

**CHAPTER 164B**  
**STATEWIDE RESPITE CARE PROGRAM**

**Authority**

N.J.S.A. 30:4F-7 et seq., particularly 30:4F-12; and Reorganization Plan No. 001-1996 (Whitman, May 2, 1996).

**Source and Effective Date**

R.2010 d.022, effective December 17, 2009.  
See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 164B, Statewide Respite Care Program, expires on June 15, 2017. See: 49 N.J.R. 174(a).

**Chapter Historical Note**

Chapter 82, Statewide Respite Care Program, was originally codified in Title 10 as Chapter 14, Statewide Respite Care Program. Chapter 14, originally Emergency and Temporary Housing Projects was filed and became effective prior to September 1, 1969.

Chapter 14, Emergency and Temporary Housing Projects, was repealed by R.1983 d.523, effective November 21, 1983. See: 15 N.J.R. 1430(a), 15 N.J.R. 1944(a).

Chapter 14, Statewide Respite Care Program, was adopted as R.1988 d.226, effective May 16, 1988. See: 19 N.J.R. 1712(a), 20 N.J.R. 1107(a).

Pursuant to Executive Order No. 66(1978), Chapter 14, Statewide Respite Care Program, was readopted as R.1993 d.256, effective May 7, 1993. See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Pursuant to Reorganization Plan No. 001-1996, Chapter 14, Title 10, Statewide Respite Care Program, was recodified to Chapter 82, Title 8, effective October 15, 1997. As a part of the recodification, administrative changes were made to reflect Department of Health and Senior Services jurisdiction. See: 29 N.J.R. 4679(a).

Pursuant to Executive Order No. 66(1978), Chapter 82, Statewide Respite Care Program, was readopted as R.1998 d.274, effective May 7, 1998. See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a). Chapter 82, Statewide Respite Care Program, expired November 3, 2003.

Chapter 82, Statewide Respite Care Program, was adopted as new rules by R.2004 d.241, effective July 6, 2004. See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

Chapter 82, Statewide Respite Care Program, was readopted as R.2010 d.022, effective December 17, 2009. See: Source and Effective Date. See, also, section annotations.

Chapter 82 of Title 8, Statewide Respite Care Program, was recodified as Chapter 164B of Title 10 by administrative change, effective June 16, 2014. As a part of the recodification, administrative changes were made throughout concerning cross-references, agency names and addresses, and the elimination of text rendered redundant or moot by the transfer of authority. See: 46 N.J.R. 1643(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 164B, Statewide Respite Care Program, was scheduled to expire on December 17, 2016. See: 43 N.J.R. 1203(a).

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. GENERAL PROVISIONS**

- 10:164B-1.1 Purpose
- 10:164B-1.2 Scope of service
- 10:164B-1.3 Target population; priority of services
- 10:164B-1.4 Definitions

**SUBCHAPTER 2. ADMINISTRATIVE ORGANIZATION**

- 10:164B-2.1 Department of Human Services
- 10:164B-2.2 County administration

**SUBCHAPTER 3. APPLICATION PROCESS**

- 10:164B-3.1 General provisions
- 10:164B-3.2 Authorized agent
- 10:164B-3.3 Responsibilities in the application process

**SUBCHAPTER 4. ELIGIBILITY**

- 10:164B-4.1 Eligibility standards
- 10:164B-4.2 Confidentiality and disclosure of information
- 10:164B-4.3 (Reserved)

**SUBCHAPTER 5. SPONSORS AND PROVIDERS**

- 10:164B-5.1 Qualifications and requirements of sponsors
- 10:164B-5.2 Qualifications and requirements for provider agencies

**SUBCHAPTER 6. COST LIMITATIONS AND CO-PAYMENT FEE SCALE**

- 10:164B-6.1 Service and cost limitations for eligible persons
- 10:164B-6.2 Sliding fee scale for co-payments
- 10:164B-6.3 through 10:164B-6.4 (Reserved)

**SUBCHAPTER 7. REIMBURSEMENT AND PAYMENT**

- 10:164B-7.1 Reimbursement
- 10:164B-7.2 Primary and secondary payment

**SUBCHAPTER 8. APPEALS**

- 10:164B-8.1 Appeals process

**SUBCHAPTER 1. GENERAL PROVISIONS****10:164B-1.1 Purpose**

Pursuant to N.J.S.A. 30:4F-7 et seq., the Department of Human Services intends to use the Statewide Respite Care Program to provide relief and support to family or other uncompensated caregivers from the demands of the daily care of functionally impaired persons, including the frail elderly.

