

CHAPTER 99

REHABILITATION FACILITIES
SET-ASIDE ACT RULES

Authority

N.J.S.A. 30:6-23 et seq., specifically 30:6-32.

Source and Effective Date

R.1997 d.267, effective July 7, 1997.
See: 29 N.J.R. 863(a), 29 N.J.R. 2832(a).

Executive Order No. 66(1978) Expiration Date

Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, expires on July 7, 2002.

Chapter Historical Note

Chapter 99, State Use Law for Rehabilitation Facilities, was adopted as R.1971 d.15A, effective January 28, 1971. See: 2 N.J.R. 100(b), 3 N.J.R. 41(a). Chapter 99 was repealed by R.1980 d.178, effective April 22, 1980. See: 12 N.J.R. 322(a).

Chapter 99 was adopted as R.1985 d.55, effective February 19, 1985. See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a). Pursuant to Executive Order No. 66(1978), Chapter 99 expired on February 19, 1990.

Chapter 99 was adopted as R.1990 d.295, effective June 4, 1990. See: 22 N.J.R. 766(a), 22 N.J.R. 1724(b). Pursuant to Executive Order No. 66(1978), Chapter 99 expired on June 4, 1995.

Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, was adopted as R.1997 d.267, effective July 7, 1997. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:99-1.1 Purpose

The purpose of these rules is to further the policy of the State to encourage and assist severely disabled individuals to achieve maximum personal independence through productive employment by assuring a continuous market for commodities manufactured and services provided by them, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on public assistance and the need for costly institutionalization.

10:99-1.2 Scope

This chapter establishes a mechanism through which severely handicapped persons throughout the State of New Jersey are encouraged and enabled to become productively employed through participation in workshop programs. The rule ensures a market continuity by placing product items and some services on set-aside contracts for purchase by State agencies.

10:99-1.3 Definitions

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

“Blind or legally blind” means central visual acuity that does not exceed 20/200 in the better eye with best correction or field of vision that are so limited that the widest diameter of visual field subtends an angle no greater than 20 degrees.

“Central Nonprofit Agency (CNA)” means an agency organized under the laws of New Jersey, operated in the interest of the blind and visually impaired or other severely disabled, the net income of which does not inure in whole, or in part, to the benefit of any shareholder or individual, and designated by the Commissioner to facilitate the distribution (by direct allocation, or other means) of orders of the State for commodities and services on the procurement list among qualified rehabilitation facilities for the blind and visually impaired, or qualified rehabilitation facilities for other severely disabled.

“Commissioner” means the Commissioner of the Department of Human Services.

“Commodities and Services Council (Council)” means the Commodities and Services Council for the Blind, Visually Impaired and other severely disabled persons as constituted in P.L. 1981, c.488, § 3.

“Fiscal year” means the 12 month period beginning on July 1 of each year.

“Other severely disabled” means persons other than blind and visually impaired who are so severely incapacitated by any physical or mental disability that they cannot engage in normal competitive employment because of such disability. Some specific categories of severely disabled persons as defined above include, but are not limited to, those disabled by the following conditions:

1. Spinal cord injury;
2. Hearing impaired;
3. Muscular dystrophy;
4. Multiple sclerosis;
5. Developmental disabilities or other neurological disorders;
6. Severe orthopedic handicaps;
7. Multiple disabilities;
8. Severe personality or behavioral disorders, including psychosis and neurosis;
9. Severe pulmonary disease; and
10. Severe cardiac disorders.

“Program” means the Central Nonprofit Agency Program, regulated by the New Jersey Commodities and Services Council in accordance with this chapter.

“Purchasing agency” means any State agency that places orders for the procurement of any commodity or service on the procurement list.

“Rehabilitation facility” means a rehabilitation facility located in this State which qualifies as a charitable organization or institution under the provisions of section 501(c)(3) of the Internal Revenue Code and is conducted on a nonprofit basis for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury and of providing these individuals with remunerative employment or other occupational rehabilitative activity of an educational or therapeutic nature as defined in section 525.1 et seq. of the regulations adopted pursuant to the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. and related codes, and which is engaged in the production of commodities or the provision of services in connection with which not less than 75 percent of the total hours of direct labor is performed by blind or other severely handicapped persons excluding any hours of supervision, administration, inspection or shipping.

SUBCHAPTER 2. COMMODITIES AND SERVICES COUNCIL FOR THE BLIND AND OTHER SEVERELY DISABLED PERSONS

10:99-2.1 Membership

(a) The Council shall consist of the Director of the Division of Vocational Rehabilitation Services; the Director of the Division of Purchase and Property; the Chief of the Bureau of State Use Industries; the Director of the Division of Development for Small Business and Women and Minority Businesses; the Director of the Division of Developmental Disabilities; the Executive Director of the Commission for the Blind and Visually Impaired; the President of the New Jersey Association of Rehabilitation Facilities; or their designees; and three citizens as at-large members, at least one of whom shall be a blind person and at least one of whom shall represent the private business sector. The at-large members shall be appointed by the Governor, with the advice and consent of the Senate, for terms of three years, except that, of the first at-large members appointed, one shall be appointed for a term of three years, one for a term of two years and one for a term of one year.

(b) The members of the Council shall organize annually by the selection of one of their members to serve as the chairperson. The at-large members shall serve without compensation but shall be reimbursed by the Department of Human Services for necessary expenses incurred in the performance of their duties.

10:99-2.2 Duties of the Council

(a) The Council shall recommend to the Commissioner an agency for designation as the CNA for the purposes of this program.

(b) The Council shall develop, through the CNA, a list (“sales catalog”) of commodities and services which shall be set aside for purchase by State agencies from CNA-approved rehabilitation facilities and establishes a fair market price (N.J.A.C. 10:99-2.5 and 5.4) for those commodities and services.

(c) The Council shall establish allowable fees for the CNA to participating rehabilitation facilities (N.J.A.C. 10:99-3.5).

(d) The Council shall address grievances which may arise between the CNA and the facility as a result of the relationship defined by the Memorandum of Understanding (N.J.A.C. 10:99-5.10).

(e) The Council shall monitor the activities of the CNA in accordance with the standards contained in this chapter both in terms of its relations with participating rehabilitation facilities and with customer agencies. In cases of documented non-compliance on part of the CNA, the Council shall recommend appropriate corrective action or rescinding of the CNA in accordance with N.J.A.C. 10:99-4.5, 4.6 and 5.7.