

CHAPTER 5

NEW JERSEY VETERANS' FACILITIES

Authority

P.L. 1988, c.444; N.J.S.A. 38A:3-2.2, 2b, 6(o), 6.4, 6.5, 6.6, 6.8, 6.9 and 6.12.

Source and Effective Date

R.2003 d.244, effective May 23, 2003.
See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 5, New Jersey Veterans' Facilities, expires on November 19, 2008. See: 40 N.J.R. 3782(a).

Chapter Historical Note

Chapter 5, New Jersey Veterans' Facilities, was adopted as R.1992 d.372, effective September 21, 1992. See: 24 N.J.R. 2499(b), 24 N.J.R. 3311(a). The expiration date of Chapter 5, New Jersey Veterans' Facilities, was extended by gubernatorial directive from September 21, 1997 to February 27, 1998. See: 29 N.J.R. 4287(b).

Pursuant to Executive Order No. 66(1978), Chapter 5, New Jersey Veterans' Facilities, was readopted as R.1998 d.3, effective November 26, 1997. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Chapter 5, New Jersey Veterans' Facilities, was readopted as R.2003 d.244, effective May 23, 2003. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

5A:5-1.1 Purpose

The purpose of this chapter is to establish requirements for eligibility for admission, pre-admission screening, admission review and implementation, computation of the care maintenance fee for New Jersey veterans' facilities, and the basis for discharge or transfer from such facilities.

SUBCHAPTER 2. ELIGIBILITY CRITERIA

5A:5-2.1 Definitions

The words and terms, as used in this chapter, shall have the following meanings. All other words shall be given their ordinary meaning unless the content of their use clearly indicates otherwise.

"Accountable assets" means any item that has a determined value and is owned solely by the applicant or spouse, or owned jointly with spouse, jointly with others or jointly by the spouse and others, and must be spent down or liquidated and used toward payment of the resident's care and maintenance. IRAs and annuities are considered as accountable assets and will be treated as income.

"Admission" means the procedure for entering one of the New Jersey veterans' memorial facilities.

"Aid and attendance" means supplemental income provided by the U.S. Department of Veterans' Affairs for extended care services.

"Allied veterans" means those veterans of nations allied or associated in conflicts against an enemy of the United States during World War I or II. This is inclusive of members of the armed forces of Czechoslovakia or Poland. Allied veterans are required to have been a citizen of the United States for at least 10 years.

"Allowable deductions" means those approved items which will be subtracted from the gross income, including the personal needs allowance, when calculating care and maintenance fee.

"Asset determination" means an investigation and evaluation of the financial circumstances of a person applying for admission to a New Jersey veterans' memorial facility.

"Care and maintenance" means the actual cost of services for an individual in one of the New Jersey veterans' memorial facilities.

"Community spouse" means the married spouse of the individual who is residing in a New Jersey veterans' memorial facility.

“Conservatorship” means the appointment of a person by the court to manage the financial affairs of a conservatee. A “conservatee” is one who has not been judicially declared incompetent, but who by reason of advanced age, illness, or physical infirmity, is unable to care for or manage his or her property or who has become unable to provide for himself or herself or others dependent upon him or her for support.

“Dependent” means a child of the Veteran Home Resident who is under the age of 21 or a child of any age who is blind or totally and permanently disabled. In the event that the child does not have a determination from the Social Security Administration of blindness or disability, the blindness or disability shall be evaluated by the Disability Review Section of the Division of Medical Assistance and Health Services in accordance with the provisions of N.J.A.C. 10:71-3.13.

“Discharge” means the permanent removal from a New Jersey veterans’ memorial facility.

“Durable power of attorney” means a designation and appointment of another in writing conveying specific powers to that attorney in fact and showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive.

“Eligible others” as defined and listed in order of priority below will be admitted to a New Jersey veterans’ memorial facility as long as the census of non veterans does not exceed 20 percent of the total population. Exceptions will be reviewed and approved by the Director, Veterans Healthcare Services on a case-by-case basis:

1. National Guard/Reserve Component retiree.
2. “Gold Star parent” means the mother or father of a person who was a resident of New Jersey at the time of service entry, and who died an honorable death in time of war or emergency while in the active military service of the United States, provided that the parent has been a resident of New Jersey for at least two years prior to the date of application.
3. “Surviving spouse” means the widow or widower of a person who died an honorable death while in the active military service of the United States, or who was a disabled veteran at the time of death, provided that the surviving spouse was the person’s spouse at the time of the person’s service or was married to the person not less than 10 years prior to the date of application and has not married since the person’s death, and provided that the surviving spouse has been a resident of New Jersey for at least two years prior to the date of application.
4. “Spouse” means the person legally married with a valid marriage license that is in accord with New Jersey law to an individual who has been other than dishonorably

discharged from the active military of the United States, provided that the spouse is not less than 50 years of age, has been married to such person for a period of not less than 10 years, and meets the New Jersey residency requirement as described in paragraph 1 of the definition of “veteran” below.