Amended by R.2010 d.022, effective January 19, 2010.  
See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Inserted "and Reorganization Plan No. 001-1996 (Whitman, May 2, 1996)," and "including the frail elderly" and deleted "frail elderly and other" preceding "functionally".

**10:164B-1.2 Scope of service**

(a) This chapter shall apply to all activities provided by and persons participating in the Statewide Respite Care Program, including, but not limited to, applicants, eligible persons, caregivers and sponsors.

(b) Pursuant to N.J.S.A. 30:4F-7 et seq., the New Jersey Statewide Respite Care Program is limited to the provision of and payment for short-term, intermittent respite care for functionally impaired adults, including the frail elderly.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

In (a), inserted "provided by", and inserted a comma following "including" and preceding "applicants"; and in (b), deleted "frail, elderly and" preceding "functionally" and inserted ", including the frail elderly".

### 10:164B-1.3 Target population; priority of services

(a) The target population is limited to those individuals who are at risk of severe illness, fatigue or stress due to the demands of their basic, daily caregiving responsibilities for the eligible person.

(b) The sponsor agency shall give priority in receiving services to those situations where the eligible person is at risk of institutionalization due to the temporary incapacity of a caregiver.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

In (a), deleted "providing the basic, daily care to the eligible person," following "individuals" and a comma following "fatigue", and inserted "basic, daily" and "for the eligible person"; and in (b), substituted "The sponsor agency shall give" for "Situations to be given" and "to those situations" for "are those".

### 10:164B-1.4 Definitions

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

"Adult day health services facility" means a facility or a distinct part of a facility, which is licensed by the Department of Health pursuant to N.J.A.C. 8:43F to provide preventive, diagnostic, therapeutic and rehabilitative services under medical and nursing supervision to meet the needs of functionally impaired adult participants, who are not related to the members of the governing authority by marriage, blood or adoption, for a period that does not exceed 12 hours during any calendar day.

"Adult family care" means a 24-hour per day living arrangement for persons who, because of age or physical disability, need assistance with activities of daily living and for whom services are rendered in the homes of trained caregivers who are employed by Department of Health licensed adult family care sponsor agencies.

"Applicant" means a functionally impaired person 18 years of age or older who would be at risk of long-term institutional placement if his or her regular caregiver could not continue in that role without the assistance of temporary home and community support services, including respite care.

"Assisted living" means a coordinated array of supportive personal and health services provided by a facility licensed by the Department of Health pursuant to N.J.A.C. 8:36, which are available 24 hours per day, to residents who have been

assessed as needing these services, including residents who require formal long-term care.

"Campership" means a day or overnight accredited camp program for functionally impaired adults.

"Caregiver" means a spouse, parent, child, relative or other person who:

1. Is 18 years of age or older;
2. Has the primary responsibility of providing daily care for the eligible person; and
3. Does not receive financial remuneration for the care.

"Commissioner" means the Commissioner of the Department, or his or her designee.

"Co-payment" means financial participation in service costs by the eligible person according to a sliding fee scale established at N.J.A.C. 10:164B-6.2.

"Companion or sitter services" means a non-medical, basic supervision service, which is provided for the eligible person in his or her home on a short-term, intermittent basis.

1. Companion or sitter services are intended for those eligible persons who do not require any personal care assistance, medical assistance or housekeeping services during the time when respite care services are provided.

"Department" means the New Jersey Department of Human Services.

"Eligible person" means an applicant who meets the eligibility criteria as set forth in this chapter.

"Emergency" means providing respite care in the case of a sudden or unexpected event that impairs the ability of the caregiver to continue in that role.

1. Emergencies include, but are not limited to, sudden illness of a caregiver, the caregiver's spouse or children; a natural disaster; a death in the family of the caregiver; or an accident affecting the caregiver, the caregiver's spouse or the caregiver's children.

"Functionally impaired" means the presence of a chronic physical or mental disease, illness, or disability, as certified by the physician, physician assistant, advanced practice nurse or a sponsor-provided assessment team, which causes physical dependence on others, and which leaves a person unable to attend to his or her basic daily needs without the substantial assistance or continuous supervision of a caregiver.

