

## CHAPTER 10B

DIVISION OF MEDICAL ASSISTANCE AND  
HEALTH SERVICES APPLICANT/RE-  
CIPIENT HEARINGS

## Authority

N.J.S.A. 52:14F-5(e), (f) and (g).

## Source and Effective Date

R.1996 d.414, effective August 7, 1996.  
See: 28 N.J.R. 3206(a), 28 N.J.R. 4095(b).

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

Chapter 10B, Division of Medical Assistance and Health Services  
Applicant/Recipient Hearings, expires on August 7, 2001.

## Chapter Historical Note

Chapter 10B, Division of Medical Assistance and Health Services  
Applicant/Recipient Hearings, was adopted as R.1986 d.405, effective  
October 6, 1986. See: 18 N.J.R. 1507(a), 18 N.J.R. 2008(a). Pursuant  
to Executive Order No. 66(1978), Chapter 10B was readopted as  
R.1991 d.500, effective September 13, 1991. See: 23 N.J.R. 2083(b),  
23 N.J.R. 2998(b). Pursuant to Executive Order No. 66(1978), Chapter  
10B was readopted as R.1996 d.414, effective August 7, 1996. See:  
Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. HEARING APPLICABILITY

## 1:10B-1.1 Applicability

(a) The rules in this chapter shall apply to matters trans-  
mitted pursuant to N.J.A.C. 10:6 to the Office of Adminis-  
trative Law by the Division of Medical Assistance and  
Health Services involving applicants for or recipients of  
Medicaid and Medically Needy benefits or services.

(b) This chapter shall not apply to matters involving  
providers.

(c) Any aspect of the hearing not covered by these rules  
of special applicability shall be governed by the Uniform  
Administrative Procedure Rules (U.A.P.R.) contained in  
N.J.A.C. 1:1. To the extent that this chapter is inconsistent  
with the U.A.P.R., this chapter shall apply.

Amended by R.1991 d.500, effective October 7, 1991.  
See: 23 N.J.R. 2083(b), 23 N.J.R. 2998(b).

Added citation to N.J.A.C. 10:6.

## SUBCHAPTER 2. DEFINITIONS

## 1:10B-2.1 Definitions

For purposes of this chapter, the following definitions  
apply.

"Applicant" means any person who has made an applica-  
tion to become qualified to receive Medicaid or Medically  
Needy benefits.

"Recipient" means a New Jersey resident who has been  
determined to meet the applicable eligibility criteria for  
either the Medicaid or Medically Needy Programs and is  
determined to need medical care and services authorized  
under the New Jersey Medical Assistance and Health Ser-  
vices Act.

"Provider" means any person, public or private institu-  
tion, agency or business concern approved by the Division of  
Medical Assistance and Health Services that is lawfully  
providing medical care, services, goods and supplies and  
holding, where applicable, a current valid license to provide  
such services or to dispense such goods or supplies.

## SUBCHAPTERS 3 THROUGH 4. (RESERVED)

## SUBCHAPTER 5. REPRESENTATION

**1:10B-5.1 Representation**

An applicant/recipient may appear at a proceeding without representation or may be represented by an attorney or by a relative, friend or other spokesperson pursuant to the procedures set forth in N.J.A.C. 1:1-5.4. See: 42 C.F.R. 431.206(b)(3).

Amended by R.1991 d.500, effective October 7, 1991.  
See: 23 N.J.R. 2083(b), 23 N.J.R. 2998(b).

## SUBCHAPTERS 6 THROUGH 8. (RESERVED)

SUBCHAPTER 9. CLERK'S NOTICE;  
SCHEDULING OF HEARING**1:10B-9.1 Clerk's notice**

(a) The Clerk shall send a written notice of filing and hearing to each party at least 10 days before the scheduled hearing date.

(b) The notice shall indicate that the applicant/recipient may represent himself/herself or use legal counsel, a relative, a friend or other spokesperson as per the Federal Fair Hearing Regulations at 42 C.F.R. 431.206(b)(3).

(c) The notice shall establish the hearing location, time and date.

**1:10B-9.2 Scheduling of hearing**

(a) The hearing shall be conducted at a reasonable time, date and place.

(b) Upon presentation of acceptable information regarding an applicant's/recipient's illness or infirmity which would prevent his or her appearance at a hearing location, the hearing shall be scheduled at the applicant's/recipient's current residence.

## SUBCHAPTER 10. DISCOVERY

**1:10B-10.1 Discovery**

(a) The county welfare agency or the Division of Medical Assistance and Health Services shall provide the applicant/recipient or his or her authorized representative an opportunity to review the entire case file and all documents and records to be used in the hearing. The review shall occur at a reasonable time before the hearing as well as during the hearing.

(b) If a party wants information other than what is provided in (a) above, the party must request permission from the judge. The judge may permit the additional discovery only if there is good cause. The judge may not delay the hearing to allow for additional discovery.

## SUBCHAPTERS 11 THROUGH 13. (RESERVED)

## SUBCHAPTER 14. CONDUCT OF CASES

**1:10B-14.1 Attendance at hearing**

The applicant/recipient or a representative and the county welfare agency or the Division of Medical Assistance and Health Services and their representatives, if any, shall attend the hearing.

## SUBCHAPTERS 15 THROUGH 17. (RESERVED)

## SUBCHAPTER 18. DECISIONS

**1:10B-18.1 Initial decision**

An initial decision shall be issued within 21 days from the date of the hearing.

**1:10B-18.2 Exceptions**

(a) If the parties wish to take exception to the initial decision, such exception must be submitted in writing to the Director of the Division of Medical Assistance and Health Services. Copies of the exception shall be served on all other parties and the judge.

(b) Exceptions must be received by the Division of Medical Assistance and Health Services no later than seven days after the date the initial decision was mailed to the parties.

(c) No replies and cross-exceptions shall be permitted.

Amended by R.1990 d.483, effective September 17, 1990.  
See: 22 N.J.R. 2067(a), 22 N.J.R. 3003(b).

Change from five days to seven days after the date the initial decision was mailed to the parties in order to use regular mail.

Amended by R.1991 d.44, effective February 4, 1991.  
See: 22 N.J.R. 3278(b), 23 N.J.R. 293(a).

Deleted text that exceptions shall be submitted to the Clerk; added text that "Copies of the exception shall be served on all other parties and the judge."

**1:10B-18.3 Written initial decisions**

All initial decisions shall be issued in writing. Oral initial decisions are not permitted.

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**SUBCHAPTERS 19 THROUGH 21. (RESERVED)**