

CHAPTER 123A**PERSONAL ATTENDANT SERVICES PROGRAM****Authority**

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

Source and Effective Date

R.1992 d.314, effective August 17, 1992.
See: 23 N.J.R. 2091(b), 24 N.J.R. 2914(a).

Executive Order No. 66(1978) Expiration Date

Pursuant to Executive Order No. 66(1978), Chapter 123A, Personal Attendant Services Program expires August 17, 1997.

Chapter Historical Note

The provisions of Chapter 123A, Personal Attendant Services Program, were filed as new rules and became effective August 17, 1992. See Source and Effective Date. The Division of Youth and Family Services proposed and repropoed rules on the Program on three occasions. See: 21 N.J.R. 273(b) (February 6, 1989); 22 N.J.R. 1527(a) (May 21, 1990); and 23 N.J.R. 2091(b) (July 15, 1991).

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SUBCHAPTER 1. GENERAL PROVISIONS**10:123A-1.1 Purpose**

Pursuant to the provisions of N.J.S.A. 30:4G-13 et seq., the Department of Human Services intends to provide 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 and assure quality of service. The Personal Attendant Services Program has been created to make a wide range of service options available so that choices among these options may be made on the basis of an individual's needs and desires, since people vary widely in their abilities and circumstances.

10:123A-1.2 Scope

These rules apply to all activities and persons participating in the Personal Attendant Services Program, including, but not limited to, the designated State contracting agency, applicants, recipients, personal attendants, and county agencies administering the program, and subcontracted provider agencies.

10:123A-1.3 Standards

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

1. To 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. To be served by personal attendants who are properly trained and competent to perform their duties;
3. To 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. To be free from mental and physical abuse, neglect and exploitation, and to be free from chemical and physical restraints;
5. To be accorded privacy while receiving services, in communications and in all daily activities;

6. To be accorded respect for one's property rights;
7. To have one's personal, financial and medical records treated as confidential;
8. To be free to fully exercise one's civil and due process rights and to be assisted by a personal attendant as appropriate and necessary;
9. To 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. To have access to a fair appeals process through which disputes can be resolved;
11. To receive written information regarding consumer standards and responsibilities in the Personal Attendant Services Program and to have them verbally explained as needed;
12. To have as few personal attendants entering one's home as possible;
13. To have the right to interview, screen and select one's personal attendant; and
14. To terminate those personal attendants that do not respect consumer rights.

10:123A-1.4 Definitions

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

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

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

"Assessor" means a person with a master's of social work degree, or a person with a bachelor's degree and three years of experience in rehabilitation services, or a registered nurse with a bachelor of science degree in nursing.

"Available" means physically present, willing, able, and appropriate, as determined with full consideration of the consumer's personal values.

"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.

"Consumer" means an individual who meets the standards of N.J.A.C. 10:123A-2.1, or has received an exemption under N.J.A.C. 10:123A-2.2, and is receiving services.

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

"Department" means the Department of Human Services.

"Designated county agency" means a county office on the handicapped or other county agency designated by the county government, subject to approval by the Commissioner, to administer in that county the Personal Attendant Services Program. Approval by the Commissioner is based on the agency's experience in working with the disabled population and the capacity to comply with program requirements, provide information and referral services to disabled individuals, recruit and train personal care attendants and sub-contract with provider agencies.

"Designated State agency" means a division or bureau of State government, designated by the Commissioner of the Department of Human Services. The program is currently administered by the Division of Youth and Family Services, Office of Adult and County Social Services.

"Eligible individual" means a person who meets the standards of N.J.A.C. 10:123A-2.1, or who has received an exemption under N.J.A.C. 10:123A-2.2.

"Employment" means full time employment; part time employment; the practice of a profession; volunteer work; self-employment; homemaking; farm work home-based employment; or other gainful work, and includes work for which payment is in kind rather than cash.

"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 attendant" means a person who meets the qualifications with regard to training, equivalent work experience or certification established in these rules (see N.J.A.C. 10:123A-5) and who provides personal attendant services to a person who is eligible for the Personal Attendant Services Program.

"Personal attendant service" includes, but is not limited to, personal care, daily living and chore service.

"Program" means the Personal Attendant Services Program.

"Program administrator" means the professional employee of the designated State agency charged with the administration of the Personal Attendant Services Program.