"Homemaker/home health aide services" means services which include personal care (that is eating, grooming, hygiene and toileting), household tasks, and activities provided to eligible persons in their homes.

“Homemaker services” means services which include personal care, household tasks, and activities provided to recipients in their homes by a homemaker or home health agency.

“Liquid resources” means any checking accounts, savings accounts, individual retirement accounts, certificates of deposits, stocks, or bonds, that can be converted into cash within 20 working days.

“Nursing facility” means a long-term care facility licensed by the Department of Health under N.J.A.C. 8:39 that provides health related care and services on a 24-hour basis.

“Peer support” means the provision of mutual support services for caregivers involved in the Statewide Respite Care Program.

“Private duty nursing” means hourly service delivered by nursing personnel, licensed in accordance with N.J.A.C. 13:37-5, in the eligible person’s home.

“Provider” means a person, public agency, private non-profit agency, or proprietary agency which is licensed or certified or otherwise approved by the Commissioner to supply any service or combination of services described under “respite” as defined below.

“Residential health care” means short-term placement in a facility, licensed pursuant to N.J.A.C. 8:43-2, which provides food, shelter, supervised health care and related services to four or more persons, 18 years of age or older who are unrelated to the owner or administrator.

“Respite” or “respite care” means the provision of temporary, short-term care for, or the supervision of, an eligible person on behalf of the caregiver in emergencies or on an intermittent basis to relieve the daily stress and demands of caring for the functionally impaired adult.

1. Respite may be provided hourly, daily, overnight or on weekends and may be provided by paid or volunteer staff.

2. The term includes, but is not limited to, companion or sitter services; homemaker and personal care services; adult day health services; short-term inpatient care in a licensed nursing facility, residential health care facility or assisted living residence; adult family care arrangement or overnight camp program; private duty nursing; and peer support and training for caregivers.

“Service plan” means a written document agreed upon by the eligible person, the caregiver and the sponsor, which specifies the type(s), frequency and duration of services to be provided and takes into account other services available to the eligible person and his or her caregiver.

“Social adult day services” means comprehensive social and therapeutic recreational activities in a group setting, with some health monitoring.

1. Clients attending social adult day services programs may not need medical attention during the day, but may require supervision for safety and activities of daily living.

“Sponsor or sponsor agency” means a county or regional agency, either public or private non-profit, which contracts with the Department to administer the local program and arranges for services for eligible persons.

Amended by R.1988 d.505, effective November 7, 1988.  
See: 20 N.J.R. 105(a), 20 N.J.R. 2774(a).

Added “liquid resources”.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.1998 d.274, effective June 1, 1998.

See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a).

Added new “Adult day health care” and “Residential health care” definitions, and deleted “Medical day care” definition.

Amended by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

Added “Adult family care” and “Assisted living”, rewrote “Functionally impaired” and “Respite” or “respite care”.

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Deleted definition “Adult day health services”; added definitions “Adult day health services facility”, “Commissioner” and “Nursing facility”; in definition “Adult family care”, inserted a comma preceding “because” and following “disability”, deleted a comma following the second occurrence of “living”, and substituted “are rendered in the homes of trained caregivers who are employed by Department licensed adult family care sponsor agencies” for “designed to meet their individual needs are provided by licensed caregivers in approved adult family care homes”; in definition “Assisted living”, substituted “provided by a facility licensed by the Department pursuant to N.J.A.C. 8:36, which are” for a comma; rewrote definitions “Caregiver”, “Respite” and “Social adult day services”; in definition “Co-payment”, inserted “established at N.J.A.C. 8:82-6.2”; in definition “Companion or sitter services”, inserted a comma following “service”, designated the second sentence as paragraph 1, and in paragraph 1, deleted a comma following the second occurrence of “assistance”; in definition “Emergency”, designated the second sentence as paragraph 1, and in paragraph 1, substituted “Emergencies” for “Such circumstances” and deleted a comma following the second occurrence of “spouse”; substituted definition “Private duty nursing” for definition “Private Duty Nursing”; in definition “Private duty nursing”, deleted “licensed” following “by” and inserted “, licensed in accordance with N.J.A.C. 13:37-5.”; in definition “Residential health care”, inserted “, licensed pursuant to N.J.A.C. 8:43-2.”; in definition “Service plan”, deleted a comma following “the caregiver” and following “frequency”, inserted a comma following “sponsor” and substituted “and takes” for “. The service plan shall take”; substituted definition “Sponsor or sponsor agency” for definition “Sponsor”; in definition “Sponsor or sponsor agency”, deleted “after making an eligibility determination” following “persons”.

