

**CHAPTER 46****DETERMINATION OF ELIGIBILITY AND CONTRIBUTION TO CARE AND MAINTENANCE REQUIREMENTS****Authority**

N.J.S.A. 30:4-23, 30:4-25.2 and 30:6D-23 et seq.

**Source and Effective Date**

R.2000 d.361, effective August 4, 2000.  
See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 46, Determination of Eligibility and Contribution to Care and Maintenance Requirements, expires on August 4, 2005.

**Chapter Historical Note**

Chapter 46, Application and Admission to Functional Services, was adopted and became effective prior to September 1, 1969.

Chapter 46, Application and Admission to Functional Services, was repealed and Chapter 46, Determination of Eligibility, was adopted as new rules by R.1990 d.409, effective September 17, 1990. See: 21 N.J.R. 3712(a), 22 N.J.R. 3030(a).

Pursuant to Executive Order No. 66(1978), Chapter 46, Determination of Eligibility, was readopted as R.1995 d.511, effective August 17, 1995. See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Subchapter 5, Offers by the Division, Subchapter 6, Termination, and Subchapter 7, Appeals Process, were adopted as new rules by R.1998 d.468, effective September 8, 1998. See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Pursuant to Executive Order No. 66(1978), Chapter 46, Determination of Eligibility and Contribution to Care and Maintenance Requirements, was readopted as R.2000 d.361, effective August 4, 2000. See: Source and Effective Date. See, also, section annotations.

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**APPENDIX. NEW JERSEY DEPARTMENT OF HUMAN SERVICES CALENDAR YEAR 2001****SUBCHAPTER 1. GENERAL PROVISIONS****10:46-1.1 Purpose; authority**

Pursuant to N.J.S.A. 30:1-12, 30:4-27.2, 30:4-25.2, Application for determination of eligibility, N.J.S.A. 30:4-25.9, 30:6D-1 et seq. (P.L. 1985, c.145) and 30:4-60 et seq. (P.L. 1995, c.155), the Division of Developmental Disabilities, Department of Human Services (Division), intends this chapter to establish guidelines and criteria for determinations of eligibility for services, to individuals with developmental disabilities and their financial ability and that of their legally responsible relatives to contribute to the cost of care and maintenance in providing residential services.

Amended by R.1998 d.468, effective September 8, 1998.  
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Rewrote the section.

**10:46-1.2 Scope**

The provisions of this chapter shall apply to all individuals making application to the Division for services under N.J.S.A. 30:4-165.1 et seq. The requirement of an assessment for financial ability to pay shall apply only to those eligible individuals receiving services who have been residentially placed by the Division. This does not include individuals residing in supported living arrangements, in private ICF/MR placements not funded by the Division, or those receiving Challenge Grants or participating in self-determination.

Amended by R.1998 d.468, effective September 8, 1998.  
See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Added the second and third sentences.

Amended by R.2000 d.361, effective September 5, 2000.  
See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

Administrative change.

**10:46-1.3 Definitions**

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

"Application" means the form available at Division offices (see N.J.A.C. 10:46-3.2(a)). The term includes any supporting documentation necessary to the making of an informed determination with regard to applicant eligibility, including medical information. Supporting documentation may include, but is not limited to, educational, psychiatric, psychological, vocational, rehabilitation or social service records.

"Appropriate program of training" means that program of training which at a minimum includes orientation and instruction in identification of developmental disabilities, use of evaluation tools and interaction techniques.

"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 law suit settlements.

"Assistive devices" mean supports provided to aid in moving and positioning an individual while personal care is given, or which aid in communication.

"Burial fund" means an identifiable fund which is clearly designated and set aside for an individual's burial expenses.

"Case management" means the linking and coordination of services across family, agency and professional lines to develop and attain goals and objectives embodied in the Individual Habilitation Plan. It involves monitoring of and advocating for the individual's needs with individual and family participation.

"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 a person 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.

"Counselling" means advice or guidance provided by a person knowledgeable about services to persons with developmental disabilities.