"Relative" means a person residing in the household, who is 18 years of age or older and is related to the eligible individual by blood or by law.

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

“Self-directing” means a person’s ability to make decisions and accept the consequences of his or her own decisions regarding daily activities as well as major life decisions.

“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.

“Values of the applicant or consumer” means the applicant’s or consumer’s choices in achieving and maintaining an independent life style.

10:123A-1.5 Target population and priority for services

(a) For the purposes of the Personal Attendant Services Program, the target population is composed of those residents of the State of New Jersey from the age of 18 through the age of 65, who have a chronic physical disability.

(b) Prioritization for service delivery shall be determined by the designated county agency.

SUBCHAPTER 2. ELIGIBILITY

10:123A-2.1 Eligibility standards

(a) For the purposes of the Personal Attendant Services Program, an eligible individual shall meet the following standards:

1. An eligible individual shall be from the age of 18 through the age of 65 and shall have a chronic physical disability;
2. An eligible individual shall be a resident of the State of New Jersey;
3. An eligible individual shall be in need of personal attendant services pursuant to a written personal attendant services plan, prepared by the applicant or consumer, and approved by the staff of the designated county agency;
4. An eligible individual shall be one who is capable of managing and supervising his or her personal attendant 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 individual needs;
6. An eligible individual shall live in a private house or apartment, educational facility, rooming or boarding house, or residential health care facility, and the personal

attendant services that the eligible individual receives are supplemental to, and not duplicative of, services provided to the person in the rooming or boarding house or residential health care facility pursuant to licensure requirements;

7. The attending physician for the eligible individual shall confirm in writing that the eligible individual is self-directed and requires no assistance in the coordination of therapeutic regimes, and that the personal attendant services will be adequate and appropriate to meet the eligible individual’s needs; and

8. The eligible individual shall require no less than 10 and no more than 40 hours per week of personal attendant services from the program.

10:123A-2.2 Exceptions to eligibility standards

(a) Exceptions to the eligibility standard in N.J.A.C. 10:123A-2.1(a)8 above may be granted as follows:

1. The applicant or consumer must initiate the request for an exception;
2. The designated county agency shall review the request on a case-by-case basis; and
3. The designated county agency shall make the determination whether to allow the exception. The designated county agency shall notify the State Program Administrator and the applicant or consumer of this determination.

(b) Exceptions to the eligibility standard in N.J.A.C. 10:123A-2.1(a)5 above may be granted as follows:

1. The applicant or consumer must initiate the request for an exception;
2. The designated county agency shall review the request on a case-by-case basis. The designated county agency shall 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. The State Program Administrator shall notify the designated county agency and the applicant or consumer of this determination.

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

1. Give consideration to the values of the applicant or consumer, in making determinations or recommendations on exception requests;
2. Require a showing of unusual or emergent circumstances before granting or making a positive recommendation on an exception request;

3. Make the determination or recommendation based on funding available;
4. Make the determination or recommendation based upon other services received by the client or applicant through other funding sources; and
5. Make the determination or recommendation based upon a review of the facts presented on a case-by-case basis.

10:123A-2.3 Procedures for requesting and granting exceptions to eligibility standards

(a) Eligible individuals or consumers requesting exceptions shall follow the following procedures:

1. Requests for exceptions pursuant to N.J.A.C. 10:123A-2.2(a) and (b) shall be made in writing; and
2. The written request for an exception shall be made to the director of the designated county agency and shall indicate the specific exception requested and provide justification.

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

(c) If the request is for an exception under N.J.A.C. 10:123A-2.2(b), the Director of the designated county agency shall thereupon forward his or her recommendation to the State Program Administrator, who shall review the request and respond to the request within 30 days.

SUBCHAPTER 3. SCREENING, SERVICES AND APPEALS

10:123A-3.1 Screening

(a) Upon applicant inquiry to the designated county agency regarding the Personal Attendant Services Program, county agency staff shall elicit information necessary to conduct pre-application screening and shall complete the screening within five working days of applicant inquiry.

(b) The applicant shall be notified in writing within five working days after completion of the county screening as to the results of the applicant's inquiry regarding participation in the Personal Attendant Services Program.

1. If the applicant is determined to be ineligible, the applicant shall be informed in writing of this determination and the right to appeal (see N.J.A.C. 10:120).

