

10:46B-3.2 Waiting lists

If a placement recommended in the IHP is not immediately available, the individual shall be assigned to a waiting list category, in accordance with N.J.A.C. 10:48-4, and the Division shall provide an alternate services to the extent such services are available.

10:46B-3.3 Emergency placements

(a) An emergency need for placement shall be established when a long-term placement has been determined to be unavailable and the individual is homeless, or the Division cannot provide adequate alternate service in the existing situation to care for the individual safely.

(b) When the Division determines that the need for an emergency placement exists, the individual shall be offered a placement which can meet his or her basic needs, as required by N.J.A.C. 10:46B-1.3.

(c) When the Division determines that the need for an emergency placement exists, the development of an IHP is not required prior to placement.

(d) An emergency placement shall not be considered permanent.

(e) An IHP shall be developed within 30 days following an emergency placement to plan for an orderly transition to a more permanent placement, unless the IDT confirms the appropriateness of the emergency placement as a long term placement.

10:46B-3.4 Placement of children

(a) The placement of children shall conform to the requirements of N.J.A.C. 10:17.

(b) When a child cannot be maintained with his or her immediate or extended family, he or she shall be placed in a family setting, such as a community care home, as defined in N.J.A.C. 10:44B.

(c) A child may be placed in a congregate setting only when the Assistant Director certifies that no other placement exists.

Amended by R.1996 d.85, effective February 20, 1996.
See: 27 N.J.R. 3537(b), 28 N.J.R. 1285(a).

SUBCHAPTER 4. PLACEMENT DECISIONS

10:46B-4.1 General standards

(a) In some instances, appropriations for placements received by the Division may be targeted to specific populations. The budget language will identify the persons eligible for consideration for placement. The target populations may include, but are not limited to, those affected by the closing of a particular developmental center, a specific number of individuals from the waiting list or the return of individuals from out-of-State placements.

(b) In some instances, placements are required to accommodate individuals admitted to a service on an emergency basis.

(c) When a vacancy occurs in an existing program or an appropriation is targeted for a specific population, Division staff shall identify possible individuals appropriate for the placement using the following criteria, and considering any other information pertinent to the needs of the specific individual:

1. The waiting list category;
2. The age, sex and functioning level of the individual;
3. The present needs of the individual, as well as anticipated future needs;
4. The ability of the placement to meet the individual's needs;
5. The likelihood of the success of the placement;
6. The stability of the individual's present placement, including how well the placement meets the behavior and or medical needs of the individual;
7. The availability of a caregiver to continue to provide care;
8. The availability of continued funding by another party of another placement not funded by the Division;
9. The potential that the placement will be long term; and
10. Acceptance of the individual by the service provider.

(d) In the instance that a placement is equally appropriate for more than one individual, the placement shall be offered to the individual placed in Waiting List Category 1 the longest, unless exceptional circumstances warrant otherwise, based on each individual's circumstances and need for such services at the time placement becomes available.

(e) Information concerning the individual shall be provided to the individual(s) or agency(s) offering placement. The release of these records to further the individual's habilitation goals is consistent with the requirements of N.J.A.C. 10:41-2.13. Specific authorization from the competent individual or legal guardian shall not be required.

(f) When an individual is identified for placement, the individual and/or legal guardian shall be notified by telephone and in writing.

(g) When a placement is under consideration, the competent individual or legal guardian shall be given an opportunity to tour the placement and the site of any day programs to be provided.

(h) If deemed necessary by the Division, placement shall be contingent upon an overnight visit at the proposed placement. Failure to permit an overnight visit shall be considered a rejection of the placement offer.

(i) If a placement is offered and rejected, the Division shall review the reason(s) for rejecting the offer with the individual or legal guardian to identify what needs were not met by the offered placement.

(j) An IHP shall be developed at least 30 days prior to the projected date of placement, except in an emergency.

Family members may attend, unless there is an objection by the competent individual or legal guardian.

(k) The IHP shall indicate the habilitation goals to be achieved by the placement, and the services needed.

(l) The IHP shall be reviewed and revised as necessary, but no less than 30 days following placement.

(m) Every attempt shall be made to place the individual in an area of the State that is in geographic proximity to interested family and friends, if the individual so chooses.

Case Notes

Developmental center was most appropriate alternate placement available for petitioner. *M.S. v. Division of Developmental Disabilities*, 93 N.J.A.R.2d (DDD) 5.

10:46B-4.2 Placements into private institutions

(a) Placements into private institutions shall not be considered routine and may only be approved in extraordinary circumstances by the Division Director.

(b) When a person has been placed outside the State of New Jersey, either by the Division, an LEA, a family member, or another State or county entity, the Division shall make every effort to return him or her to the State of New Jersey as soon as possible.

(c) When the Division accepts responsibility for services, an individual shall be returned from a private institution to his or her own or family home or community placement whenever possible. If an individual cannot be placed in his or her own family home and the Division's resources do not allow community placement, the individual shall be placed in the most appropriate placement available.

(d) The Division shall only place an individual in a facility licensed by the state in which it is located.

(e) Funding shall be authorized only when a contract exists between the private institution and the Division.

(f) Funding, if available, of a private institution may be authorized if one of the following conditions are met:

1. The individual is currently in a placement made by the Division and can no longer be maintained in that placement and the only option the Division Director can identify is private institutional placement; or

2. The individual's life or safety is threatened or the community is at risk and the individual cannot be appropriately cared for in a developmental center and the only option the Division Director can identify is a private institutional placement.

(g) All requests for funding shall be made through the appropriate Assistant Director.

(h) If the Assistant Director supports the request, he or she shall forward the request for funding to the Director.

(i) The Director shall communicate his or her decision to the Assistant Director in writing.

(j) When the Division has located a placement other than the private institution, the Division shall offer a placement consistent with the IHP in writing to the individual or legal guardian.

1. The offer of placement shall be contingent upon a successful overnight visit by the individual to the proposed placement.

2. The legal guardian, if any, shall also be invited to visit the proposed placement.

3. Once a successful overnight visit has occurred, admission to the new placement may be scheduled.

4. If the competent individual or legal guardian does not agree to an overnight visit, the Division shall determine that it cannot implement the IHP. The individual or legal guardian shall be notified in writing that the Division shall cease funding at the private institution within 90 days.

5. If the individual or legal guardian reconsiders and agrees to an overnight visit, the Division shall withdraw its notice to cease funding, once the visit has been completed.

SUBCHAPTER 5. APPEALS

10:46B-5.1 Placement appeals

(a) Placement decisions may be appealed in accordance with N.J.A.C. 10:48.

(b) Specific offers of placement shall be considered contested cases.

(c) Recommendations of placement changes, where no specific offers of placement have been made, shall be considered non-contested.

(d) Except in emergencies, a placement may be deferred pending the exhaustion of the administrative appeal if the appeal is received verbally or in writing 30 calendar days before the proposed placement and the appellant can demonstrate that there may be irreparable harm to the individual as the result of the placement. The Division Director shall decide whether or not to defer the placement. If the Division Director agrees to defer the placement, the Division shall not be responsible to fund the placement except where the Division was funding the placement prior to the request to defer.

Administrative correction.
See: 27 N.J.R. 499(b).