

**CHAPTER 5**

**NEW JERSEY VETERANS' FACILITIES**

**Authority**

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

**Source and Effective Dates**

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

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).

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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 or others and must be spent down or liquidated and used toward payment of the resident's care and maintenance.

“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.

“Allowable deductions” means those approved items which will be subtracted from the gross income when calculating admission eligibility.

“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 veterans' facilities.

“Community spouse” means the married spouse of the individual who is residing in a veterans' 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.

“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" are as follows:

1. "Spouse" means the person married to an individual who has been honorably 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.

2. "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.

3. "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.

"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.

"Income" means all revenue received by resident for a given period. Includes funds received for labor or services, social security, pensions, aid and attendance, rental of property, the proceeds of business or enterprises and investments.

"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.

"Needy veteran" means an individual who is without sufficient financial ability to provide for their support and necessary care in the community.

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

"New resident" means those individuals admitted after September 21, 1992.

"Non-accountable assets" means those items of determined value that are owned solely by the applicant or spouse, or owned jointly with spouse or 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;
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.

"Personal needs allowance" means a set amount received by a resident for individual use and spending.

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.

"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.

"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.

"Veteran" means:

1. A person who has been honorably discharged from the active military service of the United States and has been a resident of New Jersey for at least two years prior to the date of application; or

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.

"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. 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.

#### 5A:5-2.2 Admission eligibility

(a) Eligibility for admission to the New Jersey veterans' memorial facilities is considered on financial and medical needs. 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 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.

3. Needy eligible others, as set forth in no priority order in (a)3i through iv below being those whose accountable assets do not exceed the maximum allowable assets.

- i. Spouse;
- ii. Widow;

iii. Gold Star Parent; and

iv. Dependent others; and

4. Those who exceed the maximum allowable assets, who shall still be eligible for admission, but shall be required to pay the actual cost of care and maintenance.

(b) The non-needy applicants in (a)4 above shall be defined by their financial assets; however, those who are defined as medically needy will be admitted on a bed available basis determined upon receipt of the completed and dated application.

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

1. A single applicant's maximum accountable assets do not exceed \$15,000 from all sources of accountable assets; or

2. A married couple's maximum accountable assets do not exceed \$40,000 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, and that he or she will abide by the rules, regulations and discipline of the facility to which admitted.

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

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

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

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

(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 with special needs 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.

### 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 as follows:

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

i. Service history:

- (1) Proof of other than dishonorable discharged; 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 10-10);
  - (A) Medicare Part A and B; and
  - (B) Other health insurances;
- (2) A Veterans Administration Medical Certificate (VA 10-10m);
- (3) A Veterans Administration Referral for Community Nursing Home Care (10-1204);

(A) This requirement 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) All 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 18 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; and

(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;

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

vi. Other:

(1) Verification of funeral arrangements;

(A) Burial insurance not to exceed \$10,000;

(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; 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.

### 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 behaviors;
2. Past medical history;
3. Present medical condition;
4. Evaluation of medical acuity levels;
5. Treatments/care required to meet the applicant's individual health care and psychological needs;
6. An applicant's participation in active substance abuse; and
7. 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.

(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 and prioritized in accordance with N.J.A.C. 5A:5-2.1.
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, will remain on the waiting list in sequence but can not be admitted until the guardian is appointed.
3. There will be no consideration for by-passing approved applicants on the waiting list except when bed availability is based on gender.
4. If an approved applicant refuses admission at the time offered, the applicant will be placed at the bottom of the waiting list. If offered admission a second time and refuses, the applicant will be taken off the list and may be barred from reapplying for a period of six months.
5. The waiting list is a confidential document; numerical assignment will be provided when requested.

## SUBCHAPTER 5. CARE MAINTENANCE FEE COMPUTATION

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

(a) 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 and transactions. 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 will have the resident fee based on 60 percent of the net income.

(b) The resident fee will be based on 80 percent of the net income, not to exceed the established monthly care rate set by the Adjutant General annually.

(c) Residents admitted on or after September 21, 1992 will be required to pay a welfare refund fee not to exceed 10 percent of the balance of their monthly income, 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. Residents admitted before September 21, 1992 will continue to pay one percent of earned interest on their savings account as a welfare fund fee.

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

(e) At the time of admission, a resident will be assessed charges for that month pro-rated according to the date of admission.

(f) At the time of discharge, there will be no reimbursement to the resident or resident's estate for pre-paid care and maintenance fees.

### 5A:5-5.2 Formula for computing single resident's 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 10 percent of the balance 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. Life insurance/burial accounts: This insurance will have had to be in effect prior to the date of application. The face value of the policy shall not exceed \$10,000. Life insurance will be considered in lieu of a burial account; and
4. Other expenses as may be individually approved by the Deputy Commissioner of the Department of Military and Veterans' Affairs.

### 5A:5-5.3 Formula for computing a married resident's 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 10 percent of the balance 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) 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.

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

1. Personal needs allowance;
2. Health insurance premiums;
3. Rent/primary residence first mortgage: The mortgage must have been in effect 30 months prior to the date of application. Verification of mortgage 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;
4. Food deductions shall be \$200.00 for the community spouse and \$130.00 per additional dependent per month;
5. Heat/electric deduction shall be based on preceding year usage and cost. The deduction will be divided equally over the 12 month period;
6. Water/sewage deduction shall be the actual annual cost. The deduction will be divided equally over the 12 month period;
7. Automobile/transportation deduction shall be \$150.00 per month;
8. Clothing deduction shall be \$50.00 per month per dependent;
9. Telephone deduction shall be (\$25.00) per month;
10. Trash disposal deduction shall be the actual annual cost. The deduction will be divided equally over the 12 month period;
11. Home maintenance deduction shall be \$50.00 per month;

12. Life insurance/burial accounts: The life insurance shall have had to be in effect one year prior to the date of application. The face value of the policy shall not exceed \$10,000. Life insurance will be considered in lieu of a burial account. This deduction can be considered for both the applicant and spouse with verification of policies and payment schedule;

13. 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

14. Other extraordinary expenses as may be individually approved by the Deputy Commissioner of the Department of Military and Veterans' Affairs.

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

#### **5A:5-5.4 Financial responsibilities for veterans' facility resident**

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

(b) Once admitted, a resident will be able to accumulate accountable assets of \$5,000. This money will be added to the accountable assets; thus, increasing the amount from \$15,000 to \$20,000 for a single resident and from \$40,000 to \$45,000 for a married resident.

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

(d) 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;
- and
8. Deductible fees not covered by medical insurances.

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

(f) 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.

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## 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; or
4. Expiration of the resident.