2. If the applicant appears eligible as a result of the screening, staff from the designated county agency shall inform the applicant in writing of this determination and if funding under the Personal Attendant Services Program is available to provide services to the applicant (see (c) below), shall enclose all documents necessary to process the application. The disposition letter shall also advise the applicant that application does not guarantee services under this program.

(c) In the event the applicant appears to be eligible as a result of the screening, and Personal Attendant Services Program funding in the designated county is not presently available to provide services to the applicant, the applicant's name shall be placed on the waiting list maintained by the designated county agency. The social and financial evaluations, under N.J.A.C. 10:123A-3.2(b) and (c), shall not be conducted at this time. Staff from the designated county agency shall inform the applicant in writing of this determination and advise the applicant that the documents necessary to process the application will be forwarded to the applicant and the social and financial evaluations will be performed at the appropriate time. The position of applicant's names on the designated county agency's waiting list shall be determined by the designated county agency.

10:123A-3.2 Assessment

(a) A member of the staff of the designated county agency shall perform an assessment within 30 days upon notification from the applicant to the designated county agency of completion of the application package which includes the following:

1. An Application and Statement of Understanding;
2. An Income Declaration with proof of income;
3. A Physician's Certification; and
4. A Consumer Plan of Service.

(b) Within 30 days of notification from the applicant of the completion of the application package, the county designated assessor shall perform a social evaluation of the applicant to determine if the applicant meets the eligibility criteria.

(c) Within 30 days of notification from the applicant of the completion of the application package, a member of the staff of the designated county agency shall perform a financial evaluation to determine the ability of the person or the person's spouse to pay for personal attendant services according to the sliding fee scale established pursuant to N.J.A.C. 10:123A-4.3.

10:123A-3.3 Individual personal attendant services plan

(a) The individual personal attendant services plan shall be designed by the consumer to meet his or her specific needs for personal attendant services and negotiated and approved by the consumer and designated county agency.

(b) A personal attendant services plan shall include both of the following:

1. A list of the personal attendant services to be provided; and
2. An estimate of the time needed and frequency of personal attendant services.

(c) The consumer and the designated county agency shall review the plan within 90 days after start-up of services and revise the plan upon request of the consumer or the designated county agency.

(d) The designated county agency shall perform a social and financial evaluation and revise the consumer's cost share responsibilities at 12-month intervals, commencing with the date of eligibility.

10:123A-3.4 Disposition of application

(a) The designated county agency shall notify the applicant in writing within 15 days from the date of completion of the assessment regarding the findings of the social and financial evaluations performed pursuant to N.J.A.C. 10:123A-3.2(a), (b) and (c) and the applicant's right to appeal.

(b) If an applicant is determined eligible, in addition to (a) above the notification shall include the following:

1. An approved plan of service listing the services to be provided including an estimate of the time needed and frequency of personal attendant services;
2. An estimate of the total cost of the personal attendant services; and
3. If applicable, an estimate of the amount of money that the eligible individual or that individual's spouse is required to pay toward personal attendant services.

(c) In the event an applicant is determined eligible for the personal attendant services program and funding prohibits the start-up of services within 30 days from the date of the county agency notification to the applicant regarding the results of the social and financial evaluation performed pursuant to N.J.A.C. 10:133-3.1(a) and (b), such applicant shall be placed on a waiting list for services. An applicant's position on a waiting list shall be determined by the designated county agency.

10:123A-3.5 Services

(a) Services provided to eligible individuals 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 Attendant 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 Attendant Services Program to arrange for or provide skilled nursing, therapy, or related medical care and treatment services which the eligible individual may need.

2. Using an attendant as a personal driver may be allowed. In no instance shall any person serving as an attendant under the Personal Attendant Services Program provide driving or transportation services using his or her own vehicle. In addition, the eligible individual's motor vehicle insurance policy must show that the attendant is a fully covered driver under that insurance policy.

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

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.

10:123A-3.6 Exceptions to service standards

(a) Exceptions to the services standards in N.J.A.C. 10:123A-3.5(a) shall be:

1. Initiated by the applicant or consumer;
2. Reviewed on a case-by-case basis by the designated county agency; and
3. Determined by the designated county agency, with notification to the State Program Administrator.