## SUBCHAPTER 2. ADMINISTRATIVE ORGANIZATION

### 10:164B-2.1 Department of Human Services

The Department is the administrative unit of the State government, which has control over the administration of the Statewide Respite Care Program pursuant to N.J.S.A. 30:4F-7 et seq.

Amended by R.2010 d.022, effective January 19, 2010.  
See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Rewrote the section.

**10:164B-2.2 County administration**

(a) The Advisory Council of the Area Agency on Aging in each county shall be responsible for choosing the sponsor agency in its respective county subject to confirmation by the Department.

1. The sponsor agency shall administer the Statewide Respite Care Program in that county and process applications for services.

Amended by R.2010 d.022, effective January 19, 2010.  
See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).  
Inserted designations (a) and (a)1.

**SUBCHAPTER 3. APPLICATION PROCESS****10:164B-3.1 General provisions**

(a) The application process includes all activity related to a request for eligibility determination under the Statewide Respite Care Program. The process begins with the receipt of an application by a sponsor agency and continues in effect until there is an official disposition of the eligibility request from that sponsor agency.

(b) All applications for eligibility determination shall be made to the sponsor agency in the county where the applicant resides. The sponsor agency shall make a determination of eligibility and perform appropriate assessments within 30 days after the receipt of an application.

(c) When the sponsor agency terminates, reduces or suspends respite services, the sponsor agency shall provide the eligible person or formerly eligible person, as applicable, written notification of the determination and/or the right to a hearing as set forth at N.J.A.C. 10:164B-8.

Amended by R.1993 d.256, effective June 7, 1993.  
See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).  
Amended by R.2010 d.022, effective January 19, 2010.  
See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).  
Added (c).

**10:164B-3.2 Authorized agent**

(a) Where the applicant is incapacitated or incapable of filing an application on his or her own behalf, the sponsor agency shall recognize any of the following persons, listed in order of priority, as an authorized agent for the purpose of initiating such application:

1. A legal guardian;
2. A close relative of the applicant by blood or marriage, such as parent, spouse, son, daughter, brother or sister;
3. A representative payee designated by the Social Security Administration;

4. A staff person of a public or private social service agency, of which the person is a client, who has been designated by the applicant to so act; or

5. A friend of the applicant.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

In the introductory paragraph of (a), substituted "incapacitated" for "incompetent".

**10:164B.3.3 Responsibilities in the application process**

(a) The sponsor has the responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the program and indicate the applicant's rights and responsibilities under its provisions;
2. Accept and process applications; and
3. Maintain files including applications and supporting documents for all applicants.

(b) The applicant has the responsibility to:

1. Complete the eligibility application forms truthfully, legibly, and accurately; and
2. Provide the sponsor agency with documentation that supports statements made on the eligibility application, when required.

(c) The applicant/eligible person has the responsibility to notify the sponsor agency whenever one of the following occurs:

1. His or her address changes;
2. His, her or their annual income changes;
3. His or her marital status changes; or
4. His or her liquid resources change to exceed \$40,000 or a couple's combined liquid resources change to exceed \$60,000.

(d) The sponsor agency shall provide the applicant with the written statement of eligibility determination within 30 days of receipt of the application.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

In (d), rewrote 2 and 4.

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Rewrote the section.

## SUBCHAPTER 4. ELIGIBILITY

**10:164B-4.1 Eligibility standards**

(a) For the purpose of the Statewide Respite Care Program, an eligible person shall meet the following eligibility standards:

1. An eligible person shall be 18 years of age or older; functionally impaired; cared for at home by a caregiver who is not remunerated for his or her services; and at risk of long-term institutional placement if his or her regular caregiver could not continue in that role;

2. The maximum income level shall be 300 percent of the Federal Supplemental Security Income standard for an individual living alone, in effect under section 1611(a)(1)(A) of the Social Security Act (42 U.S.C. §1382) (as increased pursuant to section 1617 of the Act (42 U.S.C. §1382f)).

i. In the case of an individual and spouse, one of whom is an applicant for respite care, 50 percent of the couple's combined income shall be subject to this same income standard.

