N.J.A.C. 10:140

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM

Title 10, Chapter 140 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:4G-21.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.100, effective July 26, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

CHAPTER HISTORICAL NOTE:

Chapter 140, Personal Assistance Services Program, was originally codified in Title 10 as Chapter 123A, Personal Attendant Services Program. Chapter 123A was adopted as R.1992 d.314, effective August 17, 1992. See: 23 N.J.R. 2091(b), 24 N.J.R. 2914(a).

Pursuant to Executive Order No. 66(1978), Chapter 123A, Personal Attendant Services Program, was readopted as R.1997 d.361, effective August 11, 1997, and the chapter was renamed Chapter 123A, Personal Assistance Services Program, Subchapter 5, Personal Attendants, was renamed Subchapter 5, Personal Assistants, and Subchapter 6, Consumer Information and Personal Assistant Training, was adopted as new rules by R.1997 d.361, effective September 2, 1997. See: 29 N.J.R. 1456(a), 29 N.J.R. 3883(a).

Chapter 123A, Personal Assistance Services Program, was recodified as N.J.A.C. 10:140, effective March 1, 1999. See: 31 N.J.R. 687(a).

Chapter 140, Personal Assistance Services Program, expired on August 11, 2002.

Chapter 140, Personal Assistance Services Program, was adopted as new rules by R.2003 d.302, effective August 4, 2003. See: 35 N.J.R. 1253(a), 35 N.J.R. 3583(a).

Chapter 140, Personal Assistance Services Program, was readopted as R.2009 d.71, effective January 30, 2009. See: 40 N.J.R. 4668(a), 41 N.J.R. 1052(a).

Subchapter 4, Contracting and Fees, was renamed Individual Budgets and Fees by R.2012 d.079, effective April 16, 2012. See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 140, Personal Assistance Services Program, was scheduled to expire on January 30, 2016. See: 43 N.J.R. 1203(a).

Chapter 140, Personal Assistance Services Program, was readopted as R.2016 d.100, effective July 26, 2016. As a part of R.2016 d.100, Subchapter 3, Screening, Services and Appeals, was renamed Screening, Services, and Appeals, effective September 6, 2016. See: Source and Effective Date. See, also, section annotations.

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N.J.A.C. 10:140-1.1

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 1. GENERAL PROVISIONS

§ 10:140-1.1 Purpose

(a) Pursuant to the provisions of N.J.S.A. 30:4G-13 et seq., the Department of Human Services provides support to individuals with permanent physical disabilities in meeting their daily needs for personal care and assistance with activities of daily living in order to live independently within their community. The Personal Assistance Services Program, administered by county designated agencies in each of New Jersey's 21 counties and within the limits of funds appropriated or otherwise made available to it, shall assist self-directed adults with permanent physical disabilities to:

1.Be employed in a paid occupation (as defined in the definition of "employment" under N.J.A.C. 10:140-1.4);

2.Receive training or education related to employment; or

3.Actively participate in community-based independent living (that is, volunteering).

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In the introductory paragraph of (a), substituted "permanent" for "chronic" twice; and in (a)3, inserted "(that is, volunteering)".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In (a)1, inserted "(as defined in the definition of "employment" under N.J.A.C. 10:140-1.4)".

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N.J.A.C. 10:140-1.2

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 1. GENERAL PROVISIONS

§ 10:140-1.2 Scope

The rules of this chapter apply to all activities and persons participating in the Personal Assistance Services Program, including, but not limited to, the designated State contracting agency, applicants, consumers, their employees, county agencies administering the program and vendors providing services.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Substituted "The rules of this chapter" for "These rules", "their employees," for "personal assistants, and", and "vendors providing services" for "subcontracted provider agencies", and deleted a comma following "program".

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N.J.A.C. 10:140-1.3

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§ 10:140-1.3 Personal Assistance Consumer Bill of Rights

(a) Each consumer, and, as appropriate, each applicant:

1.Shall be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle, including the identification and determination of one's own needs, schedules and the services necessary to meet these needs;

2.Shall be served by personal assistants and/or vendors who are properly trained and competent to perform their duties;

3.Shall receive services in compliance with all State laws and regulations without discrimination based on race, religion, gender, age, creed or disability in the provision or quality of services;

4.Shall be free from mental and physical abuse, neglect and exploitation, and shall be free from chemical and physical restraints;

5.Shall be accorded privacy while receiving services, in communications and in all daily activities;

6.Shall be accorded respect for one's property rights;

7.Shall have one's personal, financial and medical records treated as confidential;

8.Shall be free to fully exercise one's civil and due process rights and to be assisted by a personal assistant and/or vendor as appropriate and necessary;

9.Shall receive in a timely manner all decisions regarding eligibility and amount and kind of services and the reasons therefore in writing and, if appropriate, orally, along with the administrative hearings and appeals procedure;

10. Shall have access to a fair appeals process through which disputes can be resolved;

11. Shall receive written information regarding consumer standards and responsibilities in the Personal Assistance Services Program and shall have them verbally explained as needed;

12. Shall have as few personal assistants entering one's home as possible;

13. Shall have the right to interview, screen and select one's personal assistant; and

14. Shall dismiss those personal assistants who do not respect consumer rights.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (a)2, inserted "and/or vendors"; and in (a)8, inserted "and/or vendor".

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N.J.A.C. 10:140-1.4

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§ 10:140-1.4 Definitions

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

"Administrative hearing" means a hearing held by the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-9 et seq., N.J.S.A. 52:14F-1 et seq., N.J.A.C. 1:1-1 and N.J.A.C. 10:6.

"Administrative review" means an independent examination of an agency action that is conducted by the State Program Administrator or designee, by convening a meeting of the relevant parties in the action under dispute and/or by examining the relevant records and documents in accordance with N.J.A.C. 10:6-1.4.

"Adverse agency action" means the denial, reduction, suspension or termination of services, or the denial of a request for an exception, or the failure to act upon a request for services within prescribed time frames.

"Advisory Council" means the State Consumer Advisory Council on Personal Assistance Services, created by N.J.S.A. 30:4G-20.

"Applicant" means a person who applies for services under the Personal Assistance Services Program.

"Application for Service and Statement of Understanding" means a program document that is designed to serve as a notice of the terms and conditions for participation in the Personal Assistance Services Program. Prospective consumers must be capable of fully understanding, and be agreeable and willing to assume responsibility for, the items that are indicated on the form prior to enrollment.

"Assessor" means a person who is employed by the program to conduct eligibility assessments and has a master's of social work degree; a bachelor's degree and three years of experience in rehabilitation services; or is a registered nurse with a bachelor of science degree in nursing.

"Available" means, as applied to a caregiver, physically present, able, and appropriate, as determined with full consideration of the consumer's personal situation.

"Cash management plan" or "CMP" means to the document used by the Personal Assistance Services Program, which indicates the monthly cash allowance and details the services and supports required by the consumer in order to meet their personal care needs.

"Chore service" means light housekeeping activities. This service does not include inside or outside maintenance of the dwelling or property.

"Chronic physical disability" means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance to maintain the person's independence and health.

"Commissioner" means the Commissioner of the Department of Human Services.

"Community-based independent living" means self-directed living whereby a consumer is actively participating in community-based activities aside from employment or education, including, but not limited to, assistance with parenting tasks, searching for employment, volunteer or community service, participation on governing boards and/or serving on committees.

"Consumer" means an individual who is currently receiving services and who meets the eligibility standards of N.J.A.C. 10:140-2.1, has received an exception under N.J.A.C. 10:140-2.2 or the criteria has been set aside by the Commissioner based on an emergent circumstance, as determined on a case-by-case basis.

"Consumer directed services" means a model of service delivery that affords the opportunity for individuals to control and manage all aspects of the services that they receive including, but not limited to, from whom the services are received, what types of services are received and when, where and how they are received.

"County designated agency" means a county office for the disabled or other agency designated by the county government to administer in that county the Personal Assistance Services Program established pursuant to N.J.S.A. 30:4G-13 et seq. and this chapter.

"County program consultant" means an individual employed by or under contract with the county designated agency who serves as the primary support for consumers and provides individual guidance and periodic monitoring of service activities to ensure the needs are being met under the Program.

"Department" means the Department of Human Services.

"Designated State agency" means a division, bureau or office of State government, designated by the Commissioner of the Department of Human Services. The program is currently administered by the Division of Disability Services.

"Designated training agency" means the agency responsible for the administration of the Statewide training program, as provided by N.J.A.C. 10:140-6, under contract with the designated State agency.

"Direct services" means the performance of assessments, reassessments and follow-up visits by a qualified assessor and/or the provision of personal assistance services to consumers.

