

**DIVISION CIRCULAR # 36  
(N/A)**

**DEPARTMENT OF HUMAN SERVICES**

**DIVISION OF DEVELOPMENTAL DISABILITIES**

**EFFECTIVE DATE:** February 14, 2005

**DATE ISSUED:** February 9, 2005

- I. **TITLE:** Transfer or Discharge from Contracted Provider
- II. **PURPOSE:** To establish uniform procedures for moving an individual from one placement to another when the provider has determined that the individual can no longer be served.
- III. **SCOPE:** This circular applies to all components of the Division as well as provider agencies under contract with or regulated by the Department.  
**Note: This circular does not apply to developmental centers.**
- IV. **POLICIES:**

N.J.S.A. 30:6D-16 (a) indicates that, except in emergencies an Individual Habilitation Plan shall be developed at least 30 days prior to any transfer of an individual served.

N.J.A.C. 10:44A-4.2 (a) requires that any major change in the individual's residential service be included in the Individual Habilitation Plan.

N.J.A.C. 10:44A-4.2 (a) 1. ii. requires the development of a discharge plan.

N.J.A.C. 10:44A-4.2 (a) 1. iii. requires any proposed transfer or discharge to be reported to the Community Services regional office.

N.J.A.C. 10:44A-4.2 (a) 2. requires the provider and the Division to determine the residence is no longer suitable or no longer meets the individual's needs if there is substantive evidence provided to the Division.

N.J.A.C. 10:46B-4.1 (h) indicates that the individual shall be given the opportunity to visit the proposed living arrangement.

N.J.A.C. 10:46B-4.1 (k) requires the IHP to be reviewed within 30 days of the new placement.

N.J.A.C. 10:48-1.1 (e) requires the Division to advise individuals and their legal guardians of their right of appeal.

N.J.A.C. 10:48-1.1 (j) limits appeals of services to the contents of the IHP.

N.J.A.C. 10:48-1.1 (k) permits the Division Director, except in emergencies to defer a placement if the appeal is received 10 days prior to the proposed move and there is a determination that the individual will be at risk.

N.J.A.C. 10:48-1.1 (k) 2. requires the Division to maintain the status quo if the Division Director agrees to defer a transfer or discharge.

N.J.A.C. 10:48-1.1 (l) allows appeals of emergency placements to be filed within 30 days following the placement.

## V. GENERAL STANDARDS:

- A. Definitions - The following terms shall have the meaning defined herein:

Emergency means the individual is in imminent peril. **NOTE: this is a slightly different definition of emergency than what is in the placement rule (NJAC 10:46B). It does not include homeless. If the provider serves the individual he or she cannot become homeless in this situation.**

Imminent peril means that there is a situation, which could reasonably be expected to cause serious risk to the health, safety or welfare of the individual receiving services or another person in the current living arrangement. Imminent peril does not exist if the Division can put supports into the living arrangement, which eliminates the serious risk to the individual. (NJAC 10:46B-1.3)

Individual Habilitation Plan - refer to DC 35.

**VI. PROCEDURE:**

- A. When a provider agency determines that an individual can no longer be served by that provider, the provider shall notify the Regional Administrator or designee by telephone and follow-up in writing.
- B. If it is determined by the Division that an emergency exists, an emergency placement shall be offered in accordance with N.J.A.C. 10:46B-3.3.
- C. If there is no emergency, the Regional Administrator or designee shall meet with the provider to determine the reason for transfer or discharge.
  - 1. The provider shall be responsible to provide substantive evidence to the Division why the individual can no longer be served by the provider and propose modifications to the current support services that may allow the individual to maintain their placement.
  - 2. The Division shall consider the modifications of support services either temporarily or long-term to allow the individual to remain in the current living situation.
- D. An IHP meeting shall be held, within 30 days, to confirm the support services to be provided and to identify placement options if a transfer or discharge is required. Any modifications to the IHP will be documented.
- E. The individual shall be advised by the Division, in writing, of the outcome of the IHP meeting and of his or her right to appeal the services indicated in the IHP within 30 days.
- F. If an appeal is filed and the appellant requests that the individual remain in the current living arrangement during the appeal, that request shall be forwarded to the Division Director for a determination.

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Carol Grant, Acting Director