

**ADOPTIONS SECTION**

**HEALTH**

**INTEGRATED HEALTH BRANCH**

**Notice of Readoption**

**Interim Assistance Procedures Manual**

**Notice of Readoption with Technical Change and Recodification: N.J.A.C. 10:38  
as 8:133**

Authority: N.J.S.A. 30:1-12 and 30:4-27.19; and Reorganization Plan Nos. 001-2017  
and 001-2018.

Authorized By: Judith M. Persichilli, R.N., B.S.N., M.A., Commissioner, Department of  
Health.

Effective Dates: December 1, 2021, Readoption;  
January 3, 2022, Technical Changes and Recodification.

New Expiration Date: December 1, 2028.

**Take notice** that, pursuant to N.J.S.A. 30:4-27.19, the Commissioner of the  
Department of Health (Department) hereby readopts N.J.A.C. 10:38, Interim Assistance  
Procedures Manual, with technical changes, and with administrative recodification as  
N.J.A.C. 8:133.

Reorganization Plan No. 001-2017, A Plan for the Transfer of Mental Health and  
Addiction Functions From the Department of Human Services to the Department of  
Health (Governor Christie, filed June 29, 2017, and effective August 28, 2017), at § 1,  
continued the Division of Mental Health and Addiction Services (DMAHS) of the  
Department of Human Services (DHS), and, in pertinent part, at § 2(q), transferred all

aspects of behavioral health to the Department including inpatient programs at State-run psychiatric hospitals. 49 N.J.R. 2303(a).

Reorganization Plan No. 001-2018, A Plan for the Transfer of Certain Mental Health and Addiction Functions From the Department of Health to the Department of Human Services (Governor Murphy, issued June 21, 2018, effective August 20, 2018), at § 1, continued the functions, powers, and duties exercised by DMHAS with regard to the operation and administration of the State psychiatric hospitals in the Department of Health. 50 N.J.R. 1517(a).

N.J.S.A. 30:4-27.19 (the Act) empowers the chief executive officer of a State or county psychiatric facility to authorize the payment of interim financial assistance to discharged patients for living expenses, pending determination of public benefits entitlements, when this assistance is necessary and appropriate pursuant to rules that the Commissioner promulgates. The Act directs that discharged patients are to reimburse the psychiatric facility for all interim financial assistance provided when the patients receive their public benefit entitlements.

The DHS originally promulgated N.J.A.C. 10:38, Interim Assistance Procedures Manual, in 1981 to implement the Act, 13 N.J.R. 220(d); 412(c), and has readopted the chapter repeatedly over the decades since. N.J.A.C. 10:38 establishes eligibility standards and appeal processes for the Interim Assistance program. Participation in the Interim Assistance program enables a State psychiatric hospital patient who is clinically ready for discharge to receive financial assistance for living expenses while waiting for the Social Security Administration (SSA) to process the patient's application for Social Security Income (SSI).

N.J.A.C. 10:38 was scheduled to expire on April 24, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

Subchapter 1, General Provisions, describes the program, its purpose and authority, and defines words and terms used throughout the chapter.

Subchapter 2, Interim Assistance Eligibility, provides criteria for determining client eligibility or ineligibility for the program.

Subchapter 3, Interim Assistance Case Processing, allocates organizational roles and responsibilities.

Subchapter 4, Interim Assistance Payment Procedures, outlines procedures for authorizing and terminating payments.

Subchapter 5, Medicaid Coverage for Interim Assistance Clients, describes the interaction between the Medicaid program and the Interim Assistance program.

Subchapter 6, Appeal Procedures, describes the various procedures and responsibilities for monitoring client income and resources.

Subchapter 7, Client Income and Resource Monitoring, outlines procedures and responsibilities for monitoring client income and resources.

The Department is developing a rulemaking to revise, update, and reorganize existing N.J.A.C. 10:38, and anticipates filing this rulemaking with the Office of

Administrative Law for processing in the ordinary course. However, the Public Health Emergency that Governor Philip D. Murphy declared in Executive Order No. 103 (2020), on March 9, 2020, necessitated the reallocation of many Department personnel and resources to pandemic response activities, complicating ongoing efforts to streamline licensure procedures for facilities providing mental health services and collaborate with the Department of Human Services to update existing rules. Therefore, the Department will not be able to finalize the anticipated rulemaking prior to the expiration of existing N.J.A.C. 10:38.

The Commissioner has reviewed N.J.A.C. 10:38 and has determined that, pending the finalization of the anticipated rulemaking described above, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which the DHS originally promulgated it, as amended and supplemented over time, and should be readopted and recodified as N.J.A.C. 8:133. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 10:38 is readopted as N.J.A.C. 8:133, and shall continue in effect for seven years.

The Department is making a technical change to correct a spelling error.

**Full text** of the technical change follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## CHAPTER [38] **133**

### INTERIN ASSISTANCE PROCEDURES MANUAL

#### SUBCHAPTER 1. GENERAL PROVISIONS

Recodify existing 10:38-1.1, 1.2, and 1.3 as **8:133-1.1, 1.2, and 1.3** (No change in text.)

[10:38]**8:133**-1.4 Definitions

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

...

“DMHS” means the Division of Mental Health Services within the Department of Human[s] Services.

...

Recodify existing 10:38-2 through 7 as **8:133-2 through 7** (No change in text.)