(1) Clients determined eligible prior to June 1, 1998 will not lose their eligibility upon redetermination for reasons set forth at (a)2i above; or

ii. In the case of an individual and spouse, both of whom are applicants for respite care, 50 percent of the couple's combined income shall be subject to this same income standard.

(1) Clients determined eligible prior to the June 1, 1998 will not lose their eligibility upon redetermination for reasons set forth at (a)2ii above;

3. An eligible person shall be a resident of the State of New Jersey; and

4. An eligible person shall have liquid resources (as declared by that individual) that do not exceed \$40,000.

i. In the case of an individual and a spouse who are both dependent on the caregiver, the couple's combined liquid resources shall not exceed \$60,000.

Amended by R.1988 d.505, effective November 7, 1988.

See: 20 N.J.R. 1051(a), 20 N.J.R. 2774(a).

Added (a)4.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.1998 d.274, effective June 1, 1998.

See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a).

In (a), rewrote 2 and added new 2i through iii.

Amended by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

In (a)4, substituted "\$60,000" for "\$40,000" at the end of the second sentence.

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

In (a)1, substituted a semicolon for a comma following "older" and a semicolon for "and being" following "impaired", and deleted "is" preceding "at risk"; in the introductory paragraph of (a)2, inserted "(42 U.S.C. §1382)" and substituted "the Act (42 U.S.C. §1382f)" for "such Act"; in the introductory paragraphs of (a)2i and (a)2ii, substituted a period for a semicolon at the end; added (a)2i(1); recodified former (a)2iii as (a)2ii(1); in (a)2ii(1), substituted "set forth at (a)2ii above;" for "of (a)2i and ii above.;" in (a)3, substituted "An" for "The" and "and" for a period at the end; and in (a)4, designated the second sentence as (a)4i.

**10:164B-4.2 Confidentiality and disclosure of information**

(a) All personally identifiable information regarding applicants, eligible persons or caregivers obtained or maintained under the Statewide Respite Care Program shall be confidential and shall not be released without the written consent of the applicant, eligible person, their authorized agent, or caregiver.

(b) The prohibition against unauthorized disclosure in (a) above shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or eligible persons cannot be identified;

2. The release to the Attorney General, or other legal representative of the State, of information or files relating to the claim of any applicant, eligible person or their authorized agent challenging the program's statute, rules or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted;

3. The release of information or files to the State Treasurer, the Commissioner of the Department or other governmental agency or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law; or

4. The release of information or files to any law enforcement authority charged with the investigation or prosecution of violations of the criminal laws of this State.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

In (b)1 and (b)2, substituted a semicolon for a period at the end; in (b)2, substituted "State" for "state" and deleted a comma following "person" and following "rules"; and in (b)3, deleted a comma following "agency" and substituted "or" for a period at the end.

**10:164B-4.3 (Reserved)**

Recodified to N.J.A.C. 8:82-7.2 by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

Former N.J.A.C. 8:82-4.3, "Primary and secondary payment", recodified to N.J.A.C. 8:82-7.2.

## SUBCHAPTER 5. SPONSORS AND PROVIDERS

**10:164B-5.1 Qualifications and requirements of sponsors**

(a) The Commissioner, based upon the recommendations from the Advisory Council of the Area Agency on Aging, shall designate one sponsor agency for the Statewide Respite Care Program in each county in New Jersey, subject to the following qualifications:

1. A sponsor agency shall be a public or private non-profit agency and shall contract annually with the Department to administer the local respite program.

2. Each sponsor agency shall:

i. Demonstrate, through its contract with the Department, its ability to purchase respite services from provider agencies and individuals in the county; and

ii. Provide evidence of its capability to deliver the full range of respite services available in its county, as defined in N.J.A.C. 10:164B-1.4.