(b) The designated county agency shall:

1. Give consideration to the values of the applicant or consumer, in making determinations on exception requests;
2. Require a showing of unusual or emergent circumstances before granting an exception request;
3. Make the determination based on funding available;
4. Make the determination based upon other services received by the client or applicant through other funding sources; and
5. Make the determination based upon a review of the facts presented on a case-by-case basis.

10:123A-3.7 Procedures for requesting and granting exceptions to service standards

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

1. Requests for exceptions to N.J.A.C. 10:123A-3.5(a) shall be made in writing.
2. The written request for an exception shall be made to the director of the designated county agency and shall indicate the specific exception requested and provide justification.

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

10:123A-3.8 Termination of service

(a) Termination of service may be either voluntary or involuntary. Voluntary terminations involve verifiable situations in which eligible individuals agree to cessation of services. All other terminations are considered to be involuntary.

(b) Persons terminated from services shall receive written notice from the designated county agency prior to termination.

(c) Involuntary 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;
2. Failure to comply with N.J.A.C. 10:123A-4.3(b) and (g);
3. Verifiable abuse or misuse of personal attendant services;
4. Continued non-acceptance and/or dismissal of personal attendants without proper justification; or
5. Aging out of program eligibility requirements.

10:123A-3.9 Adverse agency actions

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

(b) If services received or requested are to be denied, reduced or terminated, the county office shall provide written notice and, if appropriate, oral notice to the applicant or consumer at least 30 days prior to such an action.

(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 recipient of the Personal Attendant Services Program, who is dissatisfied with any decision regarding an eligibility determination or other matters pertaining to participation in the Personal Attendant Services Program, may file a request for an administrative review of that decision.

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

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

Administrative Hearings Coordinator
Division of Youth and Family Services
CN 717
Trenton, New Jersey 08625-0717
(609) 292-8715"

(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.

(f) Upon completion of the administrative review, the applicant or consumer shall receive a copy of the written decision within 30 days from the date the written request for an administrative review was received by the Administrative Hearings Coordinator.

(g) 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. 10:123A-3.10. Instructions for such requests shall be incorporated into the written results noted in (d) above.

10:123A-3.10 Hearings and appeals

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

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

Administrative Hearings Coordinator
Division of Youth and Family Services
CN 717
50 East State Street
Trenton, New Jersey 08625
(609) 292-8715

(c) In all cases, a hearing must be requested within 30 days of receiving the adverse agency decision noted in N.J.A.C. 10:123A-3.9.

“Eligible resident” means a resident of a boarding house or residential health care facility who receives Supplemental Security Income or General Assistance, and as otherwise defined in the Rooming and Boarding House Act of 1979, N.J.S.A. 30:1A and 11A.

“General Public Assistance” means assistance rendered to needy persons not otherwise provided for under the laws of this State, where such persons are willing to work but are unable to secure employment due either to physical or mental disabilities or inability to find employment, and includes what is commonly called relief or emergency relief (see N.J.S.A. 44:8-107 et seq. and N.J.A.C. 10:85).

“Limited tenure” means residence at a rooming or boarding house on a temporary basis for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

“Operator” means any individual who is responsible for the daily operation of any residential health care facility or boarding house.

“Owner” means any person who owns, purports to own, or exercises control of any residential health care facility or boarding house.

“Personal needs allowance” means a monthly amount of money intended to meet those personal and incidental expenses or needs of Supplemental Security Income recipients in residential health care facilities or boarding houses which are not included among those services provided by the facility in accord with the respective licensure standards.

“Residential health care facility” means a facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the proprietor, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of such persons, excluding, however, any community residence for the developmentally disabled as defined in N.J.S.A. 30:11B-2, any facility of living arrangement operated by or under contract with any State department or agency, upon the written authorization of the Commissioner of the Department of Health, and any privately operated establishment licensed under N.J.S.A. 30:11A.

“Single-room occupancy” means an arrangement of dwelling space which does not provide a private, secure dwelling

space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq. and which is not used for limited tenure occupancy in a hotel, motel, or established guest house, regardless of the number of individuals occupying any room or rooms.

“Units of dwelling space” means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged, or designed to be occupied, for sleeping or dwelling purposes by one or more persons.

Amended by R.1981 d.423, effective November 2, 1981.

