or "CART" means an entity established by the Department of Human Services pursuant to N.J.S.A. 30:4C-66 through 73 that reviews the needs of every child who is at risk of separation from his or her family for the purpose of psychiatric, psychological or emotional treatment in a residential placement, including Arthur Brisbane Child Treatment Center, in excess of 30 days, whether in New Jersey or out-of-State, or is returning from a residential placement, and recommends a service plan that best meets the needs of that child and his family.

"Case management" means the method by which the Division addresses the client's needs to the extent of resource availability and develops and administers a case plan through the direct activities of the Division's representatives who provide or coordinate the delivery of appropriate services.

"Case plan" means a written statement of the Division's intervention on behalf of a child, which includes identification of the problems which necessitate Division involvement with the family, the services or actions needed, who will accomplish or provide them, and the planned time frame for providing each service.

"Child" means any person less than 18 years of age, except as otherwise provided by N.J.S.A. 9:17B-2f.

"Child care" means a series of comprehensive and coordinated activities provided to each individual child for a portion of the day, which provides direct personal care, attention, and supervision, which may include education, socialization, nutritional, referral and transportation activities, and which is provided in a licensed child care center or school-age child care program, in a registered family day care home, or in the child's own home by an individual approved by the Division.

"Child welfare information" means every record, computer file, verbal or written report and evaluation relating to any service provided by the Division except records defined as protective service information.

"Child welfare services" or "welfare services" or "services" means consultation, counseling, and referral to or utilization of available resources, for the purpose of determining and correcting or adjusting matters and circumstances which are endangering the welfare of a child, and for the purpose of promoting his or her proper development and adjustment in the family and the community; also, as defined under Title IV-B of the Social Security Act, 42 U.S.C. 620 et seq., as from time to time amended.

"Client" means any person including an applicant receiving a service from the Division or any person referred to the Division for services.

"Client consent" means written authorization by an adult client or, if the client is a minor, by the parent, permitting the Division to release confidential information about himself or herself or about his or her child to a third party as permitted by statute.

"Clothing allowance" means the provision of a specific amount of money provided at specified times for the purpose of replenishing the basic wardrobe of a child while he or she is in out-of-home placement.

“Collateral contact” means a contact made with a person other than the referral source or those who are subject(s) of the referral in order to collect additional information.

“Contract” means a method of social service delivery in which the Division signs a formal agreement with a service provider to provide units of service at a specified cost to Division clients who meet specific eligibility criteria, pursuant to a case plan.

“Custody” means continuing responsibility for the person of a child, as established by a surrender and release of custody or consent to adoption, for the purpose of providing necessary welfare services, or maintenance, or both. (N.J.S.A. 30:4C-2(d))

“Day school” means a public or private school which provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.

“Delinquency” means the definition given in N.J.S.A. 2A:4A-23.

“Dependency” means the state of being a child under the age of 18 who has been deprived of parental support or care by reason of the death, continued absence from the home or physical or mental incapacity of a parent.

“Diligent efforts” means reasonable attempts by the Division to assist parents in remedying the circumstances and conditions that led to the out-of-home placement of the child and in reinforcing the family pursuant to N.J.S.A. 30:4C-15.1.

“Direct services” or “direct service delivery” means a method of service delivery in which Division representatives or staff, either directly or through a foster parent, provide a service to the client.

“Director” means the Director of the Division of Youth and Family Services in the Department of Human Services.

“Dispositional conference” means a formal review of a Division decision, which is made by Division administrative personnel not involved in making the original decision.

“Division” or “DYFS” means the Division of Youth and Family Services in the Department of Human Services.

“Division representative” means a professional or paraprofessional employee of the Division of Youth and Family Services.

“Emergency maintenance service” means the provision of food, clothing, shelter, furniture, appliances and similar necessities, needed by a client in a crisis, and not available elsewhere.

“Family preservation services” means an intensive, in-home, family education and crisis intervention program lasting up to eight weeks, which utilizes the services of a trained professional to provide a variety of contracted services to a client family for up to 24 hours a day.

“Foundling” means an infant or young child found abandoned, who cannot be identified and whose family cannot be identified.