(b) Each sponsor agency shall satisfy the following requirements:

1. Annually determine the maximum number of eligible persons to be served in its respective county based on the financial allocation made by the Department.

i. The sponsor shall not admit or serve more eligible persons than can be afforded with available resources;

2. Maintain a waiting list of those persons eligible for respite care, but not able to receive it;

3. Determine the eligibility of all applicants for service under the Statewide Respite Care Program;

4. Determine sources of payment for respite services for each eligible person and assess and collect all co-payments through retrospective billing;

5. Verify the income of each eligible person applying for services under the Statewide Respite Care Program and determine the eligible person's ability to contribute to the cost of the respite services.

i. This income verification shall be determined on an annual basis, or sooner if circumstances change;

6. Develop a Service Plan for each person served under the Statewide Respite Care Program;

7. Submit required statistical and financial reports on the respite program in its respective county to the Department as set forth in (d) through (f) below; and

8. Comply with the program rules contained in this chapter.

(c) Any breach of contract provisions or of (a) and (b) above by the sponsor agency may constitute grounds for contract cancellation upon reasonable notice of such by the Department.

(d) Each sponsor agency shall submit monthly data to the Department of Human Services, Division of Aging Services, Statewide Respite Care Program in a written summary sent to PO Box 807, Trenton, NJ 08625, containing the following information:

1. The number of eligible persons served by all provider agencies in the county;

2. The number of units of respite care provided per type of respite care to all eligible persons in the county;

3. The number of eligible persons enrolled in the county;

4. The number of eligible persons on the waiting list; and

5. Other information the sponsor agency believes is important for the Department to know as necessary for successful management of the program.

(e) Each sponsor agency shall submit quarterly data to the Department of Human Services, Division of Aging Services, Statewide Respite Care Program, in the format specified by the contract with the Department, containing the following information:

1. Expenditures for program administration;

2. Expenditures for services provided;

3. Cost share expenditure report; and

4. Other financial information the sponsor agency believes is important for the Department to know as necessary for successful management of the program.

(f) Each sponsor agency shall submit annual data to the Department of Human Services, Division of Aging Services, Statewide Respite Care Program, as set forth below:

1. The following submissions will be made according to the format specified by the contract with the Department, submitted within 60 days after the end of the grant year, and include:

i. A financial expenditure report; and

ii. A final cost share report; and

2. The following submissions will be sent, in a written summary, to the Department of Human Services, Division of Aging Services, Statewide Respite Care Program, PO Box 807, Trenton, NJ 08625:

i. The unduplicated total number of persons served during the previous fiscal year; and

ii. Other financial and programmatic information the sponsor agency believes is important for the Department to know as necessary for successful management of the program.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Recodified in part from N.J.A.C. 8:82-6.4 and amended by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

Former N.J.A.C. 8:82-6.4, recodified as (d).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Rewrote (a)2, (b)7, (d)3, (d)4 and (d)5; in (b)1 and (b)5, inserted the designation "i"; in (b)1i, (b)2, (b)3, (b)4, (b)5i and (b)6, substituted a semicolon for a period at the end; in (b)8, substituted "Comply" for "Agree to comply"; in the introductory paragraph of (d), substituted "written summary sent to PO Box 807, Trenton, NJ 08625," for "format specified by the Department"; and added (e) and (f).

### 10:164B-5.2 Qualifications and requirements for provider agencies

(a) Provider agencies shall be accountable to the sponsor agency for the provision of respite services and shall enter into contracts with the designated sponsor agency.

(b) Provider agencies shall have demonstrated prior experience in delivering services to families with elderly and/or disabled members.

(c) Provider agencies shall agree to provide services at the rates set by the Department.

(d) An individual desiring to provide services under the Statewide Respite Care Program shall enter into a sub-contract with the sponsor agency as a provider and be subject to all requirements of provider agencies.

(e) All individuals providing respite care which includes homemaker/home health aide or personal care services shall be certified homemaker/home health aides.

(f) The sponsor agency and/or the Department shall reserve the right to cease purchasing services from any provider agency when any breach of the rules contained in this chapter occurs, constituting grounds for contract cancellation upon reasonable notice.

(g) Each facility that is utilized for the Statewide Respite Care Program shall be licensed by the appropriate State licensing authority, if licensure is required in this State.

(h) Private duty nurses utilized by the Statewide Respite Care Program shall be:

1. Nurses employed by agencies licensed or registered by the New Jersey Division of Consumer Affairs, Department of Law and Public Safety, in accordance with N.J.S.A. 56:8-1.1, and 34:8-43 et seq., and N.J.A.C. 13:45B, as applicable; or

2. Nurses employed by home health agencies licensed by the Department of Health in accordance with N.J.A.C. 8:42.

(i) Agencies licensed or registered, pursuant to (h) above, that employ private duty nurses utilized by the Statewide Respite Care Program shall be accredited by an accreditation program, set forth below, as applicable to the agency:

1. Community Health Accreditation Program (CHAP)  
1300 19th Street, Suite 150  
Washington, DC 20036;
2. Commission on Accreditation for Home Care (CAHC)  
154 South Street, 2nd Floor  
New Providence, NJ 07974; or
3. National Association for Home Care and Hospice (NAHCH)  
228 Seventh Street, SE  
Washington, DC 20003.