"Division" or "DDS" means the Division of Disability Services, in the Department of Human Services.

"Education or training" means enrollment in courses or training programs related to the enhancement of a worker's employment.

"Emancipated minor" means an individual who is under age 18 and is married and living separate and apart from his or her parents and/or guardian; or who is under age 18 and is determined through a court order to be capable of making his or her own decisions.

"Employment" means working in a paid occupation, whether in cash or in kind, including, but not limited to, full-time employment; part-time employment; the practice of a profession; self-employment; farm work; home-based employment; or other gainful work. An individual who identifies himself or herself as self-employed must have net earnings of at least $ 400.00 annually in accordance with requirements of the Internal Revenue Services under Title 26 of the United States Code and file taxes accordingly.

"Fiscal intermediary service organization" or "FISO" means a company or agency that is set up to disburse the cash benefit to consumers under the Personal Assistance Services Program. The latter will serve as the business agent for the consumer and prepare the payroll checks and other disbursements at the direction of the consumer, as well as keep records of all transactions.

"Household" shall be determined to be the individual consumer and any dependents as defined by the Internal Revenue Service under Title 26 of the United States Tax Code.

"Informal caregiver" means an individual who is 18 years of age or older residing in the household for other than the purpose of sharing expenses.

"Parenting" means routine child rearing activities performed for a minor child under the age of five in circumstances where those activities are obligated by law and the failure of the parent to perform such activities would constitute neglect under State law.

"Permanent physical disability" means a severe impairment of an ongoing nature, which so restricts a person's ability to perform essential activities of daily living that the person needs assistance to maintain the person's independence and health.

"Personal assistance service" means health and chore-related tasks performed by a personal assistant. Personal assistance services include, but are not limited to, assistance in essential daily activities, such as bathing, dressing, and feeding; assistance with light housekeeping activities, such as laundry, shopping, and meal preparation; assistance with paperwork and communication; and assistance with mobility, including driving or other forms of transportation. Driving or other forms of transportation may not be used as a "stand-alone" service without the need for other health and chore-related tasks.

"Personal assistant" means a person who meets the qualifications with regard to training, equivalent work experience or certification in the provision of personal assistance services, as established by N.J.A.C. 10:140-5 and who provides personal assistance services to a consumer.

"Program" means the Personal Assistance Services Program.

"Relative" means a person who is 18 years of age or older and is related to the consumer by blood or by law.

"Resident" means a person who abides or resides in the State of New Jersey for other than a temporary purpose and who has no present intention of moving from the State.

"Self-directing or self-directed" means a person who is able to make decisions regarding daily activities, to make major life decisions, and to manage and supervise a personal assistant; and who can accept the responsibility for those decisions and actions.

"Statement of understanding" means a document which sets forth the terms and conditions of the program and the responsibilities of the consumer under these rules, and the consumer's acceptance of the same.

"State Program Administrator" means the professional employee of the designated State agency charged with the administration of the Personal Assistance Services Program.

"Time sheets" means a legal document that is issued by the fiscal intermediary service organization and used by the consumer to verify the number of hours received under the program and signed by the consumer's employee.

"Training" means the attendance and participation of a consumer or personal assistant in an established statewide educational program or equivalent, as described in N.J.A.C. 10:140-6.

"Vendor" means an agency or business that provides a service under the Personal Assistance Services Program, that satisfy the needs and requirements of a consumer, including, but not limited to, a cleaning service and/or a laundry service.

"Volunteering" is the practice of people working on behalf of others or a particular cause without payment for their time and services.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In definition "Assessor", substituted a semicolon for ", or" following "social work degree" and substituted "; or" for ", or" following "rehabilitation services"; added definitions "Cash management plan", "Consumer directed services", " 'Division' or 'DDS' ", " 'Fiscal intermediary service organization' or 'FISO' ", "Household", "Parenting", "Permanent physical disability",

"Vendor" and "Volunteering"; in definition "Community-based independent living", substituted "assistance with parenting tasks" for "homemaking, parenting," and "and/or" for a comma, and inserted "or community"; rewrote definitions "Consumer", "Personal assistance service" and "Time sheets"; in definition "County designated agency", deleted ", pursuant to N.J.S.A. 30:4G-13 et seq.," following "government", and inserted "established pursuant to N.J.S.A. 30:4G-13 et seq. and this chapter"; and in definition "Education or training", inserted "the enhancement of a worker's".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Added definitions "Application for Service and Statement of Understanding" and "County program consultant"; in definition "Employment", substituted "full-time" for "full time" and "part-time" for "part time", and inserted the last sentence; and in definition "Personal assistance service", inserted a comma following "dressing" and following "shopping", and inserted the last sentence.

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N.J.A.C. 10:140-1.5

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§ 10:140-1.5 Target population and priority for services

(a) For the purposes of the Personal Assistance Services Program, the target population includes those persons who meet the eligibility standards established in N.J.A.C. 10:140-2.1.

(b) Prioritization for service delivery shall be determined by the county designated agency in the following order of priority, for consumers who are:

1.Employed in a paid occupation (in accordance with the definition of "employment" at N.J.A.C. 10:140-1.4).

i.A consumer shall be employed and provide supporting documentation upon request of the Program. Documentation of employment activities must be provided in writing by an independent third-party, on company/organization letterhead and/or approved/signed by an official of the company/organization attesting to the hours worked. A W-2, pay stub, or other recognized tax form is acceptable proof. For those who are unconventionally employed or self-employed, the documentation shall include a job description indicating the specific tasks performed under the employment arrangement.

ii. Existing consumers who claim employment as their Program activity shall meet this requirement by October 6, 2016, in order to remain compliant in the Program.

2.Receiving training or education related to employment; or

3.Actively participating in community-based independent living (that is, volunteering).

i.A consumer shall volunteer for a minimum of 20 hours a month and provide supporting documentation upon request of the Program. Documentation of volunteer activities must be provided in writing by an independent third-party, on company/organization letterhead and/or approved/signed by an official of the company/ organization attesting to the hours worked. The documentation shall include a job description indicating the specific tasks performed under the assignment.

ii. The Division shall impose a 90-day look-back period to verify both the longevity and sustainability of the volunteer activity.

iii. Consumers who are purchasing personal care services through a contracted agency are not permitted to use the same agency for the purposes of volunteer services in order to qualify for services under (b)1 above.

(c) All consumers shall provide the Division with verifiable documentation of their respective qualifying program activity as set forth in (b)1 through 3 above. Failure to provide documentation shall render the individual to be ineligible for continued services under the program.

(d) The following activities shall not be considered as qualifying program activity under the PASP:

1.Participation in an avocation or hobby;

2.Parenting or child rearing activities not covered by N.J.A.C. 10:140-4.1; and

3.Homemaking.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In the introductory paragraph of (b)3, inserted "(that is, volunteering)"; added (b)3i and (b)3ii; rewrote (c); and added (d).

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Rewrote (b)1 and (b)3.

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N.J.A.C. 10:140-2.1

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§ 10:140-2.1 Eligibility standards

(a) For the purposes of the Personal Assistance Services Program, an eligible applicant or consumer shall meet the following standards, except as noted in N.J.A.C. 10:140-2.2:

1.An eligible applicant or consumer shall be from the age of 18 through the age of 70 and shall have a permanent physical disability;

2.An eligible applicant or consumer shall be a resident of the State of New Jersey and must reside within the geographic boundaries thereof in order to qualify for services. Residency shall be determined by physical domicile in New Jersey.

3.An eligible applicant or consumer shall be in need of personal assistance services pursuant to a written personal assistance services plan, prepared by the applicant or consumer, and approved by the staff of the county designated agency;

4.An eligible applicant or consumer shall be one who is self-directed and capable of managing and supervising his or her personal assistance services, as determined by an assessment conducted by an assessor;

5.A relative or other informal caregiver is not available to provide the services that the consumer needs;

6.An eligible applicant or consumer shall live, or plan to live upon becoming eligible, in a private house or apartment, group home, educational facility (for example, dormitory or campus apartment), rooming or boarding house, residential health care facility or an alternative housing arrangement acceptable to the Division for the purposes of the Personal Assistance Services Program; and the personal assistance services that the eligible applicant or consumer receives are supplemental to, and not duplicative of, services provided to the person in the rooming or boarding house, group home, educational facility, transitional housing or residential health care facility pursuant to licensure requirements. Individuals who reside in, or are a patient in a facility or setting where personal care services are the responsibility of those entities shall be ineligible for the Personal Assistance Services Program. An exception to this paragraph may be granted by the Division Director in circumstances where personal

care services are not being provided by the facility and the individual meets all other requirements of this chapter;

7.The attending physician for the eligible applicant or consumer shall confirm in writing that he or she has a permanent physical disability and is capable of self-direction, and that the personal assistance services will be appropriate to meet the eligible applicant or consumer's needs; and

8.The eligible applicant or consumer shall receive no more than 40 hours per week of personal assistance services from the program in combination with any other program. Exceptions to this paragraph may be granted by the Division Director to individuals who can demonstrate the need for additional hours and demonstrate that the absence or loss of the services would constitute a clear risk to health and safety.