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

"Developmental disability" means a severe chronic disability of a person which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations before the age of 22 in three or more of the following areas of major life actively, that is, self-care, receptive and expressive language, learning, mobility, self-direction and capacity for independent living or economic self sufficiency; and
5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.
6. Developmental disability includes, but is not limited to, severe disabilities attributable to mental retardation, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairment where the above criteria are met.

"Director" means the Director of the Division of Developmental Disabilities.

"Disposable income" means the total income from any and all sources, less Federal and State income taxes, FICA and deductions allowable in accordance with N.J.A.C. 10:46-2.5.

"Division" means the Division of Developmental Disabilities.

"Educational and related services" means those programs and/or therapies that are provided to a pupil in association with a free appropriate education.

"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 establishes the lower limit on the charges to the individual and/or the LRR for the individual's care and maintenance. See N.J.A.C. 10:46-2.5.

"Family support" means those services described under N.J.A.C. 10:46C.

Inserted "Assets or resources", "Assignment", "Burial fund", "Challenge grant", "Consumer price index (CPI)", "Cost of care and maintenance", "Dependent", "Disposable income", "Family", "Family maintenance standard (FMS)", "Income", "Legally responsible relative (LRR)", "Marginal income", "Medical cost standard (MCS)", "Other responsible party", "Self-determination", "Supported living", "Termination of services" and "Treasury Formula-DDD".

Amended by R.1999 d.311, effective September 7, 1999.

See: 31 N.J.R. 95(a), 31 N.J.R. 2633(b).

Inserted "Assistive devices", "Family support", "Home adaptation", "Personal care", "Regional Administrator", "Rehabilitation technology", "Respite services", and "Supported employment".

Amended by R.1999 d.405, effective November 15, 1999.

See: 31 N.J.R. 1890(a), 31 N.J.R. 3632(a).

Inserted "Fixed income" and "Plan to achieve self support (PASS)".

Amended by R.2000 d.315, effective August 7, 2000.

See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).

Inserted "Primary residence".

Amended by R.2000 d.361, effective September 5, 2000.

See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

Rewrote "Self-determination".

### Case Notes

Division of Developmental Disabilities should have promulgated a rule about eligibility standards before using the standards. *T.L. v. Division of Developmental Disabilities*, Dept. of Human Services, 243 N.J.Super. 476, 580 A.2d 272 (A.D.1990).

Disability was "chronic" despite the fact that the question about the man's ability was recent. *T.L. v. Division of Developmental Disabilities*, Dept. of Human Services, 243 N.J.Super. 476, 580 A.2d 272 (A.D.1990).

Applicant whose IQ exceeded cutoff level was ineligible for developmental disability services. *R.S. v. Department of Human Services*, 96 N.J.A.R.2d (DDD) 66.

Profoundly retarded and multiply handicapped man whose day program placement was insufficient to meet his needs would be allowed to transfer to more suitable program. *S.G. v. Division of Developmental Disabilities*, 96 N.J.A.R.2d (DDD) 51.

Applicant for services qualified as developmentally disabled and thus was entitled to those services. *J.D. v. Division of Developmental Disabilities*, 96 N.J.A.R.2d (DDD) 32.

Profoundly retarded man could not change domicile. *K.H. v. Division of Developmental Disabilities Department of Human Resources*, 93 N.J.A.R.2d (DDD) 1.

## SUBCHAPTER 2. ELIGIBILITY CRITERIA

### 10:46-2.1 General eligibility

(a) An individual determined to be developmentally disabled as defined in N.J.A.C. 10:46-1.2, and who is a resident of the State of New Jersey, shall be eligible for services of the Division contingent upon cooperation with the financial assessment investigation and payment of any fees assessed.

(b) With regard to a child, the substantial functional limitation(s) shall be evaluated according to expectations based upon the child's chronological age.

(c) With regard to an individual who has entitlements to a free public education pursuant to N.J.S.A. 18A:1-1 et seq.,

who is otherwise eligible, the expenses of educational and related services shall not be borne by the Division.

(d) If a determination has been made by a local district board of education that an individual's educational needs can only be appropriately served in a living situation other than the individual's home, then the expenses of that residential placement shall not be borne by the Division.