“Extraordinary expense deduction” means a financial deduction as a one time major excessive expense to maintain the basic household, medical or transportation needs.

“Gross income” means all income and/or revenue received by resident for a given period. Includes, but not limited to, funds received for labor or services, social security, pensions, aid and attendance, net rental income of property, and/or the proceeds of business or enterprises and investments not to include losses. Service connected disability compensation funds shall not be counted as gross income.

“Guardian” means a person who has been entrusted as the legal representative of one who has been adjudicated incompetent by a court of law and requires a legal representative to act on their behalf for all matters.

“Guardianship” means the process by which an individual is appointed the legal representative of another person who has been adjudicated incompetent by a court of law and requires a legal representative to act on their behalf for all matters.

“Indigent” means an impoverished, destitute or needy veteran.

“Irrevocable trust” means the funds set aside in a trust not to be recalled, revoked or annulled.

“Lien application” means a process initiated to obtain financial payment for all delinquent accounts for services received.

“Maximum allowable asset” means that all sources of accountable assets as defined above shall not exceed \$20,000 for a single applicant or \$45,000 for a married applicant.

“Medically needy applicants” means those individuals who cannot be maintained in the community because of the need for additional support and care to meet their physical, medical and psychosocial needs.

“Medicare” means a system of governmental insurance for providing medical and hospital care for the aged from Federal social security funds.

“National Guard/Reserve Component” means those members of the armed forces of the United States of America who have served credibly for 20 years or more, have been honorably discharged, and eligible for retirement pay. For purposes of admission criteria to a veterans memorial home, National Guard/Reserve Component retirees are considered veterans.

"Needy veteran" means an individual whose accountable assets and income do not exceed the maximum allowable assets as defined above.

"Net income" means the total gross income received, minus allowable deductions.

"Nonaccountable assets" means those items of determined value that are owned solely by the applicant or spouse, or owned jointly with spouse, jointly with others or jointly by the spouse and others and will not be spent down or liquidated and used toward payment of resident's care and maintenance. The following are considered non-accountable assets:

1. The primary residence and any appurtenance thereto. However, if the property is sold, and a portion or all of the proceeds from the sale are not reinvested in a primary residence, any income earned from the investment of any or all the proceeds will be counted as income.
2. All of the household effects therein; and
3. An automobile if there is a community spouse.

"Personal needs account" means an account maintained at the veterans' facility for deposit of the personal funds of the resident and which will be considered part of the accountable assets. This account shall be administered by the veterans' facility or treasurer of the State of New Jersey.

"Personal needs allowance" means a set amount received by a resident for individual use and spending. The personal needs allowance shall be as follows:

1. A resident whose source of monthly income exceeds \$100.00 will retain a minimum of \$100.00 for personal needs.
2. A resident whose source of monthly income does not exceed \$100.00 will retain all of their monthly income.
3. A resident who has no source of funds will be provided a monthly allowance for personal needs of \$50.00.
4. The welfare fee will be reduced to maintain the minimum of \$100.00 for the resident's personal needs.

"Representative Payor" means a designated person or institution responsible for the payment of the resident's financial obligations.

"Resident" or "veterans' facility resident" means an individual residing in a New Jersey veterans' memorial facility.

"Resident fee" means the monthly charges billed by the veterans' facility to the resident for their cost of care and maintenance.

"Respite Care Program" means a short-term admission for veterans and eligible others to provide the caregiver a period of rest from providing healthcare services to the veteran in need. This program is established in accordance with the eligibility requirements, policies, and procedures for healthcare and respite care services.

"Spend down" means that which occurs when accountable assets exceed the maximum amount allowed and are liquidated and spent towards the actual care and maintenance cost. This process will continue as long as the accountable assets exceed the maximum amount allowed.

"Transfer" means the placement of a resident to a more suitable environment within the Department of Military and Veterans Affairs to meet individual needs.

"Veteran" means:

1. A person who has been other than dishonorably discharged from the active military service (90 days total active duty service, unless discharged early for service connected disability) of the United States and has been a resident of New Jersey for at least two years prior to the date of application;
2. A person who was a citizen of the State of New Jersey at the time of entrance into the active military service of the United States, and who is qualified for admission except for the required period of State residence. Preference shall be given to persons who have been residents of the State for a period of at least two years prior to application; or
3. A person who is not a citizen of the State of New Jersey and who is classified by the Federal Veterans Affairs Administration as Priority I, II, III, or catastrophic Priority IV.