(b) Consumers must utilize any Federally funded programs for which they are entitled before receiving services from the program.

(c) The Division must operate the Personal Assistance Services Program within its financial appropriation and may suspend the enrollment of consumers or truncate the hours provided to consumers as financial restrictions/limitations require.

(d) In circumstances where requests for services exceed program resources, the Division shall invoke an order of selection to prioritize the order in which resources will be used to provide services to existing consumers. The order of selection shall be based on the qualifying program activities set forth at N.J.A.C. 10:140-1.5(b).

(e) Services available under the program are limited to those services related to personal care. The Division has no obligation to fund or facilitate a consumer's ability to comply with program rules by providing other services or accommodations.

(f) It is the responsibility of the consumer to maintain Program eligibility in good standing. A consumer shall be determined to be in good standing by doing the following:

1.Maintaining qualifying activity in accordance with this chapter;

2.Complying with the payment of cost share in accordance with N.J.A.C. 10:140-4.3;

3.Complying with the training requirements in accordance with N.J.A.C. 10:140-6.1; and

4.Notifying the county designated agency of any change(s) in Program activity as described under N.J.A.C. 10:140-1.1 and 1.5(a) and (b), including, but not limited to, acquiring new employment, loss of employment, withdrawal from or completion of a post-secondary educational or training program, new enrollment in a post-secondary educational or training program, participation in new volunteer activity, or withdrawal from or termination of participation in a volunteer activity. Consumers shall be required to submit documentation to support such change.

i.Consumers must notify their county designated agency Program consultant of any significant change in Program activity immediately but no longer than 15 business days. Notification may be performed verbally, in writing, or electronically (computer message).

ii. Upon receipt of notification from the consumer, the county designated agency shall inform the Division of Disability Services (DDS) PASP Program Administrator.

iii. The county designated agency shall inform the consumer in writing of the need to provide documentation of involvement in Program activity within 30 days of receipt of request to ensure compliance with N.J.A.C. 10:140-1.1 and 1.5(a) and (b). The written notification shall inform the consumer that failure to respond to the request in writing within the 30-day timeframe shall result in a suspension from the Program.

iv. In the event that the requested documentation under (c) above is received in a timely manner and meets the criteria established under N.J.A.C. 10:140-1.1 and 1.5(a) and (b), the consumer's eligibility status for PASP shall remain in good standing.

v.In the event the requested documentation is received within the 30-day timeframe, but is deemed as unacceptable (does not meet Program activity requirements), the consumer shall be notified in writing of this determination by the county designated agency. In the event the consumer is unable to provide appropriate documentation to ensure compliance with N.J.A.C. 10:140-1.1 and 1.5(a) and (b), he or she will be terminated from the Program within 30 days of receipt of the letter. A notice of termination shall be issued to the consumer by the county designated agency pursuant to the actions described in this section.

5.In situations in which a consumer no longer meets eligibility requirements under N.J.A.C. 10:140-1.1 through no fault of his or her own (such as employer closure/moving, significant health change, volunteer agency closure, etc.), a Program activity plan shall be required and implemented within 90 days from the date of activity change in order to remain eligible for the Program.

i.The Program activity plan must be submitted to the county designated agency in writing along with documentation to support said activity.

ii. The Program activity plan shall be reviewed and approved by the designated State agency.

iii. Failure to provide the Program activity plan and/or implement the approved activity within 90 days of date of activity change shall result in a termination from the Program due to continued non-compliance with N.J.A.C. 10:140-1.1.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (a)1, substituted "70" for "65" and "permanent" for "chronic"; in (a)2, substituted "and must reside within the geographic boundaries thereof in order to qualify for services. Residency shall be determined by physical domicile in New Jersey." for a semicolon at the end; in (a)5,

substituted "is not" for "shall not be" and deleted "eligible applicant or" preceding "consumer"; rewrote (a)6 through (a)8; and added (b) through (f).

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Rewrote (f).

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N.J.A.C. 10:140-2.2

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§ 10:140-2.2 Exceptions to eligibility standards

(a) Exceptions to the eligibility standards in N.J.A.C. 10:140-2.1(a)1, 6 and 8 may be granted as follows:

1.The applicant or consumer must initiate the request for an exception;

2.The county designated agency shall review the request on a case-by-case basis and make a recommendation to the State Program Administrator as to whether such exception should be allowed; and

3.The State Program Administrator shall make the determination whether to allow the exception. Upon receiving notice from the State Program Administrator, the county designated agency shall notify the applicant or consumer of the determination.

(b) In making the recommendations and determinations on exception requests under (a) above, the county designated agency and the State Program Administrator shall:

1.Give consideration to the request presented by the applicant or consumer;

2.Require a showing of unusual or emergent circumstances;

3.Give consideration based on funding available;

4.Give consideration to other services received by the consumer or applicant through other funding sources; and

5.Give consideration to the facts presented on a case-by-case basis.

(c) In granting an exception to N.J.A.C. 10:140-2.1(a)1, the following standards shall be applied for applicants who are under age 18.

1.The applicant shall be employed or attending a post-secondary educational or training program, or shall demonstrate active participation as a volunteer or in community service; and

2.The applicant shall provide written consent from his or her parent or guardian unless the applicant is determined to be an emancipated minor.

(d) In granting an exception to N.J.A.C. 10:140-2.1(a)1, the following standards shall be applied for consumers who are over age 70:

1.The consumer shall be employed or attending a post-secondary educational or training program, or shall demonstrate active participation as a volunteer or in community service;

2.The consumer shall provide documentation of his or her application and the results of that application, when available, for other similar services for which the consumer may be eligible;

3.The consumer shall be a current recipient of services under the Personal Assistance Services Program.

(e) In situations in which the request for an exception under N.J.A.C. 10:140-2.1(a)8 is made, and personal assistance services are provided to a consumer through a personal assistant who resides with the consumer, an exception shall not be granted.

(f) No individual may receive more than one exception to the program's age criteria set forth in N.J.A.C. 10:140-2.1(a)1.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In the introductory paragraph of (a), substituted "6" for "5" and deleted "above" following "8"; in the introductory paragraph of (d), substituted "70" for "65"; and added (f).

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N.J.A.C. 10:140-2.3

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 2. ELIGIBILITY

§ 10:140-2.3 Procedures for requesting and granting exceptions to eligibility standards

(a) Eligible applicants or consumers requesting exceptions shall adhere to the following procedures:

1.Requests for exceptions pursuant to N.J.A.C. 10:140-2.2(a) shall be made in writing, or, where appropriate, verbally or through alternative communication methods;

2.The written request for an exception shall be made to the Division and shall indicate the specific exception requested and provide justification; and

3.Applicants or consumers who are unable to communicate in English or have a communication handicap may make arrangements with county designated agency for an alternative means for verifying their request for an exception. All other persons are required to verify their request in writing to the director of the county designated agency.

(b) The Division shall review the request and make a written recommendation to the State Program Administrator. The State Program Administrator shall make a determination and inform the county designated agency of the results within 30 days from the date that the request was received by the Division.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (a)2, substituted "Division" for "director of the county designated agency"; and in (b), substituted "Division" for "director of the county designated agency" and for "county designated agency".

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N.J.A.C. 10:140-3.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-3.1 Screening

(a) Upon applicant inquiry to the county designated agency regarding the Personal Assistance Services Program, county designated agency staff shall obtain information necessary to conduct pre-application screening and shall complete the screening within five working days of applicant inquiry.

(b) The applicant shall be notified in writing within five working days after completion of the county screening as to the results of the applicant's inquiry regarding participation in the Personal Assistance Services Program.

1.If the applicant is determined to be ineligible, the applicant shall be informed in writing of this determination and the right to appeal (see N.J.A.C. 10:120).

2.If the applicant appears eligible as a result of the screening, staff from the county designated agency shall inform the applicant in writing of this determination and if funding under the Personal Assistance Services Program is available to provide services to the applicant (see (c) below), shall enclose all documents necessary to process the application. The disposition letter shall also advise the applicant that the determination of initial eligibility does not guarantee services under this program.