(e) For applicants who present documentation of mental retardation, the criteria for establishing the presence of mental retardation shall be an IQ score of less than 70, demonstrated as follows:

1. The person has an IQ score of 60 to 69; and
  - i. There is an impairment in adaptive behavior; and/or
  - ii. There is a chronic medical problem; and/or
  - iii. There is an impairment in behavioral, sensory or motor function and in the ability to perform basic skills; or
2. The person has an IQ score of 59 or below.

(f) At the time of application, the individual, legal guardian and/or his or her LRR(s) shall be advised by Division staff that the Division shall conduct an investigation into the ability of the individual and/or LRR(s) to pay for services, if the individual is ultimately determined eligible and offered a residential placement. Individuals applying for support services only, in accordance with N.J.A.C. 10:46-2.3(b) through (d), shall not be required to submit financial information or pay a fee.

1. The application shall clearly advise the individual, legal guardian, LRR(s) and other responsible parties that a determination of the ability to pay and agreement to pay shall be part of the eligibility process.

2. The application shall clearly advise that if it is determined that there is no ability to pay but all other eligibility criteria are met, eligibility shall not be denied.

3. The application shall clearly advise the individual, legal guardian, LRR(s) and other responsible parties that the ability to pay shall be reevaluated no less than annually, unless changed circumstances warrant more frequent evaluation, as set forth at N.J.A.C. 10:46-2.4(o).

4. The regional office of the Division shall provide to the individual and/or legal guardian, as part of the application, a financial information sheet with appropriate instructions at the time of application.

5. The individual, legal guardian, or other responsible parties shall provide all documents requested, including tax returns.

(g) An investigation into the ability of the individual and/or his or her LRR(s) and other responsible parties to pay for services shall occur after the Division has deter-

mined that the criteria for eligibility for functional services have been met and an offer of residential placement has been made. The individual, LRR(s) or other interested parties shall be notified in writing of their financial obligation by the Division, as set forth in (a) and (f) above.

(h) Whenever possible, the determination of the ability to pay and the assessed amount shall be completed before the individual is residentially placed by the Division.

(i) Individuals assigned to a waiting list for Division residential services and/or their legal guardians shall complete the financial information sheet included in the application. While an individual is on the waiting list, no one shall be required to pay the cost of care and maintenance. On the date the individual is residentially placed by the Division, the requirement to pay begins. Once a residential placement is offered, and prior to actual placement, the individual, legal guardian and/or LRR(s) shall complete the Client Financial Data Packet (CFDP) and/or Legally Responsible Relative Financial Data Packet (LRRFDP), pursuant to N.J.A.C. 10:46-5.1. A specific financial assessment shall be completed no more than 120 days from receipt of the CFDP and/or LRRFDP and required documentation.

(j) Should an individual be residentially placed by the Division on an emergency basis, the CFDP and/or LRRFDP required for a financial determination is due at the regional office for the area in which the placement is located no more than 28 days following the date of placement. If the information is not provided within the required time frames, the Division may consider the individual's circumstances on a case-by-case basis. Failure to provide the required documentation may result in the Department seeking any of the remedies set forth in N.J.A.C. 10:46-6.1.

(k) For individuals already admitted to Division residential services prior to September 8, 1998, the Division shall review available financial data and request additional financial information as necessary. Should a request for additional information be made, the time frames contained in N.J.A.C. 10:46-5.1(a) shall be followed.

Amended by R.1995 d.511, effective September 18, 1995.

See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Amended by R.1998 d.468, effective September 8, 1998.

See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

In (a), added "contingent upon cooperation with the financial assessment investigation and payment of any fees assessed" at the end; and added (f) through (k).

#### Case Notes

Court must undertake to determine appropriate disposition, other than incarceration, of developmentally disabled juvenile, and should require the Division of Developmental Disabilities, and others, to assist in the formulation of a treatment plan. *State in Interest of R.M.*, 141 N.J. 434, 661 A.2d 1277 (1995).