"Veterans' facility" means any home, institution, hospital, or part thereof, the admission to which is under the jurisdiction of the Department of Military and Veterans' Affairs, being the facilities at Menlo Park, Paramus, Vineland, and such other veterans' facilities as may be developed.

"Welfare fund" means an account established at each facility pursuant to N.J.S.A. 38A:3-6.16 for the specific purpose of accepting monies that will be spent for and on behalf of residents' programs, special events and services. It is composed of interest, funds specifically donated, and from monies which have escheated to the welfare fund from the personal needs account of deceased residents leaving no will or next of kin. This fund will provide for and maintain a quality of life which might otherwise not be possible for the residents and shall be administered by the Adjutant General in accordance with the provisions of N.J.S.A. 38A:3-6.16.

"Working spouse" means the married spouse of an individual residing in a New Jersey veterans' memorial home who finds it necessary to continue employment to meet financial needs.

Amended by R.1998 d.3, effective January 5, 1998.

See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Amended "Accountable assets", "Allowable deductions", "Care and maintenance", "Community Spouse", "Dependent", "Eligible others", "Needy veteran", "New resident", "Nonaccountable assets", "Personal needs account", "Personal needs allowance", "Veteran", and "Welfare fund"; added "Discharge", "Gross income", "Irrevocable trust", "Maximum allowable asset", "Medicare" and "Transfer"; and deleted "Income".

Amended by R.2003 d.244, effective June 16, 2003.

See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

In "Accountable assets", added the last sentence; added "Allied veterans", "Extraordinary expense deduction", "Indigent", "Lien application", "National Guard/Reserve Component", "Respite Care Program" and "Working spouse"; in "Eligible others", rewrote 3i and added 3iii through 3iv.

Amended by R.2006 d.209, effective June 5, 2006.

See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

In definition "Eligible others" substituted "20" for "five" and inserted "by the Director, Veterans Healthcare Services" in the introductory paragraph, inserted present 1, recodified 1 through 3 as 2 through 4, deleted "Spousal priority is as follows:" from the end of 4 and deleted 4i through 4iv; in definition "Maximum allowable asset", substituted "\$20,000" for "\$15,000" and "\$45,000" for "\$40,000"; added the last sentence in definition "National Guard/Reserve Component"; deleted definition "New resident"; substituted "healthcare and respite care services" for "long term and respite care services as defined in this chapter" in definition "Respite Care Program"; and in definition "Veteran", deleted "or" from end of 1, substituted "; or" for a period at end of 2 and inserted 3.

5A:5-2.2 Admission eligibility

(a) Eligibility for admission to the New Jersey veterans' memorial facilities is considered on financial and qualified medical needs. Veterans shall be given preference and non-veterans shall be admitted to a veterans facility as long as the census of non-veterans does not exceed 15 percent of the total population. The following individuals, in order of priority, are eligible for admission consideration:

1. A New Jersey needy veteran, being one who does not exceed the maximum accountable assets from all sources, but meets the New Jersey residency requirement as described in paragraph 1 of the definition of "veteran" in N.J.A.C. 5A:5-2.1.

2. A New Jersey veteran who exceeds the maximum allowable assets, who shall still be eligible for admission, but shall be required to pay the actual cost of care and maintenance.

3. A needy spouse of a New Jersey veteran who resides in a New Jersey veterans' memorial facility.

4. A spouse of a New Jersey veteran who resides in a New Jersey veterans' memorial facility, who exceeds the maximum allowable assets.

5. A needy spouse of a New Jersey veteran who does not reside in a New Jersey veterans' memorial facility.

6. A spouse of a New Jersey veteran who does not reside in a New Jersey veterans' memorial facility, who exceeds the maximum allowable assets.

7. Needy eligible others, as set forth in (a)7i through iii below whose accountable assets do not exceed the maximum allowable amount in this order:

- i. Surviving spouse;
- ii. Gold Star parent; and
- iii. Gold Star widow, widower.

8. Eligible others, as set forth in (a)8i through iii below, whose assets exceed the maximum allowable amount, who are otherwise eligible for admission, but shall be required to pay the actual cost of care and maintenance in this order:

- i. Surviving spouse;
- ii. Gold Star parent; and
- iii. Gold Star widow, widower.

9. A needy veteran, being one who does not exceed the maximum accountable assets from all sources, but does not meet the New Jersey residency requirement as described in paragraph 1 of the definition of "veteran" in N.J.A.C. 5A:5-2.1.

(b) The non-needy applicants in (a) above shall be defined by their financial assets.