(c) In the event the applicant appears to be eligible as a result of the screening, and Personal Assistance Services Program funding in the county designated agency is not presently available to provide services to the applicant, the applicant's name shall be placed on the waiting list maintained by the Division. The social and financial assessments, under N.J.A.C. 10:140-3.2, shall not be conducted at this time. Staff from the county designated agency shall inform the applicant in writing of this determination and advise the applicant that the documents necessary to process the application will be forwarded to the applicant when funding is available as determined by the Division. The social and financial assessments will be performed following completion of the application documents by the applicant. The position of the applicant's name on the waiting list shall be determined by the Division in accordance with the service priorities established under N.J.A.C. 10:140-1.5(b).

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (a), substituted "obtain" for "elicit"; and in (c), substituted "Division" for "county designated agency" throughout and deleted "county designated agency's" preceding the second occurrence of "waiting list".

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N.J.A.C. 10:140-3.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-3.2 Assessment

(a) The county designated agency shall arrange for a qualified assessor to perform an in person assessment within 30 days upon receipt of the application package, which includes the following:

1.An Application and Statement of Understanding;

2.An Income Declaration with proof of income;

3.A Physician's Certification; and

4.An Initial Consumer Plan of Service.

(b) Within 30 days of notification from the applicant of the completion of the application package, a qualified assessor, under (a) above, shall perform a social assessment of the applicant to determine if the applicant meets the eligibility criteria and to further determine the needs of the consumer.

(c) Within 30 days of notification from the applicant of the completion of the application package, a member of the staff of the county designated agency shall perform a financial assessment to determine the ability of the person or the person's spouse to pay for personal assistance services according to the sliding fee scale established pursuant to N.J.A.C. 10:140-4.3.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Rewrote the introductory paragraph of (a), in (a)4, substituted "An Initial" for "A"; and in (b), substituted "a qualified" for "the county designated" and inserted ", under (a) above," and "and to further determine the needs of the consumer".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In the introductory paragraph of (a), inserted "in person".

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N.J.A.C. 10:140-3.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-3.3 Individual personal assistance services plan and cash management plan

(a) The individual personal assistance services plan shall be designed by the consumer in consultation with the county designated agency to meet his or her individualized needs for personal assistance services.

(b)A personal assistance services plan shall include the following:

1.A list of the personal assistance services to be provided;

2.An estimate of the time needed and frequency of personal assistance services;

3.A list of individuals and/or vendors who will provide the services denoted in (b)1 above; and

4.An assessment of any cost share for which the consumer is to be responsible.

(c) The individual personal assistance services plan shall serve as the template for the creation of a consumer's cash management plan. The CMP shall serve as a budgetary document to show how a consumer's monthly cash allowance shall be utilized to meet the consumer's needs. A CMP must include at least:

1.The monthly cost and frequency of each service listed in (b)1 above;

2.The rate of pay that each individual or vendor named in (b)3 above; and

3.Other expenses that are mandated by the program as defined in N.J.A.C. 10:140-4.3(d) and 6.1(g).

(d) The county designated agency shall ensure that a social and financial reassessment is completed at 12-month intervals, or as often as necessary, commencing with the date of acceptance to the program. The social and financial reassessment shall be completed as follows:

1.The social reassessment shall be completed to determine if the consumer continues to meet the eligibility criteria pursuant to N.J.A.C. 10:140-2.1; and

2.The financial reassessment shall be completed to determine if the consumer is liable for cost share responsibilities, pursuant to N.J.A.C. 10:140-4.3.

(e) The consumer shall use no more than the monthly cash allowance authorized by the county designated agency under the approved cash management plan pursuant to (a) and (b) above. Cash allowance awarded to a consumer that remains unused after the end of the calendar year shall not accrue to the future use or benefit of that consumer, except to provide additional or emergency service hours. Requests from program consumers to use unspent funds to purchase additional service hours shall not be subject to appeal.

(f) Adjustments to increase the consumer's cash allowance shall be considered upon the request of the consumer, or shall be initiated upon the authorization of the county designated agency, subject to the availability of funding within the county designated agency.

(g)A consumer shall have only one active CMP at a time, but may revise their CMP monthly to adjust for changing needs.

(h) Cash management plans shall be developed by the consumer in consultation with the county designated agency, but shall not be considered to be active until approved by the State Program Administrator pursuant to (b) and (c) above.

(i) Consumers may be subject to suspension from the Program for failure to utilize their cash allowance in excess of a 60-day period or greater.

1.The county designated agency shall monitor the utilization of the cash allowance by the consumer, on a monthly basis, and provide necessary guidance to ensure that funds are being spent in accordance with Program requirements.

2.The county designated agency shall inform the designated State agency of any consumer non-compliance with this subsection and determine necessary action to ensure that Program funds are spent.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Individual personal assistance services plan". Rewrote (a) through (f); and added (g) and (h).

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Added (i).

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N.J.A.C. 10:140-3.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 3. SCREENING, SERVICES AND APPEALS

§ 10:140-3.4 Disposition of application

(a) The county designated agency shall notify the applicant in writing within 15 days from the date of completion of the assessment regarding the finding of the social and financial assessments performed pursuant to N.J.A.C. 10:140-3.2 and the applicant's right to appeal.

(b) If an applicant is determined eligible, in addition to (a) above the notification shall include the following:

1.An approved plan of service listing the services to be provided including an estimate of the time needed and frequency of personal assistance services;

2.An estimate of the total cost of the personal assistance services; and

3.If applicable, an estimate of the amount of money that the eligible consumer or that consumer's spouse is required to pay toward personal assistance services.

(c) In the event an applicant is determined eligible for the Personal Assistance Services Program and funding prohibits the start-up of services within 30 days from the date of the county designated agency notification to the applicant, pursuant to (a) and (b) above regarding the results of the social and financial assessments performed, such applicant shall be placed on a waiting list for services. An applicant's position on a waiting list shall be determined by the Division in accordance with N.J.A.C. 10:140-1.5(b).

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (c), substituted "Division" for "county designated agency".

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N.J.A.C. 10:140-3.5

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§ 10:140-3.5 Services

(a) Services provided to eligible consumers shall be supplemental to and not duplicative of services available through relatives, other informal caregivers or other service programs.

(b) For the purposes of the Personal Assistance Services Program, the following service standards shall be met:

1.Program funds shall not be used for skilled professional medical services, including the supervision of registered nurses. It is not the responsibility of the Personal Assistance Services Program to arrange for or provide skilled nursing, therapy or related medical care and treatment services that the eligible consumer may need;

2.Personal assistance services provided for the purpose of receiving training or education shall not replace or duplicate those services provided by an educational institution as mandated by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;

3.Personal assistance services provided at a place of employment shall not replace or duplicate those services or accommodations provided by an employer as mandated by the Americans With Disabilities Act of 1990, P.L. 101-336, 42 U.S.C. § 12111; and

4.Driving or other forms of transportation shall not be permitted exclusively without the need for other health and chore-related services.

(c) Personal assistance services shall be suspended during a period of hospitalization and resumed automatically once the consumer is discharged to the consumer's community residence.

(d) Consumers may be afforded services during a temporary out-of-State stay (such as a vacation or stay at an alternate residence), subject to the following conditions and procedures:

1.Consumers that are planning to leave the State (other than primary New Jersey residence) must inform their county designated agency, a minimum of 48 hours prior to leaving and indicate details pertaining to dates of departure and return and emergency contact information.

2.Employees may accompany their consumer, as determined necessary to leave the State, and may continue to receive payment for services performed accordingly, as indicated under the cash management plan.

3.Any ancillary costs related to an out-of-State trip for consumers and/or employees under (d)2 above, including, but not limited to, airfare, hotel, or vehicle rentals, etc., may not be paid out of Program funds.

4.Consumers are permitted up to a maximum of 30 continuous days for out-of-State stay per request.

(e) Failure to provide requested information as described in (d)1 above may result in a participant's worker(s) not being paid and/or possible termination, due to an inability to verify location and performance of duties under the cash management plan.

(f) Consumers that leave their New Jersey residence for an out-of-State stay without the required notification to their county designated agency pursuant to (d)1 above will be subject to termination retroactive to the date of departure from the State. The consumer will be responsible for any cost of services as of the departure date as a result of non-compliance.