“Homemaker service” means personal care, household tasks and the activities of daily living provided to a client in his or her own home or training in these activities.

“Independent living” means the maintenance of a child in a living arrangement that allows that child to function eventually on his or her own when circumstances preclude the child from returning to the person or persons with whom he or she resided at the time of referral or application for services, no appropriate relative or family friend is able or willing to assume care of the child, no family is able or willing to provide long-term foster care custody or to legally adopt the child, or the child rejects each of these living arrangements.

“Information only” means the provision of information in response to an inquiry, when the person making the inquiry is not alleging or in any way indicating that a child is an abused or neglected child.

“Information and referral” means the activity of informing an applicant or person referred for Division services about services available from public and private sources, based on a determination of need, knowledge of Division and community resources, and follow up where indicated.

“Investigation” means the activity of gathering information relevant to making a determination as to whether child abuse or neglect occurred.

“Local office” means an office of the Division of Youth and Family Services which provides direct services and referrals to clients within a limited geographic area of New Jersey. The services provided may be child welfare services, child protective services, and adoption services.

“Long-term foster care custody” means the establishment of a Division-initiated, court-ordered, legal relationship between a foster parent and a foster child when neither return home, permanency with a relative or family friend, nor adoption is an appropriate permanent plan, although one or more of these case goals have been diligently but unsuccessfully pursued, pursuant to P.L.1992, c. 139.

“Maintenance” means monies expended by the Division to procure board, lodging, clothing, medical, dental, psychological and hospital care, or any other similar or specialized commodity or service furnished to or on behalf of, or for a child.

“Maintenance in own home” means keeping a child in the home of the person or persons with whom he or she is residing at the time of referral or application for services or keeping the child in the home where the child has been returned or placed following out-of-home placement, regardless of the child’s biological or legal ties to the person or persons, and when the circumstances do not necessitate removal from the home.

“Other long-term, specialized care” means the out-of-home placement or maintenance of the out-of-home placement of a child in a long-term, specialized care living arrangement when no appropriate family is able or willing to care for and meet the needs of a child with a serious medical, physical, emotional or mental disability.

“Out-of-home placement,” “placement” or “substitute care” means physically locating a child by the Division or with the Division’s approval, in any out-of-home setting, including foster care, group home, shelter care, or a residential facility for temporary treatment or long-term care. The following are the definitions for the different types of out-of-home placement services.

1. “Adoptive placement” means the placement of a child in an adoptive home for the purpose of adoption.

2. “Alternative care home” means an out-of-home placement with providers trained in and using the Teaching Family model for three or fewer children who have unsuccessful histories in their own homes or in one or more foster homes or other out-of-home placements and who receive a structured treatment environment as an alternative to placement in a residential facility or a structured transitional treatment environment after successfully completing a course of treatment in a residential facility.

3. (Reserved)

4. “Group home” means any public or private establishment other than a foster home that provides board, lodging, care and treatment services on a 24-hour basis to six to 12 children in a home-like, community-based setting. A group home serves children with emotional, social, physical and/or behavioral needs who do not require a more restrictive facility for their own protection or that of others.

5. “Residential facility” means any public or private establishment that provides room, board, care and treatment services for 13 or more children on a 24 hour-a-day basis. A residential facility may provide services for children with emotional or behavioral problems, drug and alcohol treatment needs, psychiatric problems, physical disabilities, or programs that serve children with emotional or behavioral problems using adventure activities as a major treatment component.

6. “Selected adoptive home” means an applicant who has been approved by the Division for the purpose of providing an adoptive home to a child who does not currently reside with the adoptive applicant.

7. “Shelter care” means an out-of-home placement in which shelter and food are provided in a shelter facility or shelter home and available on a 24 hour/day, temporary basis in an emergency, usually not exceeding 30 days.

8. “Supervised transitional living home” means any public or private establishment other than a foster home that provides board, lodging, care and treatment services on a 24-hour basis and which serves 12 or fewer children who are 16 years of age or older, require minimum guidance from staff members in preparation to live independently, and demonstrate maturity to function with minimal adult supervision.