(c) All accountable assets shall be spent down and liquidated and used to pay resident's actual care and maintenance until:

1. A single applicant's maximum allowable assets do not exceed \$20,000 from all sources of accountable assets;

2. A married couple's maximum allowable assets do not exceed \$45,000 from all sources of accountable assets.

(d) Admission eligibility is contingent upon a facility's ability to meet the applicant's individual health care needs which will be reviewed and determined by the Admission Committees of each facility and bed availability. The applicant shall also sign a statement that he or she will accept placement in the facility designated by the Adjutant General, that he or she understands all sources of income to include Social Security shall be considered when determining the care and maintenance fee, and that he or she will abide by the rules, regulations and discipline of the facility to which admitted. The obligation of such statement shall remain in effect as long as the resident remains on the census of one of the New Jersey veterans memorial facilities.

(e) The following shall be denied admission into a New Jersey veterans' memorial facility:

1. Applicants who require treatment beyond the facilities' ability to meet the applicants' individual health care and psychological needs;

2. Applicants who are active substance abusers, exhibit active psychiatric problems or exhibit behavioral actions which may pose a danger to self or others;

3. Applicants who refuse to sign the required statement of compliance under (d) above; and

4. A dependent child.

(f) An approved applicant may be subject to reevaluation in the following circumstances:

1. A more than six months lapse from the time of application, before admission;

2. A change in medical or psychological status; or

3. An omission of significant medical or financial information.

(g) Criteria for admitting applicants who are incapable of making decisions for themselves are as follows:

1. Any applicant who is adjudicated legally incompetent is required to have a legal guardian.

i. A copy of the guardianship document shall be submitted with the application prior to admission being scheduled.

2. Any applicant who has a conservatorship shall submit a copy of the document prior to admission being scheduled.

3. Any applicant who has a durable power of attorney for both medical and financial matters shall submit a copy of the document for guardianship criteria to be waived. The document shall be notarized, witnessed and signed by the applicant while competent.

4. In the absence of a durable advance directive or other legal documents, or the next of kin, the facility and its personnel shall act to preserve life when a resident is incapable of making decisions for themselves.

Amended by R.1998 d.3, effective January 5, 1998.

See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Inserted new (a)3 and recodified (a)3 and 4 as (a)4 and 5; in (a)4, rewrote list of "Needy eligible others"; in (a)5 added list of "Eligible others"; deleted (e)1, recodified (e)2 and 3 as (e)1 and 2, and inserted new (e)3, inserted new (g)4.

Amended by R.2003 d.244, effective June 16, 2003.

See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

In (e), added a new 2 and recodified former 2 and 3 as 3 and 4.

Amended by R.2006 d.209, effective June 5, 2006.

See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

In (a), substituted "15" for "five" in the introductory paragraph, deleted former (a)2, recodified former (a)3 as (a)2 and inserted current (a)3 through (a)6, inserted "New Jersey" in (a)2; recodified former (a)4 and (a)5 as (a)7 and (a)8, rewrote (a)7 and (a)8 and inserted (a)9; substituted "\$20,000" for "\$15,000" in (c)1; and "\$45,000" for "\$40,000" in (c)2; and substituted "who are incapable of making decisions for themselves" for "with special needs" in the introductory paragraph of (g) and inserted "a" and "or next of kin," in (g)4.

SUBCHAPTER 3. PRE-ADMISSION SCREENING OF APPLICANTS

5A:5-3.1 Sequence of screening activities

(a) The admission to a veterans' memorial facility shall be conducted as follows:

1. To establish basic eligibility of all applicants, the following documentation and information reviews are required:

i. Service history:

(1) Proof of an other than dishonorable discharge; and

(2) A completed "Request Pertaining to Military Records" (Standard Form 180);

ii. Social history:

(1) A birth certificate;

(2) Marital status verification; and

(3) Verification of residency;

iii. Medical status:

(1) An application for Medical Benefits (VA 10-10EZ);

(A) Medicare Part A and B; and

(B) Other health insurances including supplemental;

(C) The coverages under (a)1iii(1)(A) and (B) above must be in effect at the time of admission if eligible and must remain in effect as long as the individual is a resident of one of the New Jersey veterans' memorial facilities. Eligible residents who do not maintain Medicare Part A and B and other supplemental health insurance shall not be allowed any medical fee deductions against their care and maintenance fee and shall be responsible for all related fees, as long as they select not to maintain medical insurance. In the event that a resident does not have any source of income or assets, the facility shall pay for supplemental insurance if eligible for medical coverage.