(g) Exceptions to the 30-day maximum as described in (d)4 above, may be granted at the discretion of the Division Director, on a case-by-case basis, according to the following standards and procedures:

1.Requests must be submitted in writing (or other approved electronic communication) to the State Program Administrator at least 30 days prior to leaving the State;

2.The request shall include contact information for the trip (for example, address and telephone number) for emergency purposes and billing of cost share obligation fees, and indicate the expected date of return to the consumer's New Jersey residence;

3.The written request must indicate the reason(s) and/or justification for additional time beyond the 30-day limit;

4.The request must provide for assurances that all planned trip(s) will not present a conflict with required annual Program reassessment; and

5.The consumer must give assurances of his or her intent to return and maintain permanent residence in New Jersey and to maintain program activity requirements for eligibility purposes pursuant to N.J.A.C. 10:140-1.1(a).

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (b)1, substituted "skilled professional medical" for "medically related", "that" for "which" and a semicolon for a period at the end, and deleted a comma following "therapy"; deleted former (b)2; recodified former (b)3 and (b)4 as (b)2 and (b)3; in (b)2, substituted "; and" for a period at the end; and deleted (d).

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In (b)2, deleted "and" from the end; in (b)3, substituted "at a place of" for "during" and "; and" for a period; and added (b)4 and (d) through (g).

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N.J.A.C. 10:140-3.6

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§ 10:140-3.6 Exceptions to service standards

(a) Exceptions to the service standards in N.J.A.C. 10:140-3.5(a), (b)2 and 3 shall be:

1.Initiated by the applicant or consumer;

2.Reviewed on a case-by-case basis by the Division; and

3.Consumers have the right to appeal decisions regarding denials of the exception to the service standards. Appeals shall be challenges to the material facts of the case, and shall be made to the Division Director or designee, who shall be the ultimate authority to render a decision.

(b) Exceptions to the service standards in N.J.A.C. 10:140-3.5(c) and (d) shall be:

1.Initiated by the applicant or consumer;

2.Reviewed on a case-by-case basis by the county designated agency. The county designated agency shall make a recommendation to the State Program Administrator as to whether an exception should be allowed; and

3.The State Program Administrator shall notify the county designated agency of the determination. Upon receipt of the determination, the county designated agency shall then notify the applicant or consumer regarding the results of the decision rendered by the State Program Administrator.

(c) In making the recommendations and determinations on exception requests, the county designated agency and State Program Administrator shall:

1.Give consideration to the request presented by the applicant or consumer;

2.Require a showing of unusual or emergent circumstances;

3.Give consideration based on funding available;

4.Give consideration to other services received by the consumer or applicant through other funding sources; and

5.Give consideration to the facts presented on a case-by-case basis.

(d) For the purposes of granting exceptions to N.J.A.C. 10:140-3.5(c), the following standards apply:

1.Personal assistance services in the form of maintaining essential communications, advocacy, household, and home maintenance services shall be continued on a limited basis only when other relatives or informal caregivers are not available.

2.Personal care services shall not be provided under the Personal Assistance Services Program during a period of hospitalization.

3.In granting an exception, a temporary modification of the consumer plan of service shall be made with the county designated agency to reflect current needs.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In the introductory paragraph of (a), substituted "(b)2 and 3" for "(b)3 and (b)4"; in (a)2, substituted "Division" for "county designated agency"; and rewrote (a)3.

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N.J.A.C. 10:140-3.7

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 3. SCREENING, SERVICES AND APPEALS

§ 10:140-3.7 Procedures for requesting and granting exceptions to service standards

(a) Eligible applicants or consumers requesting exceptions shall follow the procedures listed below:

1. Requests for exceptions to N.J.A.C. 10:140-3.5(a) through (c) shall be made in writing; and

2. The written request for an exception shall be made to the Division and shall indicate the specific exception requested and provide justification.

(b) The Division shall review the request and respond to the request within 30 days.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (a)1, substituted "(c)" for "(d)" and "; and" for a period at the end; in (a)2 and (b), substituted "Division" for "director of the county designated agency"; and deleted (c) and (d).

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N.J.A.C. 10:140-3.8

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 3. SCREENING, SERVICES AND APPEALS

§ 10:140-3.8 Transfer of services to another county

(a) Once eligibility for the Personal Assistance Services Program has been established, the consumer retains that eligibility when moving to another county within New Jersey, unless services are terminated pursuant to N.J.A.C. 10:140-3.9.

(b) In order to effect a transfer of personal assistance services, the eligible consumer shall notify the county of origin and the destination county of his or her intention to move. Notification shall be in writing or, where appropriate, verbally or through alternative communication methods. It is the consumer's responsibility to provide a recent copy of their current cash management plan.

1.Applicants or consumers who are unable to communicate in English or have a communication handicap may make arrangements with the county designated agency for an alternative means for verifying their notification of a move to another county. All other persons must provide notification of a move in writing to the director of the county designated agency.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Rewrote the introductory paragraph of (b); and deleted (c) through (e).

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N.J.A.C. 10:140-3.9

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-3.9 Suspension of service and termination of service

(a) Suspension of service may be either voluntary or involuntary. Voluntary suspensions involve situations in which eligible consumers agree to the temporary suspension of services. All other suspensions are considered to be involuntary.

(b) Voluntary suspension of service shall not exceed a total of 90 days and shall be implemented as follows:

1.County designated agencies shall implement an initial suspension period, not to exceed 60 days, based on a request by an eligible consumer.

2.Prior to completion of the initial suspension period, the eligible consumer may request an extension, not to exceed a total of 90 days.

3.The county designated agency shall review the request for an extension and shall make a determination on whether to grant an extended suspension beyond the initial period or to terminate services. All decisions will be made on a case-by-case basis.

4.At the end of a 90-day voluntary suspension period, the county designated agency shall determine whether the consumer's services are to be resumed or terminated and provide appropriate written notification to the consumer regarding the decision rendered.

(c) Consumers who are terminated from services shall receive written notice from the county designated agency at least 60 days prior to the effective date of the termination. Consumers may receive notice of termination in less than 60 days at the discretion of the county designated agency in those situations described in (e)4, 7, and 8 below.

(d) Terminations may be the result of State-mandated reductions in Program funding to the county designated agency when the county designated agency has no alternative means of supplementing funding for the services.

1.In determining whether services will be terminated, the county designated agency shall consider the current and future availability of alternative means of funding the services.

2.Consumers shall receive written notice of terminations due to State-mandated reductions in Program funding, in accordance with (c) above.

(e) Terminations shall be a result of non-compliance with Program rules and procedures, which include, but are not limited to:

1.Failure to submit information necessary to determine or reaffirm social and financial program eligibility in a timely fashion in accordance with N.J.A.C. 10:140-3.2 and 3.3(d);

2.Failure to pay the appropriate consumer fee or to sign time sheets as specified in N.J.A.C. 10:140-4.3(b) and (g), respectively;

3.Failure to comply with the training requirements specified in N.J.A.C. 10:140-6.1;

4.Abuse or misuse of personal assistance services or personal assistants as verified by the county designated agency;

5.Continued non-acceptance and/or dismissal of personal assistants without proper justification;

6.Failure to meet program eligibility requirements pursuant to N.J.A.C. 10:140-2.1, unless an exception has been granted in accordance with N.J.A.C. 10:140-2.2 and 2.3;

7.Failure of the consumer to manage personal situations which result in placing the health or welfare of a personal assistant at increased risk, as determined by the county designated agency; or

8.Duplication of personal assistance services through other service programs or funding sources as verified by the county designated agency.

(f) In determining whether services will be terminated as described in (e) above, the county designated agency shall consider the specifics of the situation, on a case-by-case basis, including, but not limited to, the following factors:

1.The severity of the situation;

2.Any recurrences or patterns in the situation; and

3.The effort and willingness demonstrated by the consumer to resolve the issue or to mediate the problem.

(g) Any willful misrepresentation of Program activity or commission of a fraudulent use of Program services or funds (willful actions, such as falsifying timesheets, failure to disclose loss of Program activity, non-disclosure of entitlement services funded by other Federal programs pursuant to N.J.A.C. 10:140-2.1(b)8, etc.) will result in an immediate termination from the Program.

1.Commission of any acts described in this subsection shall obligate the consumer to repay the Program for the cost of services. The designated State agency shall notify the consumer in writing, of the need to repay for cost of services and identify the payment amount and time frame and instructions for submission of payment(s).

2.In the event of a non-payment for the cost of services as set forth in (g)1 above, the Division reserves the right to refer the debt amount to a collection agency for further action.

3.Commission of any activities described in this subsection shall result in a lifetime ban from eligibility for the Program. This action is at the discretion of the Commissioner upon recommendation from the Division.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In the introductory paragraph of (e), substituted "rules and procedures," for "regulations and procedures".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Rewrote the section.