Profoundly retarded man could not change domicile. *K.H. v. Division of Developmental Disabilities Department of Human Resources*, 93 N.J.A.R.2d (DDD) 1.

#### 10:46-2.2 Residency

(a) It shall be the responsibility of the individual applying for eligibility, or his or her legal guardian, to establish residency in the State of New Jersey. Residency shall be determined in the following manner:

1. A competent individual applying for eligibility shall be a resident of the State if he or she lives in the State as his or her primary residence.

2. For minors, who are under 18 years of age, the place where the parents or legal guardian live shall determine the residence of the minor.

3. For adults, who are 18 years and older, incapacitated and have a general guardianship, the incapacitated individual's residence will be that of the legal guardian unless the conditions listed in (a)3i below have been met. This paragraph also applies to persons placed as minors upon reaching 18 years of age.

i. For incapacitated individuals applying for services whose legal guardian lives outside New Jersey, the guardian shall document that the incapacitated individual has established residency by establishing:

(1) That the incapacitated individual lives in New Jersey;

(2) That the incapacitated individual did not relocate to New Jersey for the purpose of obtaining services from the State of New Jersey; and

(3) Through good faith, that the incapacitated individual applying for services intends to live in New Jersey. Objective factors that provide evidence of good faith include:

(A) The length and likely duration of the incapacitated individual's residence in New Jersey (that is, the individual has resided in New Jersey for more than two years and he or she expresses no plans to move from New Jersey);

(B) The incapacitated individual's financial or other connections to the locale (that is, the individual is employed locally, has local bank accounts, attends religious services); and

(C) The incapacitated individual's subjective attachment to his or her living arrangements (that is, friends in the area, use of community recreational facilities).

(b) If the incapacitated individual is admitted to services and the guardian moves out-of-State, the incapacitated individual may remain in Division services. Additionally, the legal guardian is free to request a discharge from services or an interstate transfer.

(c) If any person has been placed in the State of New Jersey and that placement has been funded totally or partially by a public or private agency in another state, that person shall not be considered a resident of New Jersey.

(d) For persons applying for services whose legal guardian is in the U.S. military service, residency may be established when the guardian declares his or her home of record to be New Jersey.

(e) For individuals applying for services who are not U.S. citizens, the following must be satisfied to establish residency:

1. The individual must be a permanent alien resident, or his or her legal guardian must be a U.S. citizen or a permanent alien resident; and

2. The individual or his or her guardian must be a resident of New Jersey.

New Rule, R.2000 d.315, effective August 7, 2000.

See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).

Former N.J.A.C. 10:46-2.2, Presumptive eligibility, recodified to N.J.A.C. 10:46-2.3.

### 10:46-2.3 Presumptive eligibility

(a) If the applicant appears to be eligible for services and manifests an emergent need for services from the Division, then such a person may be declared presumptively eligible by the Regional Administrator. The determination of presumptive eligibility shall be made within five days of initial contact for services. The eligibility determination process shall be completed subsequent to the admission to service. If the person is found ineligible and has been receiving services under presumptive eligibility, immediate referral shall be made to the appropriate agency or agencies for services. That individual or his or her guardian shall be notified in writing that services will cease in 30 days.

(b) If the individual appeals the decision of ineligibility in accordance with N.J.A.C. 10:48-1, the individual may continue to receive services until a Final Decision is rendered by the Division Director.

Amended by R.1999 d.311, effective September 7, 1999.

See: 31 N.J.R. 95(a), 31 N.J.R. 2633(b).

In (a), substituted "Regional Administrator" for "Division Director or his or her designee".

Recodified from N.J.A.C. 10:46-2.2 by R.2000 d.315, effective August 7, 2000.

See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).

Former N.J.A.C. 10:46-2.3, Services, recodified to N.J.A.C. 10:46-2.4.

### 10:46-2.4 Services

(a) "Services for developmentally disabled persons" means specialized services or specialized adaptations of generic services provided by a public or private agency, organization or institution and directed toward the alleviation of a developmental disability or toward the social, personal, physical or economic habilitation or rehabilitation of a person with a developmental disability and includes case management, diagnosis, evaluation, treatment, personal care, domiciliary care, special living arrangements, training, vocational training, recreation, counseling of the person with the disability and his family, information and referral services and transportation services.