(2) A Medical Certificate (VA 10-10EZ)

(3) A Veterans Administration Referral for Community Nursing Home Care (10-1204) applies only if the applicant is currently under VA care or in a nursing home under VA contract; and

(4) A Medical History Release Request;

iv. Financial eligibility:

(1) Assets will be reviewed and considered in determining financial eligibility;

(2) Non-accountable assets will not be considered in determining accountable assets;

(3) All financial transactions and transfer of resources, which have occurred within 36 months preceding the date of application, will be reviewed and considered as accountable assets;

(4) The value of all assets will be determined as of the date of application and revalued on the date of admission;

(5) Income from all sources shall be disclosed. Income shall be verified by submitting the most recent copy of the Federal and State income tax reports and other such documents as may be required; and

(6) A legal review shall be conducted of all irrevocable trusts;

v. Verification of admission eligibility as defined in N.J.A.C. 5A:5-2.1; and

vi. Other:

(1) Verification of funeral arrangements and responsible person;

(A) Prepaid burial fund allowance not to exceed a face value of \$7,500;

(2) Submission of advance directives for health care, if desired by the applicant, such as:

(A) An advance directive;

(B) A proxy directive;

(C) An instruction directive;

(D) A combined directive;

(E) A durable power of attorney for financial and medical matters; and

(F) A living will; and

(3) Appointment of a representative payor, if desired by the applicant.

2. Applicants shall be eligible for admission consideration upon the completion of the documentation and information for the following:

i. Service history;

ii. Social history;

iii. Medical status;

iv. Financial eligibility; and

v. Admission eligibility.

Amended by R.1998 d.3, effective January 5, 1998.
See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Inserted new (a)1iii(1)(C) and (a)1iv (6); in (a)1vi(1)(A) substituted "prepaid burial fund allowance" for "burial insurance" and "\$7,500" for "\$10,000"; and inserted new (a)1vi(2)(E) and (F).

Amended by R.2003 d.244, effective June 16, 2003.

See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

In (a), substituted "VA 10-10EZ" for "VA 10-10" in the introductory paragraph of 1iii(1) and for "VA 10-10m" in 1iii(2), and rewrote 1iv(6).

Amended by R.2006 d.209, effective June 5, 2006.

See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Deleted the last sentence of (a)1iii(1)(C), which required a written request to be submitted to the Chief Executive Officer within 30 days after initial admission, deleted "; (A) This Requirement" from (a)1iii(3) and substituted "36" for "18" in (a)1iv(3).

SUBCHAPTER 4. ADMISSION REVIEW AND IMPLEMENTATION

5A:5-4.1 Admission review policy

(a) It is the policy of the New Jersey veterans' memorial facilities to have an admission committee review all completed and tentatively approved applications for appropriateness of placement. A tentatively approved application is one which has produced all required documents and meets admission and financial eligibility requirements. In addition to financial eligibility, the following areas will be considered in all applications for admission and may be grounds for rejection:

1. Medical and psychosocial needs;

2. Present medical condition;

3. Evaluation of medical acuity levels;

4. Treatments/care required to meet the applicant's individual health care and psychological needs;

5. An applicant's active participation in substance abuse that poses a present concern or a continuing problem; and

6. Whether an applicant poses danger to self or others.

(b) If the committee rejects an applicant, the facility will provide written notice of denial and the reason for denial within 14 days to the applicant or representative. The notice of denial issued the applicant shall reference the manner in which, and to whom, the denial may be appealed by written request to The Adjutant General or designee within 30 days of the facility's written notice of denial. The decision on the appeal will be considered the final agency action. The adverse decision appeal process is as follows:

1. In situations of medical need where the Admission Committee requires additional information, follow up evaluation or participation in various counseling programs, consideration will be given for placement on the waiting list, following completion and receipt of documentation requested and requirements of the Admission Committee.

2. Admission Committee requirements, in situations of denial and appeals, are to be referred to The Adjutant General or designee for consideration and follow up in accordance with (b) above. A copy of the Admission

Committee's denial letter is to be forwarded to the Director, Division of Veterans Healthcare Services.

3. When the Admission Committee requirements have been met, the applicant(s) awaiting guardianship or a final determination of an appeal process shall remain on the waiting list in the sequence effective the date the application was originally received, and in accordance with (c) below.

(c) Approved applicants will be placed on the waiting list. The waiting list process is as follows:

1. All completed applications with the required documentation will be timed and dated when received.

2. Once the applicant is approved for admission, his or her name will be placed on the bottom of the approved waiting list. An applicant, who is awaiting guardianship, or has an appeal pending for a notice of denial, will remain on the waiting list in sequence pending guardianship appointment or final determination of the appeal.

3. There will be no consideration for by-passing approved applicants on the waiting list except when bed availability is based on gender, veteran preference and treatment needs.

4. If an approved applicant refuses admission at the time offered, the applicant will be placed at the bottom of the waiting list.

5. The waiting list is a confidential document; numerical assignment will be provided when requested.

Amended by R.1998 d.3, effective January 5, 1998.

See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

In (a), deleted (a)2 and recodified (a)3 through 7 as (a)2 through 6; in (b), inserted language detailing limitations period for appeal of denied admission.

Amended by R.2003 d.244, effective June 16, 2003.