9. “Treatment-based out-of-home placement program” or “treatment-based out-of-home placement” means any public or private facility that provides room, board, care and treatment services for children on a 24-hour a day residential basis. Such facilities shall include Division-contracted or Division-operated programs that provide services such as, but not limited to:

- i. Psychiatric, psychological and medical services;
- ii. Drug and alcohol treatment services;
- iii. Services to children with physical disabilities;
- iv. Behavior modification;
- v. Intensive structure and supervision;
- vi. Individualized educational programs, located on or off grounds;
- vii. Living and vocational skills development;
- viii. Recreational programs; and
- ix. Adventure programs consisting of planned activities of a wilderness or athletic nature that require specially trained staff members and special equipment that is utilized with children with emotional or behavioral problems, or both, to assist in their development of self-confidence and insight.

10. “Treatment home” means any public or private establishment other than a foster home that provides board, lodging, care and treatment services on a 24-hour basis serving five or fewer children who are capable of community living but who need a small group environment and intensive supervision in order to ameliorate emotional, social and/or behavioral difficulties, in a home-like, community-based setting.

“Parent” means any birth parent, adoptive parent, step-parent, guardian or any person who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care.

“Parent or guardian” means any natural parent, adoptive parent, foster parent, stepparent, or any person, who has assumed responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care. Parent or guardian includes a teacher, employee or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child’s welfare and any other staff person of an institution, regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school.

“Permanency planning” means the full range of case practice activities and services directed toward:

1. Maintaining a child in his or her own home;
2. Returning a child to his or her own home when out-of-home placement has become necessary; or
3. Pursuing an alternate permanent living arrangement for the child pursuant to N.J.A.C. 10:133C-4.5(c) when paragraphs 1 or 2 above are not successful or are not appropriate.

“Permanency with a relative or family friend” means the placement of a child with a biological relative, a relative by marriage or a family friend when circumstances preclude the child from living with or returning to the person or persons with whom he or she resided at the time of referral or application for services, or the person or persons whom the child previously related to as a “parent.”

“Placement review” means the periodic review of the circumstances of a child’s out-of-home placement for the purpose of assuring that the child’s permanent plan is being implemented, as required by State and Federal laws.

“Post-adoption services” means all services, other than registry services, offered by or through the auspices of the Division to any party involved in an adoption after finalization of the adoption.

“Pre- and post-natal services” means the provision of social services and maintenance for medical and out-of-home placement services related to pregnancy and childbirth.

“Protective service information” means a report of suspected child abuse or neglect made pursuant to N.J.S.A. 9:6-1 et seq.; every record, computer file, verbal or written report and evaluation developed or received by the Division pursuant to the investigation and evaluation of such report; and every record and report developed and received by the Division for services and treatment subsequently provided to the family.

“Psychological/therapeutic services” means services to assess and to treat a variety of problems related to behavior, problems of living, or psychopathology.

“Reasonable efforts” or “reasonable attempts” means the provision of services to the family that are individually assessed to be relevant to the case goal, coordinated with other services, available, accessible and have a realistic potential to meet the child’s needs for a safe, secure, and permanent relationship with a family.

“Referral” means a verbal or written statement made to the Division by a referral source which indicates a possible need for a child protective service investigation or child welfare services for a child or family.

“Referral source” means a relative, agency, association, public official, or anyone having a special interest in a child or family, or the child himself or herself who makes a referral or application to the Division.

“Relative” means any natural or adoptive brother, sister, stepbrother and stepsister, grandparent, uncle, aunt, first cousin, as well as relatives of half blood.

“Respite care” means the provision of temporary child care to give a period of relief for the child’s temporary or permanent caretaker, either in-home or out-of-home.

“Response” means all those activities conducted by the Division between application or referral and the initiation of an assessment or child protective service investigation and includes the provision of any services needed on an emergency basis.

“Return home” means putting a child with a parent when the circumstances necessitating placement out of the home have been resolved.

“Screening” means the introductory information gathering activity which takes place during the initial contact or during contact subsequent to a referral or request for services regarding a client between the Division and the applicant or the referral source and collateral contacts to determine whether the referral or application for service is appropriate for the Division.

“Self-sufficiency skills” means the basic life skills necessary to make the transition from out-of-home placement to living in society as a productive adult.