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.1998 d.274, effective June 1, 1998.

See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a).

In (g), substituted "adult day health care facilities" for "medical day care"; in (h), changed the N.J.A.C. reference in 2 and rewrote 3; and added a new (i).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Rewrote (g), (h), and (i).

## SUBCHAPTER 6. COST LIMITATIONS AND CO-PAYMENT FEE SCALE

### 10:164B-6.1 Service and cost limitations for eligible persons

(a) Each eligible person shall receive up to \$4,500 of respite services in a calendar year.

1. The Department shall adjust the service level based on the funding available to the Department.

(b) A sponsor may request an exception to an eligible person's service level.

1. The sponsor shall make the request in writing to:

Department of Human Services  
Division of Aging Services  
Attn: Statewide Respite Care Program  
PO Box 807  
Trenton, New Jersey 08625-0807

(c) Placement in a licensed nursing facility, a licensed residential health care facility, a campership, an assisted living residence or an adult family care arrangement shall not exceed 21 days in a calendar year.

Amended by R.1993 d.256, effective June 7, 1993.  
 See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).  
 Amended by R.1998 d.274, effective June 1, 1998.  
 See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a).

In (b), updated the address.  
 Recodified from N.J.A.C. 8:82-6.2 and amended by R.2004 d.241, effective July 6, 2004.  
 See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).  
 In (a), substituted "\$4,500" for "\$3,000"; in (b), inserted "Division of Aging and Community Services" in the address; rewrote (c). Former N.J.A.C. 8:82-6.1, Fees, repealed.  
 Amended by R.2010 d.022, effective January 19, 2010.  
 See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).  
 In the introductory paragraph of (a), substituted "person" for "persons" and deleted the last sentence; added (a)1; in (b), inserted the designation "1"; and in (b)1, substituted "sponsor shall make the request" for "request shall be made".

**10:164B-6.2 Sliding fee scale for co-payments**

(a) Co-payment fees shall apply to eligible persons rendered respite care services in accordance with the co-payment fee scale set forth in (b) below.

1. In all cases the point at which cost-sharing shall be initiated will be based upon the most current Supplemental Security Income (SSI) guidelines in effect under section 1611(c)(1)(A) of the Social Security Act (42 U.S.C. §1382) (as increased pursuant to section 1617 of the Act (42 U.S.C. §1382f)).

2. The threshold beyond which an eligible person becomes ineligible for program services is 300 percent of the SSI guidelines.

(b) The sliding fee scale shall be as follows:

Income as a percentage of the Monthly SSI level	Percent of Costs To Be Paid By Eligible Person
175%	5%
176%-207%	10%
208%-238%	15%
239%-269%	20%
270%-300%*	25%

\* Institutional SSI level

(c) The sponsor agency shall bill all co-payments within six weeks following provision of the services contained in the service plan.

(d) When co-payment is not made within 90 days of billing, the sponsor agency shall suspend service until payment is made.

1. The sponsor agency shall provide written notice of this action to the eligible person 10 days prior to the effective date of the proposed suspension of services.

(e) The sponsor agency shall not be held liable for the uncollected co-payment, as long as sponsor agency has expended reasonable efforts to collect any or all co-payments.

(f) Sponsor agencies may seek a reduction or waiver of co-payment through submission of a written request to the

Department of Human Services, Division of Aging Services, Statewide Respite Care Program, PO Box 807, Trenton, New Jersey 08625-0807.

(g) The Department shall only consider requests for reduction or waiver of co-payment for the following reasons:

1. Death of the client; or
2. Demonstrated financial hardship.

(h) The sponsor agency shall be prohibited from reducing or waiving a co-payment without written approval from the Department.