See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

In (a), rewrote 5; rewrote (b); in (c), rewrote 1 and 2 and deleted the second sentence in 4.

Amended by R.2006 d.209, effective June 5, 2006.

See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Deleted the designation for (b)1, recodified former (b)1i through (b)1iii as (b)1 through (b)3 and inserted "Admission Committee's" in the last sentence of current (b)2.

SUBCHAPTER 5. CARE MAINTENANCE FEE COMPUTATION

5A:5-5.1 General requirements for computing skilled nursing monthly resident fee

(a) The requirement for establishing a computation for the monthly fee is to ensure that individuals requesting admission to a State of New Jersey veterans' memorial facility pay a portion of the care and maintenance fee based on their monthly income and ability to pay, but not to exceed the established rate as set forth annually by The Adjutant General.

1. The recommended daily rate is to be forwarded to the Director, Division of Budget and Accounting, Department of Treasury for publication no later than November 10 of each year.

(b) At the time of admission and annually thereafter, based on a determined date, the computation of the monthly resident fee is calculated with the resident or representative payor. The calculation is determined by review of Federal and State income tax returns and all financial statements, income, inclusive of IRAs and annuities as accountable assets, as well as, any other financial transactions. This asset review will be required by May 15 with a return date no later than June 30 of each year. As of September 21, 1992, the resident fee will be based on 80 percent of the net income for all residents admitted thereafter. Those individuals residing in the facilities prior to September 21, 1992 or who were on the approved waiting list at that time, will have the resident fee based on 60 percent of the net income.

(c) The resident fee will be based on 80 percent of the net income, except for those admitted or on the approved waiting list prior to September 21, 1992, not to exceed the established monthly care rate set determined annually by the Adjutant General.

(d) Residents who sell their house or acquire additional financial assets following admission to the New Jersey veteran's memorial home are required to report these transactions during their annual asset review described in (b) above.

(e) The welfare fund is an account established at each facility pursuant to N.J.S.A. 38A:3-6.16. It is composed of funds specifically donated to the facility welfare fund, or monies, which have escheated to the Welfare Fund from the personal needs account of deceased residents, leaving no will or next of kin. This trust fund is to be utilized for the benefit and general welfare of the resident population of the institution as a whole. This fund shall provide for, and maintain, a quality of life which might otherwise not be possible for the residents and shall be administered by the Adjutant General in accordance with the provisions of N.J.S.A. 38A:3-6.16. Residents will be required to pay a monthly welfare fee of \$20.00 or 12 percent of the balance of their monthly income, whichever is less, excluding all allowable deductions and the care maintenance fee payment. These monies will be deposited in the facility's welfare fund. The remainder of the net income will be returned to the resident for personal use.

(f) Payment for the resident fee is due the first of each month.

(g) At the time of admission, a resident will be assessed care and maintenance fees charges for that month prorated according to the date of admission.

(h) At the time of discharge, prepaid care and maintenance fees shall be rebated based upon proration of days.

(i) Yearly care and maintenance increases will be in accordance with established yearly Social Security rate increases.

(j) Care and maintenance fee accounts that become delinquent are referred to the Department of Treasury for lien application proceedings as defined in the Department of Treasury Policy and Procedure for Delinquent Accounts.

Amended by R.1998 d.3, effective January 5, 1998.
See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Inserted new (a) explaining computation of monthly resident fee, recodified (a) through (f) as (b) through (g); in (d), defined how a welfare fund may be established and utilized; in (g), substituted "prepaid care and maintenance fees shall be rebated based upon proration of days" for "there will be no reimbursement to the resident of the resident's estate for prepaid care and maintenance fees".

Amended by R.2003 d.244, effective June 16, 2003.
See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

In (a), added 1; in (b), rewrote the second sentence and added the third sentence; added a new (d) and recodified former (d) through (g) as (e) through (h); added (i) and (j).

Amended by R.2006 d.209, effective June 5, 2006.
See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Section was "General requirements for computing monthly resident fee". Substituted "report these transactions during their annual asset review described in (b) above" for "retain 50 percent of the asset received for payment toward their care and maintenance fee" in (d).

5A:5-5.2 Formula for computing single resident's skilled nursing monthly resident fee based on an 80/20 percentage

(a) The monthly resident fee for a single 80/20 resident is based on the total gross income, minus allowable deductions. This figure is the net income. Eighty percent of the net income will be the resident fee charged. An additional \$20.00 or 12 percent of the balance of their monthly income, whichever is less will be deposited in the welfare fund of the facility. The remainder of the net income will be deposited in the resident's personal needs account.

(b) The allowable deductions for a single resident are as follows:

1. The personal needs allowance;
2. Health insurance premiums;
3. Prepaid burial fund account: Fund allowances shall not exceed a face value of \$7,500;
4. Court order encumbrances; and
5. Other expenses or other financial issues as may be individually approved by the Deputy Commissioner of the Department of Military and Veterans' Affairs or designee.