(b) Respite service shall not be considered placement for the purposes of N.J.A.C. 10:46B.

(c) For applicants who apply for Family Support, the requirements of N.J.A.C. 10:46A shall apply.

(d) Assistive devices may be made available to persons who live independently, in the home of a relative or in a home licensed under N.J.A.C. 10:44B, as follows:

1. The assistive device is not available through an alternate-funding source; and

2. Assistive devices shall remain the property of the Division.

(e) Home adaptation shall not be provided to persons determined presumptively eligible. Home adaptation may be provided once the individual is found eligible for services.

(f) Respite services may be provided in the home or through a home licensed under N.J.A.C. 10:44A or 10:44B.

Amended by R.1995 d.511, effective September 18, 1995.

See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Amended by R.1998 d.468, effective September 8, 1998.

See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

Rewrote (f).

Amended by R.1999 d.311, effective September 7, 1999.

See: 31 N.J.R. 95(a), 31 N.J.R. 2633(b).

Rewrote the section.

Recodified from N.J.A.C. 10:46-2.3 by R.2000 d.315, effective August 7, 2000.

See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).

Former N.J.A.C. 10:46-2.4, Determination of financial ability to pay, recodified to N.J.A.C. 10:46-2.5.

### Case Notes

Discussion of standard for classification of children as sustainable under former regulations. *Levine v. New Jersey Dept. of Institutions and Agencies*, 84 N.J. 234, 418 A.2d 229 (1980).

### 10:46-2.5 Determination of financial ability to pay

(a) Once a residential placement is offered, the Division or its appointed agent, shall conduct an investigation into the ability of the individual and/or LRR(s) to pay for the cost of care and maintenance, including, but not limited to, assets, resources, income or insurance of the individual or his or her LRR(s).

(b) In accordance with the provisions of N.J.S.A. 30:1-12c, the Division shall, as needed, issue subpoenas to require testimony or to compel the production of documents in order to complete its investigation.

(c) The individual, his or her legal guardian or LRR(s) shall authorize the release of information necessary to complete the financial assessment and annual reviews, at the time of the application for eligibility. All information required to complete the financial assessment shall be kept confidential pursuant to N.J.S.A. 30:4-24.3, except to the extent necessary to enforce the obligation to contribute.

(d) The individual, legal guardian, LRR(s) and/or other responsible parties shall cooperate fully in obtaining the information needed for the investigation. Failure to cooperate may be a reason for a determination of ineligibility, withdrawal of an offer of residential placement, or termination of services if already placed.

(e) In its investigation, the Division, or its appointed agent, shall use the formula of financial ability to pay delineated in N.J.A.C. 10:46-2.6 to determine if the individual or his or her LRR(s) has sufficient income, assets, resources, finances or estate to pay for all or part of his or her cost of care and maintenance as fixed by the State Board of Human Services or the Commissioner.

1. A written notice shall be sent which informs the individual, legal guardian and/or LRR(s) of the figures used and how the amount due was calculated.

2. The individual, legal guardian, LRR(s) and/or other responsible parties may, at any time, inquire as to how the particular amount due to be paid was determined.

(f) The individual, LRR(s), and/or other responsible parties shall make such payments as are required by N.J.A.C. 10:46-2.6 for the cost of care and maintenance as set by the State Board of Human Services pursuant to N.J.S.A. 30:4-23 et seq. and 30:4-60(b) (see chapter Appendix, incorporated herein by reference), beginning on the date of residential placement by the Division, to the following:

Treasurer, State of New Jersey  
DHS-DDD  
PO Box 35247  
Newark, NJ 07193-5247

(g) The Division, or its appointed agent, shall determine the legal settlement of the individual, using N.J.S.A. 30:4-49 through 73 to determine what state or county shall bear any cost of maintenance if the individual cannot pay. In no case shall the individual or other responsible parties be relieved of overall responsibility to repay the full costs of care and maintenance nor shall the LRR(s) be relieved of overall responsibility to pay the full amount assessed.