See: 13 N.J.R. 595(a), 13 N.J.R. 774(b).

“General Public Assistance” and “Supplemental Security Income/Social Security Income Disregard (SSI/SSA)” added.

Amended by R.1982 d.301, effective September 7, 1982.

See: 14 N.J.R. 699(a), 14 N.J.R. 981(b).

Definition of SSI/SSA Income Disregard deleted.

Amended by R.1990 d.388, effective August 6, 1990.

See: 22 N.J.R. 1520(a), 22 N.J.R. 2318(b).

Definitions recodified from 3.1 with minor revisions.

Amended by R.1991 d.215, effective April 15, 1991 (operative May 1, 1991).

See: 23 N.J.R. 382(a), 23 N.J.R. 1191(a).

Revised “Eligible resident” to clarify covered clientele.

10:123-3.4 Amount

(a) The owner or operator of each residential health care facility or boarding home shall reserve to each Supplemental Security Income (SSI) recipient residing therein, and the owner or operator of each residential health care facility shall reserve to each General Public Assistance recipient residing therein, a personal needs allowance in the amount of at least \$71.50 per month, set according to (b) below, and noticed in the New Jersey Register and otherwise publicized, in accordance with (c) below. No owner or operator or agency thereof shall interfere with the recipient’s retention, use, or control of the personal needs allowance.

(b) The personal needs allowance shall be adjusted annually based on the following calculations: the Federal portion of the current total SSI rate multiplied by the Federal Cost of Living Adjustment (COLA) to be applied to the succeeding year equals the actual dollar increase (rounded to the nearest dollar); the actual dollar increase divided by the current total SSI rate equals the adjusted COLA for the succeeding year; the adjusted COLA multiplied by the current annualized base PNA equals the monthly PNA increase for the succeeding year. For the purposes of this rule, the COLA means the cost of living adjustment published annually in the Federal Register, in accordance with 42 U.S.C. 415i and 1382f.

(c) The personal needs allowance for each calendar year shall be noticed in the New Jersey Register on or about January 1 of that year, and shall be considered the current personal needs allowance for that calendar year. Additional notice shall be provided in at least three newspapers of

general circulation in the State of New Jersey before January 1 of that year, and by other means reasonably calculated to inform those persons most likely to be affected by or interested in the personal needs allowance increase for that calendar year.

Amended by R.1983 d.588, effective December 19, 1983.

See: 15 N.J.R. 1735(a), 15 N.J.R. 2172(b).

Personal needs allowance increased from \$46.00 to \$50.00 per month.

Amended by R.1985 d.134, effective March 18, 1985.

See: 17 N.J.R. 39(b), 17 N.J.R. 707(a).

Personal needs allowance raised from \$50.00 to \$52.00 per month.

Amended by R.1986 d.42, effective February 18, 1986.

See: 17 N.J.R. 2995(a), 18 N.J.R. 419(a).

Personal needs allowance raised from \$52.00 to \$53.00 per month.

Amended by R.1988 d.201, effective May 2, 1988.

See: 20 N.J.R. 225(b), 20 N.J.R. 985(b).

Raised personal needs allowance from \$53.00 to \$55.00 per month.

Amended by R.1989 d.171, effective February 28, 1989.

See: 21 N.J.R. 788(a).

Emergency amendment, R.1989 d.171, effective February 28, 1989. (expires April 29, 1989).

See: 21 N.J.R. 788(a).

Raised personal needs allowance from \$55.00 to \$57.00 per month.

Amended by R.1989 d.285, effective April 28, 1989.

See: 21 N.J.R. 788(a), 21 N.J.R. 1575(a).

Raised personal needs allowance from \$55.00 to \$57.00 per month.

Amended by R.1990 d.137, effective February 20, 1990 (operative March 1, 1990).

See: 21 N.J.R. 3912(a), 22 N.J.R. 661(a).

Raised personal needs allowance from \$57.00 to \$59.00 per month.

Recodified by R.1990 d.388, effective August 6, 1990.

See: 22 N.J.R. 1520(a), 22 N.J.R. 2318(b).

Text on amount recodified from 3.2.

Amended by R.1991 d.215, effective April 15, 1991 (operative May 1, 1991).

See: 23 N.J.R. 382(a), 23 N.J.R. 1191(a).