(c) Any interest or payment received from a trust transfer will be treated as income. Furthermore, in situations where a trust or transfer of assets has occurred within 18 months of submitting an admission application, the value of the trust and/or assets will be deemed an accountable asset for the balance of the 18 month period.

Amended by R.1998 d.3, effective January 5, 1998.

See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

In (b)3, deleted language referring to life insurance in lieu of prepaid burial accounts, inserted new (b)4 and recodified (b)4 as (b)5; and inserted new (c) explaining treatment of interest and payments received from a trust transfer.

Amended by R.2006 d.209, effective June 5, 2006.

See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Section was "Formula for computing single resident's monthly resident fee based on an 80/20 percentage".

5A:5-5.3 Formula for computing a married resident's skilled nursing monthly resident fee based on an 80/20 percentage

(a) The monthly resident fee for a married resident is based on the total personal income of the resident, minus allowable deductions. This figure is the net income. Eighty percent of the net income will be the resident fee charged. An additional \$20.00 or 12 percent of the balance of their monthly income, whichever is less will be deposited in the welfare fund of the facility. The remainder of the net income will be deposited in the resident's personal needs account.

(b) The resident fee will be based solely on the applicant's income.

(c) Additional income received by a working spouse, following admission of the veteran, will remain as income to the working spouse.

(d) The community spouse must divulge all sources of their monthly income in order to file for consideration of allowable deductions. Allowable deductions will be offset by the community spouse's monthly income before the applicant's monthly income will be considered. In the event that each individual of the marriage is a resident, the resident fee for each will be calculated as for a single resident. Failure to make a full and complete disclosure will constitute a breach of the facility regulations and may be grounds for removal as provided for in N.J.S.A. 38A:3-6.9.

(e) The allowable deductions for a married resident are as follows:

1. Personal needs allowance;
2. Health insurance premiums;
 - i. The actual cost of Medicare A and B with Medi Gap coverage;
3. Court order encumbrances;
4. Rent/primary residence first mortgage or home equity loan: The mortgage/home equity loan must have been in effect 18 months prior to the date of application. Verification of mortgage/home equity loan payment schedule is required. The actual cost of property taxes and insurance for the primary residence will be deducted equally over the 12-month period. Verification shall be required;
5. Food deductions shall be \$270.00 for the community spouse and \$185.00 per additional dependent per month;

6. Heat/electric deduction shall be based on preceding year usage and cost. The deduction will be divided equally over the 12 month period;

7. Water/sewage deduction shall be the actual annual cost. The deduction will be divided equally over the 12 month period;

8. Automobile/transportation deduction shall be \$240.00 per month, utilized for car maintenance, not for car purchase payments;

9. Clothing deduction shall be \$60.00 per month per dependent;

10. Telephone/television service deduction shall be \$40.00 per month;

11. Trash disposal deduction shall be the actual annual cost. The deduction will be divided equally over the 12-month period;

12. Home maintenance deduction shall be \$90.00 per month;

13. Prepaid burial fund accounts: Fund allowances shall not exceed a face value of \$7,500. This deduction can be considered for both the applicant and spouse with verification of payment schedule. If a prepaid burial fund account is not in effect, then a maximum burial account not to exceed a face value of \$7,500 is to be purchased upon admission and shall be considered an allowable deduction to be divided equally over 24 months;

14. Guardianship/advance directives: The actual cost of legal fees up to a maximum of \$2,400 may be deducted. This deduction will be divided into 24 monthly installments, which will only be permitted as long as the resident resides in the veterans' memorial facility. This deduction will only be approved for a guardianship hearing/advance directive protocol which was processed no later than one year prior to the date of application. Verification of cost and date of action shall be required; and

15. Other extraordinary expenses or other financial issues as may be individually approved by the Deputy Commissioner of the Department of Military and Veterans' Affairs or designee.

(f) No deduction beyond the approved listing shall be permitted until all accountable assets, to include the personal needs account, are depleted.

(g) Any interest or payment received from a trust transfer will be treated as income. Furthermore, in situations where a trust or transfer of assets has occurred within 18 months of submitting an admission application, the value of the trust and/or assets will be deemed an accountable asset for the balance of the 18 month period.

Amended by R.1998 d.3, effective January 5, 1998.
See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Inserted new (d)3 and recodified (d)3 through (d)14 as (d)4 through (d)15; in (d)5, 8, 12, and 13 amended the amount of deductions for services; in (d)13, deleted language referring to life insurance in lieu of prepaid burial accounts and added language concerning mandatory purchase of burial insurance; and inserted (g) regarding interest as income.