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N.J.A.C. 10:140-3.10

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-3.10 Adverse agency actions

(a) An applicant or consumer may request an administrative review of an agency denial, reduction, suspension or termination of services, denial of a request for an exception, or a failure to act upon a request for services within prescribed time frames.

(b) If services received or requested are to be denied, reduced, suspended or terminated, the county designated agency shall provide written notice and, if appropriate, oral notice to the applicant or consumer at least 30 days prior to such action. Consumers may receive notice in less than 30 days in accordance with N.J.A.C. 10:140-3.9(c).

(c) The written notice of such adverse action shall indicate the reason(s) for the action to be taken, citing the basis for the decision.

(d) In addition, all written notices of such adverse action shall contain the following statement:

"An applicant to or eligible consumer of the Personal Assistance Services Program, who is dissatisfied with any decision regarding an eligibility determination or other matters pertaining to participation in the Personal Assistance Services Program, may file a request for an administrative review of that decision. The applicant or eligible consumer shall not be afforded an administrative review when the adverse agency action is due to State mandated reductions in funding, unless the request for a review is based on a claim of inaccuracy or misapplication by the county designated agency.

A request for an administrative review must be made within 30 days of the date of written notice of an adverse agency action.

Request for an administrative review may be made by telephone or letter to the:

State Program Administrator

Personal Assistance Services Program

Division of Disability Services

PO Box 705

Trenton, New Jersey 08625-0705

1-888-285-3036"

(e)A request for a review will operate as a stay of any adverse agency action pending the outcome of the administrative review or any subsequent appeal. A stay of an adverse action may be denied either at the discretion of the county designated agency based on a case-by-case determination of severity in one of those situations described in N.J.A.C. 10:140-3.9(e)4 and 7, or because the request for a review based on a State mandated reduction in funding does not claim an incorrect computation or misapplication by the county designated agency.

(f) Once a stay of the adverse agency action is applied, personal assistance services to a consumer shall not be suspended, reduced or terminated prior to the completion of the administrative review and the rendering of the decision, except when:

1.The sole issue is one of a State mandated reduction in funding and the consumer's claim of inaccuracy or misapplication is invalid; or

2.A change in the consumer's circumstances occurs, affecting eligibility or award of services under the Program, while the decision of the administrative review is still pending and the consumer does not request an additional administrative review related to the subsequent adverse agency action.

(g) Within 30 days from the completion of the administrative review, the State Program Administrator shall render a decision and that decision shall be sent in writing to the applicant or consumer.

(h) Applicants or consumers who disagree with the decision of the administrative review may request a hearing before an Administrative Law Judge pursuant to N.J.A.C. 10:140-3.11. Instructions for such requests shall be incorporated into the written results noted in (g) above.

History

HISTORY:

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In the statement in (d), updated the address.

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N.J.A.C. 10:140-3.11

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§ 10:140-3.11 Hearings and appeals

(a) Administrative hearings under this chapter shall be conducted 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.

1.A request for an administrative hearing shall be denied to a consumer who disputes an involuntary suspension, involuntary termination or reduction of services resulting from a State mandated reduction in funds to the county designated agency, unless the request is based on a claim of incorrect computation or misapplication by the county designated agency.

2.A consumer who has maxed out his or her eligibility for service under N.J.A.C. 10:140-2.1(a)1 or 8 shall not be eligible for a fair hearing, unless the consumer raises a challenge to a material fact.

3.In the event that an administrative hearing request is based on a claim that the level of services awarded was computed incorrectly or misapplied as a result of a State mandated reduction in funds, the consumer shall be permitted a stay of an adverse agency action pursuant to N.J.A.C. 10:140-3.10(e).

(b) An administrative hearing may be requested by calling or writing to the:

State Program Administrator

Personal Assistance Services Program

Division of Disability Services

PO Box 705

Trenton, New Jersey 08625-0705

1-888-285-3036

(c) In all cases, an administrative hearing must be requested within 30 days of receiving the adverse agency decision noted in N.J.A.C. 10:140-3.10.

(d) Upon receipt of a request for an administrative hearing, the Administrative Hearings Coordinator will then forward the request to the Office of Administrative Law, the State agency responsible for conducting the administrative hearings process.

(e) Upon completion of the administrative hearings process, a final decision regarding the matter in dispute shall be rendered by the director of the designated State agency.

(f) If the applicant or eligible consumer objects to the final decision made in accordance with (e) above, a notice of appeal may be filed by the applicant or eligible consumer with the Appellate Division of the Superior Court of New Jersey. Such appeals shall be made within 45 days of the date of the final decision.

(g) Further information about filing a notice of appeal may be obtained by calling or writing the:

Appellate Division of the Superior Court of New Jersey

Richard J. Hughes Justice Complex

PO Box 006

Trenton, New Jersey 08625-0006

(609) 292-4822

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Added new (a)2; and recodified former (a)2 as (a)3.

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In (b), updated the address.

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§ 10:140-3.12 Confidentiality and disclosure of information

(a) All identifiable personal information regarding applicants or consumers under this program obtained or maintained under this program shall be confidential and shall not be released without the written consent of the applicant or consumer or their authorized agent except as noted in (b) and (c) below. In the case of applicants or consumers who have AIDS or are HIV positive, release of any information shall also be subject to the provisions of N.J.S.A. 26:5C-5 et seq. and N.J.A.C. 8:61-4.1.

(b) Disclosure of information without the consent of the applicant, consumer, or his or her authorized agent shall be limited to purposes directly connected with the Program pursuant to State law and regulations. Such purposes shall include, but not be limited to, the following:

1.The determination or reaffirmation of eligibility;

2.The provision of services;

3.The determination of cost share liabilities; and/or

4.Compliance with training requirements.

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

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

2.The release to the Attorney General or other legal representative of this State of information or files relating to the claim of any applicant, consumer or his or her authorized agent challenging the Program's statutory or regulatory authority or a determination made pursuant thereto; or

3.The release of information or files to the State Treasurer or to his or her duly authorized representatives for an audit, review of expenditures, or similar activity authorized by law.

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§ 10:140-4.1 Standards for individual budgets and use of cash allowance

(a) In using the cash allowance, the consumer shall either:

1. Employ private individuals who are legally determined eligible to work as defined by the Internal Revenue Service (IRS) at I.R.C. § 31.3306(c)(2)-1(a)(2);

2. Utilize the services of a vendor agency that can legally do business in the State of New Jersey;

3. Purchase background checks and benefits for employees hired;

4. Purchase rental or homeowner's insurance or other liability insurance related to consumer's role of employer;

5. Purchase personal assistance services training and education for workers; or

6. Purchase home or vehicular modifications, supplies, and/or equipment that alleviate the need for employee assistance and promote or enhance independence, and are not currently paid for by other Program resources.

(b) The following expense items shall not be approved for use under the cash allowance:

1. Goods and services already covered by Medicaid or other entitlement programs;

2. Goods and services provided to supporting persons other than the individual consumer;

3. Household expenses including, but not limited to, rent, mortgage, or room and board payments, routine utility bills, routine home maintenance/repairs and related cleaning supplies, home appliances (air conditioners, stoves, ranges, heaters, etc.), furniture and furnishings (linens, blankets, curtains, etc.), food/food supplements, routine home supplies (paint, hardware store purchases), vehicle maintenance/repairs and insurance, and landscaping and related yard work;

4. Recreational and social/entertainment expenses, including, but not limited to, exercise equipment and fitness memberships; vacations and related travel costs, household entertainment and equipment (TVs, VCRs, computers, stereos, all

telephones, etc.), alcohol, recreational drugs (legal and illegal), and gambling purchases;

5.Personal services and items, including, but limited to, clothing, shoes and related accessories, all medications (prescription or over-the-counter), vitamins and supplements, experimental treatments and related supplies, massages, manicures, haircuts, pedicures, and other types of salon services;

6.Environmental modifications shall not be used for new residential construction, even if the new dwelling is designed to accommodate the personal care needs of a participant;

7.Exceptions to (b)3 above for home appliances, may be considered and approved, at the discretion of the Division Director, on a case-by-case basis, in extreme or unusual circumstances directly related to the consumer's personal care needs. Approval of such an exception may result in a reduction in a consumer's monthly cash allocation, due to the approved purchase alleviating the need for assistance from a worker, and therefore enabling the consumer to perform a task(s) independently; and

8.All other requests for services or purchases aside from those items either approved in (a) above or disallowed under (b) above, may be approved at the discretion of the Division Director, on a case-by-case basis. Approval of such an exception may result in a reduction in a consumer's monthly cash allocation, and shall be based upon the nature of the request in alleviating the need for assistance from a worker, and therefore enabling the consumer to perform a task(s) independently.