(h) The county where the individual resides at the time of application shall be notified by the Division if the individual is determined eligible for services. The county of residence and the county of settlement, if different, shall make their records available for examination and provide copies of documents as needed by the Division, or its appointed agent, and shall fully cooperate with the Division, or its appointed agent, in the review and investigation of the ability to pay of the individual or his or her LRR(s).

(i) All payments received by the county or State from the estate of the individual on behalf of any individual receiving residential services shall be treated as payments for current care and maintenance and retained by the Division to offset current costs. Pursuant to N.J.S.A. 30:4-78, the only exception is if payment is made for a specific service period. Such a payment shall be shared in the same ratio between the Division and the county as those parties shared the cost for that period.

(j) The individual and/or legal guardian shall apply for and maintain all current and future benefits for which he or she may be eligible including, but not limited to, Medicare, Medicaid, State and Federal benefits and any third party support pursuant to statute, rule, order or by contract. If the individual, legal guardian and/or LRR(s) does not apply for and maintain current and future benefits, procedures for termination of services, pursuant to N.J.A.C. 10:46-6, may be initiated.

(k) Eligibility for services shall not be denied if the other eligibility criteria are met but the individual does not have the ability to pay. The determination of lack of ability to pay shall be made by the Division, or its appointed agent, and kept in the client record. The individual's ability to pay shall be reviewed annually.

(l) The individual and/or legal guardian shall agree to assign to the Division at the time of the offer of residential placement all rights to the support indicated in (j) above, unless specifically prohibited by Federal and/or State law or rule. For individuals already residentially placed by the Division on or before September 8, 1998, the assignment of those rights shall be made as soon as possible following (the effective date of this rule).

(m) The Division shall file a lien against the real and personal property of the individual receiving services for the full cost of care and maintenance received minus the amount paid and also against the real and personal property of an individual and/or the LRR(s) for any past due amount the LRR(s) was required to contribute to the cost of the individual's care and maintenance.

(n) If the full amount of the assessed monthly payment cannot be paid, the individual, legal guardian, LRR(s) and/or other responsible parties shall notify the Division immediately. The Division, or its agent, shall investigate and determine whether a new or revised monthly payment is to be made. Such reassessments shall be given priority to be completed by the Division or its agent.

(o) Payment calculations for the individual and/or LRR(s) shall be reviewed and revised annually by the Division or its appointed agent. If the Treasury Formula-DDD(B) (N.J.A.C. 10:46-2.6(k)) is used, expenses reviewed by the IHP team and approved by the assigned State business office shall be considered an annual budget for the individual. If the financial circumstances of the individual and/or the LRR(s) change prior to the annual review, the individual, other responsible parties or LRR(s) shall immediately notify the Division in writing at the Fiscal Office (M), Division of Developmental Disabilities, PO Box 170, Trenton, NJ 08601. Minor changes, as indicated below at (o)1 through 3, shall not be the basis for an additional review. The individual, other responsible parties or LRR(s) shall be responsible to continue to pay as directed by the Division until the Division or its appointed agent, completes its review. The requested review shall be given priority. If it is determined that a change in the assessed amount is appropriate, the change shall be effective on the first day of the month following the postmarked date of the letter notifying the Division of a change in financial circumstances. For example, if the date of notification was January 2, 1998, effective date of the change would be February 1, 1998. The review shall be completed no more than 90 days following the receipt of all the requested documentation.