\$62.00 per month was \$59.00 per month.

Amended by R.1992 d.177, effective April 20, 1992 (operative May 1, 1992).

See: 24 N.J.R. 330(a), 24 N.J.R. 1503(a).

Increased personal needs allowance from \$62.00 to \$65.00.

Amended by R.1993 d.152, effective April 5, 1993 (operative May 1, 1993).

See: 25 N.J.R. 229(a), 25 N.J.R. 1515(a).

Increased personal needs allowance from \$65.00 to \$66.50.

Amended by R.1993 d.489, effective October 4, 1993.

See: 25 N.J.R. 2684(a), 25 N.J.R. 4598(a).

Administrative Change: Personal needs allowance, effective January 1, 1994.

See: 25 N.J.R. 5705(b).

Administrative Change: Personal needs allowance, effective January 1, 1995.

See: 26 N.J.R. 5023(b).

Administrative change: Personal needs allowance, effective January 1, 1996.

See: 27 N.J.R. 5053(a).

Administrative change: Personal needs allowance, effective January 1, 1997.

See: 28 N.J.R. 5174(b).

SUBCHAPTER 4. FINANCIAL ELIGIBILITY

Source and Effective Date

R.1990 d.388, effective August 6, 1990.

See: 22 N.J.R. 1520(a), 22 N.J.R. 2318(b).

10:123-4.1 Financial eligibility: income schedule

(a) Financial eligibility for services provided by the county welfare agencies and funded through the Social Services Block Grant program of the Social Security Act shall be determined using the following income schedule:

INCOME SCHEDULE

Family Size	Maximum Allowable Per Month	Gross Income Per Year
1	\$1,264	\$15,162
2	2,652	19,927
3	2,041	24,493
4	2,430	29,158
5	2,819	33,823
6	3,207	38,489
7	3,280	39,362
8	3,353	40,238
9	3,426	41,112
10	3,499	41,987
11	3,572	42,862
12	3,645	43,737

For each family member over 12, add \$73.00 to the maximum allowable gross income per month.

(b) Persons whose gross monthly or annual family income does not exceed the maximums established in (a) above shall be eligible for services provided by the county welfare agency and funded by the Social Services Block Grant program.

(c) Persons who wish to appeal a determination of ineligibility for services based upon the income guidelines in (a) above shall proceed in accordance with N.J.A.C. 10:120-3.

Recodified by R.1990 d.388, effective August 6, 1990.

See: 22 N.J.R. 1520(a), 22 N.J.R. 2318(b).

Text on financial eligibility recodified from 1.1.

APPENDIX

Appendices Historical Note

Appendices A through I were deleted by R.1990 d.388, effective August 6, 1990.

See: 22 N.J.R. 1520(a), 22 N.J.R. 2318(b).

Single (One Person)	Family (Size 2)	Family (Size 3)	Family (Size 4)	Family (Size 5)	Percentage
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%
82,762-83,762	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 his or her income for determination of applicable fees upon application to the Personal Attendant Services Program and annually thereafter.

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 individual's personal attendant 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 Attendant Services Program shall be the secondary payer.

(g) The consumer receiving personal attendant services shall sign weekly vouchers attesting to the hours of service rendered, and the personal attendant or provider agency shall then be paid by the designated county agency.

10:123A-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; or

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

(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.

10:123A-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 designated county agency.

(b) Upon receipt of a written request and justification for a consumer fee adjustment, the designated county 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. 10:123A-4.5(b), the State Program Administrator shall re-

view the request and recommendation and render a decision based on the facts presented.

(d) Upon receipt of a decision by the designated county agency from the State Program Administrator, the consumer shall be provided 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 designated county 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. 10:123A-4.3(a), (b), (c), and (d), pending the consumer's submission of written justification under N.J.A.C. 10:123A-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. 10:123A-4.5(c).

SUBCHAPTER 5. PERSONAL ATTENDANTS

10:123A-5.1 Requirements for personal attendants

(a) All persons desiring to serve as personal attendants under the Personal Attendant Services Program shall be at least 18 years of age and shall meet at least one of the following requirements:

1. The personal attendant shall complete an approved training course authorized by the State Board of Nursing as a homemaker/home health aide, or a long-term facility nurse aide course authorized by the Department of Health;
2. The personal attendant shall complete a certified training program in a hospital, rehabilitation facility, or a long-term care facility as an aide or personal attendant;
3. The personal attendant shall complete a training course offered by the Department of Human Services for personal attendants; or
4. The personal attendant shall have at least one year of experience in the provision of personal attendant services for adults.