History

HISTORY:

Repeal and New Rule, R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Contracting for services".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Section was "Contracting for services". Rewrote the section.

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N.J.A.C. 10:140-4.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 4. INDIVIDUAL BUDGETS AND FEES

§ 10:140-4.2 Fees and individual budgets

(a) Fees for services under the Personal Assistance Services Program shall be based on an hourly rate determined by the consumer's cash management plan, which is established based upon the consumer's authorized plan of service hours. This number is then converted into a monthly dollar amount based on the flat rate as set forth in (b) below. Any additional costs that exceed that flat fee, shall be the financial responsibility of the county designated agency and not the Division.

(b) The reimbursement for personal assistance services shall not exceed a flat all-inclusive amount of $ 15.00 per hour.

(c) The fee for assessments of applicants and as appropriate, eligible consumers shall be $ 100.00 for each initial assessment authorized by the county designated agency; $ 50.00 for annual reassessments; and $ 25.00 for each follow-up assessment authorized by the county designated agency.

(d) The fees for personal assistance services and assessments described in (b) and (c) above shall be reviewed by the Advisory Council every two years, or as needed, and recommendations made to the Division for adjustments.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Provider fees". Rewrote (a), (b) and (d).

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LexisNexis

N.J.A.C. 10:140-4.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-4.3 Consumer cost share obligation fees and requirements

(a)A consumer's cost share obligation for personal assistance services shall only be determined by the gross annual income of the consumer. A consumer will have the responsibility for a cost share obligation only if that consumer's individual annual gross income exceeds the applicable eligibility limit of 350 percent of the Federal Poverty Level (FPL).

1.A consumer whose annual gross income is less than 350 percent of the FPL, for his or her family size, shall not be required to pay a cost share for personal assistance services.

(b) Failure of the consumer to pay the appropriate cost share obligation within 60 days of the date of billing, without good cause, shall be grounds for termination or suspension from the Personal Assistance Services Program.

(c) The Consumer Cost Share Obligation Table (set forth in the table in (j) below) indicates income ranges and associated percentages of the total cost of the service to be paid by a consumer whose income falls within those ranges shall be applied to eligible consumers. For the purposes of assessing consumer fees under the Consumer Cost Share Obligation Table set forth in (j) below, the county designated agency shall calculate family size and the consumer's individual annual gross income pursuant to the FPL at 350 percent.

(d) Each consumer shall have a current Worker's Compensation liability policy, which covers an employee's work-related personal injury claims prior to the direct employment of a domestic household employee under the program. This policy shall be paid for by the consumer.

(e) Each consumer shall provide verification of annual gross income for determination of applicable cost share obligation fees upon application to the Personal Assistance Services Program and every 12 months thereafter. The determination of the cost share obligation fees shall be made by the county designated agency and redetermined every 12 months at a minimum.

1.Acceptable verification includes, but is not limited to, pay stubs, W-2 forms or photostatic copies of the actual 1040 form filed with the Internal Revenue Service,

business records, pension statements and/or correspondence from employers or agencies (for example, Social Security Administration, State employment agencies).

2.Redetermination of cost share obligation fees shall be required prior to the 12-month requirement as stated in this subsection, in situations in which the consumer has a change in Program activity affecting changes in income. Such changes would include, acquisition of new employment, loss of employment, increase or decrease in employment salary/wages (that is, hourly wage increase, promotion, demotion, layoff, etc.), loss of, or gain of, a new benefit (that is, Social Security, SSI, AFDC benefits, private disability, alimony/child support, pensions/annuities, workers compensation, insurance payments, estate/trust income, rental income, or royalties, etc.), or increase or decrease in benefit payments.

(f) If the costs of an eligible consumer's personal assistance services 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 Personal Assistance Services Program shall be the secondary payer.

(g) The consumer receiving personal assistance services and each of their employees shall sign time sheets attesting to the hours of service rendered, and the individual personal assistant or provider agency shall then be paid by a fiscal intermediary service organization. Bills verifying receipt for services rendered or items purchased shall be submitted to the fiscal intermediary service organization for payment.

(h) Upon determination of the applicable cost share obligation pursuant to the table in (j) below, the fiscal intermediary service organization shall provide the consumer with a billing of the cost share obligation to be paid by the consumer on a monthly basis.

(i) All collected consumer cost share obligations shall be retained by the fiscal intermediary service organization for the provision of personal assistance services.

(j) The table below shall be updated annually in accordance with the change in the FPL as published by the U.S. Department of Labor. The amounts of the cost share obligations will be revised annually by a notice of administrative change published in the New Jersey Register; however, any change in the "income increment" or in the applicable percentage of the cost share obligation as listed in the table below shall be promulgated through rulemaking pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Consumer Cost Share Obligation Table FY2019