ADJUSTMENT MONTHS	NEW YORK/NORTHEAST NJ	PHILADELPHIA METROPOLITAN
October 2000:	180.2	177.2
October 2001:	183.3	182.3
Difference (Increase/Decrease)	3.1	5.1

**3. Percentage Change:**

NEW YORK/NORTHEAST NJ	1.72%
PHILADELPHIA METROPOLITAN	2.88%

**4. Average Regional Percentage Change:** 2.30%**5. Adjustment of Family Maintenance Standard (Family of Four):**  
\$22,730 × 1.0230 = \$23,253**6. Determination of Family Maintenance Standard for Various Family Sizes:**

Family Size	Equivalence Factor		Base (Family of Four)		2002 FMS
2	0.68	×	\$23,253	=	\$15,812
3	0.84	×	\$23,253	=	\$19,532
4	1.00	×	\$23,253	=	\$23,253
5	1.16	×	\$23,253	=	\$26,973
6	1.32	×	\$23,253	=	\$30,693
7	1.35	×	\$23,253	=	\$31,391

NOTE: To calculate the Family Maintenance Standard for family sizes larger than seven members, the Equivalence Factor should be increased by three hundredths (.03) for each additional family member and multiplied by the Family Maintenance Standard for a family of four.

New Rule, R.1998 d.468, effective September 8, 1998.  
See: 30 N.J.R. 1737(a), 30 N.J.R. 2169(a), 30 N.J.R. 3271(a).  
Administrative change.  
See: 30 N.J.R. 4376(a).  
Amended by R.1999 d.405, effective November 15, 1999.  
See: 31 N.J.R. 1890(a), 31 N.J.R. 3632(a).  
Rewrote (k).  
Administrative change.  
See: 31 N.J.R. 4260(a).  
Recodified from N.J.A.C. 10:46-2.5 by R.2000 d.315, effective August 7, 2000.  
See: 32 N.J.R. 157(a), 32 N.J.R. 2899(a).  
Administrative change.  
See: 32 N.J.R. 4461(a).  
Administrative change.  
See: 33 N.J.R. 4353(a).

**SUBCHAPTER 3. APPLICATION****10:46-3.1 Who may apply**

(a) Application for services under this chapter may be made by the following persons:

1. An adult on his or her own behalf;
2. The parents or guardian of a minor;
3. An agency, public or private, on behalf of a minor of whom it has care and custody;

4. A court having jurisdiction over a minor;
5. The guardian of an adjudicated incompetent adult;  
or
6. A court of competent jurisdiction on behalf of an adult person who appears to be developmentally disabled.

(b) For applicants who apply for Family Support, the requirements of N.J.A.C. 10:46A shall apply.

Amended by R.1995 d.511, effective September 18, 1995.  
See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

**Case Notes**

Court must undertake to determine appropriate disposition, other than incarceration, of developmentally disabled juvenile, and should require the Division of Developmental Disabilities, and others, to assist in the formulation of a treatment plan. State in Interest of R.M., 141 N.J. 434, 661 A.2d 1277 (1995).

**10:46-3.2 Where to apply**

(a) Application shall be made to the regional offices of the Division. The initial contact may be made to an intake worker by telephone, in writing or by appearing in person.

(b) If the intake worker determines that the request is for the services of the Division, he or she shall send the person an application.

(c) If the intake worker determines that the request is for services not offered by the Division, the intake worker shall offer to refer the person to an appropriate agency. If the person wishes to pursue the services of the Division, the intake worker shall send an application and information concerning services.

(d) Applications shall be made to a regional office of the Division. Forms and instructions may be obtained by writing to or calling:

Regional Office:	Counties of Jurisdiction:
Northern Regional Office 973-927-2600 1B Laurel Drive Flanders, NJ 07836	Sussex, Morris, Warren, Passaic, Bergen, Hudson
Upper Central Reg. Office 973-324-2000 59 Main Street West Orange, NJ 07052	Essex, Somerset, Union
Lower Central Regional Office 609-292-4500 240 West State Street PO Box 700 Trenton, NJ 08625-0700	Middlesex, Monmouth, Mercer, Ocean, Hunterdon
Southern Regional Office 856-614-3400 101 Haddon Ave. Suite 17 Camden, NJ 08103-1485	Camden, Atlantic, Gloucester, Cumberland, Salem, Cape May, Burlington



(e) If the person for whom eligibility is sought does not live in New Jersey at the time of the application, the applicant shall indicate if they presently receive services from a state agency in the state where the individual resides. To apply for services from the State of New Jersey under the Interstate Compact on Mental Health (N.J.S.A. 30:7B-1 et seq.), the request shall be sent to the Regional Assistant Director c/o Division of Developmental Disabilities, PO Box 726, Trenton, NJ 08625-0726. The request shall be forwarded to the appropriate regional office for a determination of eligibility. All information required in N.J.A.C. 10:46-3 shall be provided. All notice requirements contained in N.J.A.C. 10:46-4.2 shall be followed.