(b) Personal attendants who have not completed the training program described in (a)3 above shall be required to complete, at a minimum, a training session on the philosophy of the personal attendant service program.

(c) Personal attendants shall have a current liability policy which covers personal injury and/or property damage, prior to employment. This liability policy shall be paid for by the attendant, when he or she is under an independent vendor contract with the county, or by the provider agency, when the attendant is an agency employee.

SUBCHAPTER 6. TRAINING (RESERVED)

SUBCHAPTER 7. COMPLIANCE WITH LAWS

10:123A-7.1 Requirements of designated county agency

(a) All designated county agencies shall abide by all laws and regulations concerning employment of persons hired to administer or work in the Personal Attendant Services Program including, but not limited to, the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., and the Immigration Reform and Control Act of 1986 (P.L. 99-603).

(b) All designated county agencies shall conduct a check, or form an agreement with providers with whom they contract to conduct a check, that satisfies them as to the appropriateness of each personal attendant.

(c) All designated county agencies shall establish a separate accounting regarding receipt and use of cost share monies collected to ensure that cost share monies are used to expand or enhance program services in that county. These funds shall not supplant any existing allocation. This separate accounting and supporting documentation shall be made available to the designated State agency.

10:123A-7.2 Duties of designated county agency

(a) Under the direction of the designated State agency, the designated county agency shall perform the following duties:

1. Ensure that the operation and performance of the county's personal attendant service program is in compliance with law and rules as specified by the Division;
2. Provide information and outreach for the personal attendant services program;
3. Complete the necessary forms to determine eligibility of applicants and provide appropriate assistance to applicants and consumers in completing all necessary forms;
4. Determine cost share amount when applicable;
5. Maintain and up-date individual consumer files;
6. Designate a staff person to serve as primary contact person for applicants, eligible individuals, consumers and attendants involved in the program and document such contacts;
7. At the request of eligible individuals or consumers, arrange for attendant services and upon request of the consumer, provide individual assistance in arranging for back-up attendant services. The back-up plan shall be coordinated and mutually agreed upon by the consumer and the designated county agency;

8. Refer persons to other agencies, programs and services for which they may be eligible;
9. Maintain fiscal records for the program or provide data for others to do so;
10. Prepare monthly reports for timely submission to the designated State agency;
11. Serve as liaison to the designated State agency for the program; and
12. Oversee the local program including verification of weekly vouchers signed by eligible individuals and attendants attesting to hours of services rendered.

10:123A-7.3 Duties of Advisory Council

(a) The Advisory Council shall:

1. Serve as a resource to the Commissioner on matters pertaining to personal attendant services, and the development, implementation and evaluation of such services;
2. Advise the designated State agency on issues relevant to the development, implementation and evaluation of the Personal Attendant Services Program;
3. Evaluate the effectiveness of the personal attendant services program in meeting its objectives and share that evaluation with the Commissioner; and
4. Implement the above through utilization of stenographic and clerical staff, administrative assistants, and other such professional staff as provided by the Department.

10:123A-7.4 Designated county agency disqualification

(a) A designated county agency may be disqualified from participation in Personal Attendant Service Program funding for good cause including, but not limited to, the following:

1. Failure or refusal to comply with program rules and/or contract requirements; or
2. Refusal to furnish the designated State agency with required reports, or to make available for review such files and records as required.

(b) The designated State agency shall provide a 60-day written notice to the designated county agency if it intends to pursue disqualification. The notice shall specify the designated State agency's reasons for such action, and shall specify corrective actions required. A copy of this notice shall also be sent to the Advisory Council.

(c) The process of designated county agency disqualification should not result in loss or interruption of services to those eligible individuals currently receiving services.

10:123A-7.5 Disqualification appeal process

If the designated State agency seeks to disqualify a designated county agency for failure to comply with N.J.A.C. 10:123A-6.3(a)1 and 2, said designated county agency shall be afforded an opportunity to request an administrative hearing, 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.