“Third party report” means a confidential report prepared by a psychiatrist, psychologist, physician, child study team or other non-Division person or agency, which is shared with the Division.

“Title XIX Medicaid” means medical assistance provided to certain persons with low income and limited resources as authorized under Title XIX (Medicaid) of the Social Security Act (42 U.S.C. § 1396).

“Transportation” means the activity of providing the client access to and from community resources or visitation

with family members, as required to implement a case plan, for example, as in N.J.A.C. 10:122D.

Amended by R.1994 d.531, effective October 17, 1994.

See: 26 N.J.R. 1285(a), 26 N.J.R. 4186(a).

Amended by R.1997 d.208, effective May 19, 1997.

See: 28 N.J.R. 2487(a), 29 N.J.R. 2477(a).

Added "Adoption subsidy", "Camp", "Case Assessment Resource Team", "Case management", "Child care", "Child welfare information", "Client consent", "Clothing allowance", "Contract", "Diligent efforts", "Direct services", "Emergency maintenance service", "Family preservation services", "Homemaker service", "Investigation", "Local office", "Permanency planning", "Placement review", "Post-adoption services", "Pre- and post-natal services", "Protective service information", "Psychological/therapeutic services", "Reasonable efforts", "Relative", "Respite care", "Self-sufficiency skills", "Third party report", "Title XIX Medicaid", and "Transportation"; and amended "Out-of-home placement".

10:133-1.4 Rights of applicants and clients during initial response

(a) Any person who currently resides in New Jersey shall have the right to apply for any child welfare services or child protective services provided by the Division.

(b) Any person within New Jersey may apply for child welfare services or protective services as specified in N.J.S.A. 30:4C-11.

(c) Anyone requesting in person to apply for services shall be given the opportunity to do so immediately.

(d) An applicant or client may orally or in writing authorize a representative to speak and act on his or her behalf. If the applicant or client is incompetent or incapacitated or in an emergency, the application may be signed for him or her by someone determined by the Division to be able to act responsibly on his or her behalf, including a Division representative. The Division shall help the client, applicant, or representative complete the application, if necessary.

(e) The applicant, client, or representative requesting or requiring services shall have the right to make application in writing.

(f) The applicant, client, or representative shall receive a copy of the completed application.

(g) The applicant or client shall receive written information about:

1. The Division's authority to provide service and conduct protective service investigations;
2. Services available through the Division;
3. The Division's mission;
4. The role of the Division representative;
5. The rights of applicants and clients including their right to consult an attorney;
6. When and how an applicant or client may appeal an action taken by or decision made by the Division;

7. The definition of an abused or neglected child;
8. The purpose and general procedures for a child protective service investigation;
9. The purpose and general procedures for an assessment;
10. Parental financial responsibilities when receiving Division services;
11. How to reach the Division by telephone during normal working hours and after working hours; and
12. Child Placement Review and internal placement reviews when placement has been requested or is otherwise indicated.

(h) The applicant or client shall have the right to have the information collected about his or her family considered confidential. The applicant has a right to know that information will be released, only with his or her written consent or pursuant to N.J.S.A. 9:6-8.10a. In addition, he or she has the right to know that he or she may have access to information about his or her family not otherwise protected by law, for example, under N.J.S.A. 9:6-8.10a, or 42 U.S.C. 5101 et seq.

(i) The Division shall not discriminate against an applicant or client on the basis of race, color, national origin, handicapping condition, gender, religion, or marital, parental, or birth status.

(j) The applicant, client or referral source, if a request is made, shall have the right to receive a written disposition from the Division as soon as practical but not later than 45 calendar days from the date of application or referral.

(k) Each applicant or client shall be informed of:

1. The Division's responsibilities, as listed in N.J.A.C. 10:133-1.6;
2. Eligibility factors used by the Division;
3. The Division's legal responsibility to investigate certain referrals;
4. Other resources in the community or courses of action, which might meet his or her needs;
5. Why the Division is involved with him or her and the family, if the person did not ask for help;
6. What the Division expects from him or her and the child; and
7. What services can be provided.

(l) An applicant or client shall have the right to have the rules of this chapter followed.