Amended by R.1995 d.511, effective September 18, 1995.

See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Amended by R.2000 d.361, effective September 5, 2000.

See: 32 N.J.R. 2020(a), 32 N.J.R. 3326(a).

In (d), changed addresses and telephone numbers; and in (e), substituted a reference to the Regional Assistant Director for a reference to the Administrative Practice Officer.

### 10:46-3.3 How to apply

(a) Application shall be made on forms supplied by the Division.

(b) Minimum information submitted shall include, but not be limited to:

1. Social data, such as name, address, telephone number, social security number, and present living arrangement;
2. Medical information;
3. Present program or employment type;
4. Name, address and telephone number of the individual, if someone other than the person on whose behalf application is being made;
5. Presenting request, such as the specific service(s) that may be desired if known by the individual; and
6. Information for the individual's financial information sheet, including basic information such as social security number and the amount and type of benefits received, and those documents as required in N.J.A.C. 10:46-2.1(f).

(c) Accommodations shall be made available by the Division for applicants who cannot complete the application by him or herself. Applications may be taken in sites other than the regional office. Applications may be taken at any site which will facilitate the determination of eligibility.

(d) It is the responsibility of the applicant to cooperate with the Division in obtaining required records by signing consent to release of information forms and identifying persons or agencies known by the applicant to be in possession of the needed records.

(e) An application shall be deemed complete when there is sufficient information to make a determination of eligibility.

Amended by R.1998 d.468, effective September 8, 1998.

See: 30 N.J.R. 1737(a), 30 N.J.R. 3271(a).

In (b), substituted references to individuals for references to applicants in 4 and 5, and added 6.

## SUBCHAPTER 4. DETERMINATION PROCESS

### 10:46-4.1 Determination

(a) A Division intake worker shall begin a case file upon receipt of an application for determination of eligibility for services.

(b) The intake worker shall assist in completion of the application upon request of the applicant.

(c) Upon receipt of an application, including all necessary documentation, the intake team shall make a recommendation, in writing, based upon specific findings regarding eligibility pursuant to N.J.A.C. 10:46-2.

(d) The intake team may make a decision concerning eligibility. If there is a question of eligibility, the intake team may:

1. Conduct a face to face interview within 30 days; or
2. Refer the matter to a second intake team, when there is disagreement among the first team concerning eligibility.

(e) The determination of the intake team(s) shall be made in writing within 10 working days and shall be based on specific findings.

(f) In cases where the matter is referred for further review, the intake team shall present the case record to the second team. The second team shall review the record and shall make a final determination.

Amended by R.1995 d.511, effective September 18, 1995.

See: 27 N.J.R. 2157(a), 27 N.J.R. 3606(a).

Amended by R.1999 d.311, effective September 7, 1999.

See: 31 N.J.R. 95(a), 31 N.J.R. 2633(b).

Rewrote (c) and (d), in (e), deleted "Intake worker or" preceding "intake team(s)", and in (f), substituted "team" for "worker".

### 10:46-4.2 Notice requirements

(a) Division staff shall notify the applicant, in writing, of the status of the eligibility determination no more than 60 days from receipt of an application for determination of eligibility for services.

(b) If the eligibility decision cannot be made within 60 days from receipt of an application for determination of eligibility for services, the applicant shall be advised, in writing, as to the specific reasons why a determination cannot be made, and shall be informed of the status of the application at least every 30 days. The written notice shall include the name and telephone number of a Division staff member for the person to contact regarding services.

(c) If the applicant is determined eligible, Division staff shall notify the applicant, in writing, within 10 days of the determination and such notice shall include information regarding the service(s) deemed most suitable by the intake worker or the intake team.