Amended by R.1988 d.505, effective November 7, 1988.  
 See: 20 N.J.R. 1051(a), 20 N.J.R. 2774(a).  
 Deleted (a)-(b) and substituted new (a)-(b); added new (e)-(f).  
 Amended by R.1993 d.256, effective June 7, 1993.  
 See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).  
 Recodified from N.J.A.C. 8:82-6.3 and amended by R.2004 d.241, effective July 6, 2004.  
 See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).  
 In (f), updated the PO Box number in the address. Former N.J.A.C. 8:82-6.2, Service and cost limitations for eligible persons, recodified to N.J.A.C. 8:82-6.1.  
 Amended by R.2010 d.022, effective January 19, 2010.  
 See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).  
 In (a), inserted designations "1" and "2"; in (a)1, inserted "(42 U.S.C. §1382)" and substituted "the Act (42 U.S.C. §1382f)" for "such Act"; in (a)2, deleted a comma following "services"; in (c), substituted "The sponsor agency shall bill all" for "All" and deleted "shall be billed by the sponsor agency" preceding "within"; in (d), inserted designation "1"; rewrote (f) and (g); and added (h).

**10:164B-6.3 (Reserved)**

Recodified to N.J.A.C. 8:82-6.2 by R.2004 d.241, effective July 6, 2004.  
 See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).  
 Former N.J.A.C. 8:82-6.3, Sliding fee scale for co-payments, recodified to N.J.A.C. 8:82-6.2.

**10:164B-6.4 (Reserved)**

Amended by R.1993 d.256, effective June 7, 1993.  
 See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).  
 Amended by R.1998 d.274, effective June 1, 1998.  
 See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a).  
 Updated Department and Division names.  
 Recodified to N.J.A.C. 8:82-5.1 by R.2004 d.241, effective July 6, 2004.  
 See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).  
 Former N.J.A.C. 8:82-6.4, Procedures for program reporting, recodified to N.J.A.C. 8:82-5.1.

**SUBCHAPTER 7. REIMBURSEMENT AND PAYMENT**

**10:164B-7.1 Reimbursement**

(a) The Department shall determine reimbursement and payment levels for the respite services to be provided under the program.

(b) The rates for the various types of respite services are as follows:

<u>Service</u>	<u>Reimbursement Amount</u>
Adult Day Health Services	Medicaid Rate
Alternate Family Care	Negotiated County Rate
Assisted Living	Negotiated County Rate
Campership	\$ 90.00 per day
Companion Services	\$ 12.00 per hour/weekday
	\$ 13.00 per hour/weekend
Homemaker/Home Health Aide	\$ 17.00 per hour/weekday
	\$ 18.00 per hour/weekend/ holiday
	\$120.00 per 12-hour block
	\$140.00 per 24-hour block
Hospital Inpatient Respite	Medicaid Rate
Nursing Facility Respite	Medicaid Rate
Private Duty Nursing	Medicaid Rate
Social Adult Day Care	\$ 45.00 per day
<b>Residential Health Care Facility Respite</b>	<b>\$ 60.00 per day</b>

New Rule, R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

Former N.J.A.C. 8:82-7.1, Appeals, recodified to N.J.A.C. 8:82-8.1.

#### **10:164B-7.2 Primary and secondary payment**

If an eligible person's respite service costs are covered in whole or in part by another State or Federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the Statewide Respite Care Program shall be the secondary payer.

Recodified from N.J.A.C. 8:82-4.3 by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

## SUBCHAPTER 8. APPEALS

### **10:164B-8.1 Appeals process**

(a) An applicant who is denied participation in the program because he or she does not qualify as an eligible person has the right to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 30 days of receipt of the written determination.

(b) Appeals shall be directed to:

Department of Human Services  
Division of Aging Services  
Attn: Statewide Respite Care Program  
PO Box 807  
Trenton, New Jersey 08625-0807

Amended by R.1993 d.256, effective June 7, 1993.

See: 25 N.J.R. 876(a), 25 N.J.R. 2557(b).

Amended by R.1998 d.274, effective June 1, 1998.

See: 30 N.J.R. 624(a), 30 N.J.R. 2001(a).

Deleted the last sentence and updated the address.

Recodified from N.J.A.C. 8:82-7.1 by R.2004 d.241, effective July 6, 2004.

See: 35 N.J.R. 2633(a), 36 N.J.R. 3278(a).

Amended by R.2010 d.022, effective January 19, 2010.

See: 41 N.J.R. 2874(a), 42 N.J.R. 478(a).

Inserted designations "(a)" and "(b)".