(m) The applicant or client shall have the right to refuse any involvement or services not wanted, unless a court order requires the Division to provide them, and the court order requires the applicant or client to utilize the service.

10:133-1.5 Responsibilities of applicants and clients

(a) A person applying for or receiving certain social services shall provide information necessary to determine his or her eligibility for social services including requested financial information.

(b) A person applying for or receiving social services shall report within seven days to the Division representative any changes in the number or relationship of family members, changes in address or residence, changes in financial circumstances, changes in employment or any other change in circumstances which may affect eligibility for services.

10:133-1.6 Responsibilities of the Division

(a) The Division, through a Division representative, is responsible for:

1. Explaining why the Division is involved with a family;
2. Helping ensure that the family's children are protected from abuse or neglect;
3. Telling the applicant what is expected from him or her and his or her children;
4. Explaining to the family the procedures to obtain the services requested;
5. Providing only those services agreed upon unless there is a court order or otherwise authorized in N.J.S.A. 30:4C-12 and 15 and N.J.S.A. 9:6-8.18 and 29;
6. Listening and offering to help find solutions to problems;
7. Discussing progress on a regular basis;
8. Informing the client of changes in services that may affect the family;
9. Explaining when and under what circumstances the Division will terminate its involvement with the family;
10. Explaining that collateral contacts will be made and for what purpose within the provisions of N.J.S.A. 9:6-8.10a; and
11. Explaining that, depending upon the service received and the client's financial circumstances, the client may have a responsibility to reimburse the agency or pay directly for the service.

10:133-1.7 Service limitations

(a) The Division shall provide needed services within the limits of legislative appropriations to all eligible children and families in similar circumstances. The provision of services

shall also be subject to limitations due to actual ability of the Division to provide such services directly or by purchasing such services from appropriate privately sponsored agencies or institutions.

(b) The demand for social services frequently exceeds the funds available to provide them. Therefore, in accordance with N.J.S.A. 30:4C-13, the Division Director may establish Division-wide service limitations based upon the need to focus finite resources to serve those individuals most in need. Service limitations shall be published within 90 days of imposition in the Public Notices section of the New Jersey Register.

10:133-1.8 Appeals

(a) An applicant or client who disagrees with an action taken by a Division representative may ask to speak with the supervisor and, if the disagreement is unresolved, with the office manager.

(b) An applicant whose request for Division services has been denied, or a client who is informed that services will be denied, reduced, suspended or terminated, shall be informed in writing by the Division representative of the reasons for the decision, that he or she has a right to appeal the decision, and that to exercise that right he or she may request a local dispositional conference. Upon such a request, the office manager shall hold a local dispositional conference, make a decision, and shall inform the applicant or client in writing of the decision and the reasons for the decision. When the decision of the local dispositional conference results in a denial, reduction, suspension, or termination of services, the office manager shall also inform the applicant or client in writing that the applicant or client has a right to appeal this decision, and to do so, he or she may request that the regional office hold a regional dispositional conference.

(c) Upon the request of an applicant or client who disagrees with the results of the local dispositional conference, the regional administrator shall hold a regional dispositional conference. The regional administrator shall make a decision, shall inform the applicant or client in writing of the decision and the reasons for the decision. When the decision of the regional dispositional conference results in a denial, reduction, suspension, or termination of services, the regional administrator shall also inform the applicant or client in writing that the applicant or client has a right to an administrative hearing, pursuant to the provisions of N.J.A.C. 10:120-2, Administrative hearings.

(d) Notwithstanding the provisions of (b) and (c) above, if the services denied, reduced, suspended, or terminated are the subject of an existing court order or are pending the decision of a court, the applicant or client who disagrees with the decision to deny, reduce, suspend or terminate such services shall be informed in writing by a Division representative that the applicant or client may request local and

regional dispositional conferences, but that such conferences are not required, and that, at the option of the applicant or client, he or she may seek to bring the matter directly before the court. There is no right to an administrative hearing, pursuant to the provisions of N.J.A.C. 10:120-2, if the services denied, reduced, suspended or terminated are the subject of an existing court order or are pending the decision of a court.

Cross References

See N.J.A.C. 10:133C-3.11, Appeals of service denial, reduction, suspension, or termination.