Amended by R.2003 d.244, effective June 16, 2003.

See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

Added a new (c) and recodified former (c) as (d); recodified former (d) as (e), added 2i and rewrote 8; recodified former (e) and (f) as (f) and (g).

Amended by R.2006 d.209, effective June 5, 2006.

See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Section was "Formula for computing a married resident's monthly resident fee based on an 80/20 percentage". Substituted "The actual cost of" for "Maximum allowable of \$150.00 per month as requirement for" in (e)2i, in (e)4, inserted "or home equity loan" and inserted "/home equity loan" two times and substituted "18" for "30" in (e)5, substituted "\$270.00" for "\$225.00" and "\$185.00" for "\$155.00", substituted "\$240.00" for "\$200.00" in (e)8 and "\$60.00" for "\$50.00" in (e)9, in (e)10, inserted "/television service" and substituted "\$40.00" for "\$25.00" and substituted "\$90.00" for "\$75.00" in (e)12.

5A:5-5.4 Financial responsibilities for veterans' skilled nursing facility resident

(a) An eligible applicant who desires admission and whose assets are in excess of the maximum allowable assets may be admitted on a bed available basis. They will be billed for and required to pay the cost of care and maintenance as determined by the Adjutant General until their resources meet the maximum allowable assets.

(b) When an account exceeds the maximum allowable assets, the resident will be billed and required to pay the cost of care and maintenance until the maximum allowable asset limit is reached.

(c) The resident will be responsible for all financial obligations for services not provided by the facility. This includes, but is not limited to:

1. Transportation;
2. Medical appointments;
3. Hospitalization;
4. Specialized services/programs/treatments;
5. Adaptive equipment;
6. Diagnostic services;
7. Other outside services as requested by the resident;
8. Deductible fees not covered by medical insurances; and
9. Payment for pharmaceuticals to reimburse Medicaid as required.

(d) The facility will not accept responsibility for any nonpayment of debts incurred by a resident including health care costs.

(e) All personal property of the resident is the responsibility of the resident or guardian. The facility assumes no

responsibility and will not reimburse a resident for loss or damage of personal items.

(f) Any resident who is transferred to an outside facility for any period of time is required to continue to pay the care and maintenance fee in order that placement in the facility be guaranteed.

Amended by R.1998 d.3, effective January 5, 1998.
See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

In (d), inserted new (d)9, requiring Medicaid reimbursement for pharmaceutical payments; and inserted new (g) explaining responsibility for payment in the event of a transfer to an outside facility.

Amended by R.2006 d.209, effective June 5, 2006.
See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Section was "Financial responsibilities for veterans' facility resident". Deleted (b) and recodified (c) through (g) as (b) through (f).

5A:5-5.5 General requirements for computing veterans' assisted living monthly resident fee

(a) The computation fee for care and maintenance for assisted living is determined in accordance with this chapter, except as in (b) below.

(b) The monthly resident fee for a married or single resident is 70/30 based on the total gross income, minus allowable deductions. This figure is the net income. Seventy percent of the net income will be the resident fee charged. An additional \$20.00 or 12 percent of the balance of their monthly income, whichever is less, will be deposited in the welfare fund of the facility. The remainder of the net income will be deposited in the resident's personal needs account.

New Rule, R.2006 d.209, effective June 5, 2006.
See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

SUBCHAPTER 6. RESIDENT TRANSFER OR DISCHARGE

5A:5-6.1 Transfer or discharge of a resident

(a) Any resident may be removed from a veterans' facility on being restored to an ability to promote his or her own

support and welfare in the community, or for immorality, or for fraud or willful misrepresentation, or refusal to abide by the rules, regulations and discipline of the veterans' facility, as well as:

1. In an emergency, with notification of the resident's physician, next of kin or guardian;
2. For medical reasons or to protect the resident's welfare or the welfare of others;
3. For nonpayment of fees, in situations not prohibited by law. All endeavors will be implemented and utilized inclusive of lien application; or
4. Expiration of the resident.

(b) An approved transfer from one New Jersey veterans memorial facility to another shall not occur unless all financial obligations have been met. The resident or representative payor shall remain responsible for charges and financial obligations accrued up to and including the date of transfer.

(c) No further charges or financial obligations shall be accrued beginning with the day immediately following the date of discharge. The resident or representative payor shall remain responsible for financial obligations accrued up to and including the date of discharge.

Amended by R.1998 d.3, effective January 5, 1998.
See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Inserted new (b) and (c) explaining financial obligations in the event of a transfer to another veterans memorial facility.

Amended by R.2003 d.244, effective June 16, 2003.
See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

In (a), added 3i.
Amended by R.2006 d.209, effective June 5, 2006.
See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Substituted a period for a colon at the end of the first sentence of (a)3 and deleted the (a)3i designation.