Federal Poverty Level (Family Size=1)		Federal Poverty Level (Family Size=2)		Federal Poverty Level (Family Size=3)		Federal Poverty Level (Family Size=4)		Federal Poverty Level (Family Size=5)		Federal Poverty Level (Family Size=6)		Federal Poverty Level (Family Size=7)		Federal Poverty Level (Family Size=8)		Federal Poverty Level (Family Size=9)	
$12,140		$16,460		$20,780		$25,100		$29,420		$33,740		$38,060		$42,380			
Income Increment $1,000		Income Increment $1,000		Income Increment $1,000		Income Increment $1,000		Income Increment $1,000		Income Increment $1,000		Income Increment $1,000		Income Increment $1,000			
Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range	Ending Cost Share Percentage	Starting Range
0%	$0	0%	$0	0%	$0	0%	$0	0%	$0	0%	$0	0%	$0	0%	$0	0%	$0
2%	$12,140	2%	$16,461	2%	$20,781	2%	$25,101	2%	$29,421	2%	$33,741	2%	$38,061	2%	$42,381	2%	$46,701
4%	$13,200	4%	$17,520	4%	$21,840	4%	$26,160	4%	$30,480	4%	$34,800	4%	$39,120	4%	$43,440	4%	$47,760
6%	$14,260	6%	$18,580	6%	$22,900	6%	$27,220	6%	$31,540	6%	$35,860	6%	$40,180	6%	$44,500	6%	$48,820
8%	$15,320	8%	$19,640	8%	$23,960	8%	$28,280	8%	$32,600	8%	$36,920	8%	$41,240	8%	$45,560	8%	$49,880
10%	$16,380	10%	$20,700	10%	$25,020	10%	$29,340	10%	$33,660	10%	$37,980	10%	$42,300	10%	$46,620	10%	$50,940
12%	$17,440	12%	$21,760	12%	$26,080	12%	$30,400	12%	$34,720	12%	$38,980	12%	$43,360	12%	$47,680	12%	$52,000
14%	$18,500	14%	$22,820	14%	$27,140	14%	$31,460	14%	$35,780	14%	$39,840	14%	$44,420	14%	$48,740	14%	$53,060
16%	$19,560	16%	$23,880	16%	$28,200	16%	$32,520	16%	$36,840	16%	$40,900	16%	$45,480	16%	$49,800	16%	$54,120
18%	$20,620	18%	$24,940	18%	$29,260	18%	$33,580	18%	$37,900	18%	$41,960	18%	$46,540	18%	$50,860	18%	$55,180
20%	$21,680	20%	$26,000	20%	$30,320	20%	$34,640	20%	$38,960	20%	$43,020	20%	$47,600	20%	$51,920	20%	$56,240
22%	$22,740	22%	$27,060	22%	$31,380	22%	$35,700	22%	$39,960	22%	$44,080	22%	$48,660	22%	$52,980	22%	$57,300
24%	$23,800	24%	$28,120	24%	$32,440	24%	$36,760	24%	$40,960	24%	$45,140	24%	$49,720	24%	$54,040	24%	$58,360
26%	$24,860	26%	$29,180	26%	$33,500	26%	$37,820	26%	$41,960	26%	$46,200	26%	$50,780	26%	$55,100	26%	$59,420
28%	$25,920	28%	$30,240	28%	$34,560	28%	$38,880	28%	$42,960	28%	$47,260	28%	$51,840	28%	$56,160	28%	$60,480
30%	$26,980	30%	$31,300	30%	$35,620	30%	$39,940	30%	$43,960	30%	$48,320	30%	$52,900	30%	$57,220	30%	$61,540
32%	$28,040	32%	$32,360	32%	$36,680	32%	$40,960	32%	$44,960	32%	$49,380	32%	$53,960	32%	$58,280	32%	$62,600
34%	$29,100	34%	$33,420	34%	$37,740	34%	$41,960	34%	$45,960	34%	$50,440	34%	$55,020	34%	$59,340	34%	$63,660
36%	$30,160	36%	$34,480	36%	$38,800	36%	$42,960	36%	$46,960	36%	$51,500	36%	$56,080	36%	$60,400	36%	$64,720
38%	$31,220	38%	$35,540	38%	$39,860	38%	$43,960	38%	$47,960	38%	$52,560	38%	$57,140	38%	$61,460	38%	$65,780
40%	$32,280	40%	$36,600	40%	$40,920	40%	$44,960	40%	$48,960	40%	$53,620	40%	$58,200	40%	$62,520	40%	$66,840
42%	$33,340	42%	$37,660	42%	$41,980	42%	$45,960	42%	$49,960	42%	$54,680	42%	$59,260	42%	$63,580	42%	$67,900
44%	$34,400	44%	$38,720	44%	$43,040	44%	$46,960	44%	$50,960	44%	$55,740	44%	$60,320	44%	$64,640	44%	$68,960
46%	$35,460	46%	$39,780	46%	$44,100	46%	$47,960	46%	$51,960	46%	$56,800	46%	$61,380	46%	$65,700	46%	$70,020
48%	$36,520	48%	$40,840	48%	$45,160	48%	$48,960	48%	$52,960	48%	$57,860	48%	$62,440	48%	$66,760	48%	$71,080
50%	$37,580	50%	$41,900	50%	$46,220	50%	$49,960	50%	$53,960	50%	$58,920	50%	$63,500	50%	$67,820	50%	$72,140
52%	$38,640	52%	$42,960	52%	$47,280	52%	$50,960	52%	$54,960	52%	$59,980	52%	$64,560	52%	$68,880	52%	$73,200
54%	$39,700	54%	$44,020	54%	$48,340	54%	$51,960	54%	$55,960	54%	$61,040	54%	$65,620	54%	$69,940	54%	$74,260
56%	$40,760	56%	$45,080	56%	$49,400	56%	$52,960	56%	$56,960	56%	$62,100	56%	$66,680	56%	$71,000	56%	$75,320
58%	$41,820	58%	$46,140	58%	$50,460	58%	$53,960	58%	$57,960	58%	$63,160	58%	$67,740	58%	$72,060	58%	$76,380
60%	$42,880	60%	$47,200	60%	$51,520	60%	$54,960	60%	$58,960	60%	$64,220	60%	$68,800	60%	$73,120	60%	$77,440
62%	$43,940	62%	$48,260	62%	$52,580	62%	$55,960	62%	$59,960	62%	$65,280	62%	$69,860	62%	$74,180	62%	$78,500
64%	$45,000	64%	$49,320	64%	$53,640	64%	$56,960	64%	$60,960	64%	$66,340	64%	$70,920	64%	$75,240	64%	$79,560
66%	$46,060	66%	$50,380	66%	$54,700	66%	$57,960	66%	$61,960	66%	$67,400	66%	$71,980	66%	$76,300	66%	$80,620
68%	$47,120	68%	$51,440	68%	$55,760	68%	$58,960	68%	$62,960	68%	$68,460	68%	$73,040	68%	$77,360	68%	$81,680
70%	$48,180	70%	$52,500	70%	$56,820	70%	$59,960	70%	$63,960	70%	$69,520	70%	$74,100	70%	$78,420	70%	$82,740
72%	$49,240	72%	$53,560	72%	$57,880	72%	$60,960	72%	$64,960	72%	$70,580	72%	$75,160	72%	$79,480	72%	$83,800
74%	$50,300	74%	$54,620	74%	$58,940	74%	$61,960	74%	$65,960	74%	$71,640	74%	$76,220	74%	$80,540	74%	$84,860
76%	$51,360	76%	$55,680	76%	$59,960	76%	$62,960	76%	$66,960	76%	$72,700	76%	$77,280	76%	$81,600	76%	$85,920
78%	$52,420	78%	$56,740	78%	$60,960	78%	$63,960	78%	$67,960	78%	$73,760	78%	$78,340	78%	$82,660	78%	$86,980
80%	$53,480	80%	$57,800	80%	$61,960	80%	$64,960	80%	$68,960	80%	$74,820	80%	$79,400	80%	$83,720	80%	$88,040
82%	$54,540	82%	$58,860	82%	$62,960	82%	$65,960	82%	$69,960	82%	$75,880	82%	$80,460	82%	$84,780	82%	$89,100
84%	$55,600	84%	$59,920	84%	$63,960	84%	$66,960	84%	$70,960	84%	$76,940	84%	$81,520	84%	$85,840	84%	$90,160
86%	$56,660	86%	$60,980	86%	$64,960	86%	$67,960	86%	$71,960	86%	$77,960	86%	$82,580	86%	$86,900	86%	$91,220
88%	$57,720	88%	$62,040	88%	$65,960	88%	$68,960	88%	$72,960	88%	$78,960	88%	$83,640	88%	$87,960	88%	$92,280
90%	$58,780	90%	$63,100	90%	$66,960	90%	$69,960	90%	$73,960	90%	$79,960	90%	$84,700	90%	$89,020	90%	$93,340
92%	$59,840	92%	$64,160	92%	$67,960	92%	$70,960	92%	$74,960	92%	$80,960	92%	$85,760	92%	$90,080	92%	$94,400
94%	$60,900	94%	$65,220	94%	$68,960	94%	$71,960	94%	$75,960	94%	$81,960	94%	$86,820	94%	$91,140	94%	$95,460
96%	$61,960	96%	$66,280	96%	$69,960	96%	$72,960	96%	$76,960	96%	$82,960	96%	$87,880	96%	$92,200	96%	$96,520
98%	$63,020	98%	$67,340	98%	$70,960	98%	$73,960	98%	$77,960	98%	$83,960	98%	$88,940	98%	$93,260	98%	$97,580
100%	$64,080	100%	$68,400	100%	$71,960	100%	$74,960	100%	$78,960	100%	$84,960	100%	$90,000	100%	$94,320	100%	$98,640

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Consumer fees". Rewrote the section.

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In the introductory paragraph of (e), inserted "at a minimum"; and added (e)2.

Administrative change.

See: 50 N.J.R. 2151(a).

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N.J.A.C. 10:140-4.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-4.4 Standards for adjustments in consumer cost share obligation

(a) Adjustments in consumer cost share obligation shall be based on verifiable expenses that result from the consumer's disability that are non-routine in nature and are due to unforeseen and emergent circumstances. Items that can be considered for reduction of cost share shall be limited to:

1.Unreimbursed or unreimbursable medical expenses;

2.Transportation expenses;

3.Adaptations to home or vehicle that promote access or safety and are related to the consumer's disability;

4.Expenses paid by the consumer for personal care services that are beyond the services provided by the program, but meet the definition of personal care services utilized by the program;

5.Adaptive or assistive technology to compensate for a disability;

6.Expenses related to the care of a certified service animal; or

7.Unreimbursed costs related to the repair of a mobility device or adaptive equipment.

(b) Adjustments in cost share obligations shall be re-evaluated every 12 months or more frequently if necessary in order to redetermine the eligible consumer's ability to pay for services. Reductions in cost share shall be at the discretion of the State Program Administrator based on the list of expenses in (a)1 through 7 above. Appeals of denials of cost share reduction shall be made to the Division Director, who shall render a final decision.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Standards for adjustments in consumer fees". Rewrote the introductory paragraph of (a) and (a)4; in (a)3, inserted "promote access or safety and" and deleted "or" from the end; added (a)5 through (a)7; deleted former (b); recodified former (c) as (b); and in (b), substituted "cost share obligations" for "consumer fees", and inserted the last two sentences.

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In (b), substituted "every 12 months" for "annually".

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This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-4.5 Procedures for requesting adjustments in consumer cost share obligation

(a)A consumer requesting adjustments in consumer fees shall submit a written request and justification to the county designated agency. Within 60 days following the date that the required forms for completing the adjustment are received by the consumer from the county designated agency, the consumer shall submit verification of expenses pursuant to N.J.A.C. 10:140-4.4.

(b) Upon receipt of a written request and justification for a consumer fee adjustment, the county designated agency shall review the request and submit to the State Program Administrator materials pertaining to the request along with a recommendation regarding the appropriateness of the request and the amount of the adjustment.

(c) Upon receipt of the information described in N.J.A.C. 10:140-4.5(b), the State Program Administrator shall review the request and recommendation and render a decision based on the facts presented.

(d) Upon receipt of a decision by the county designated agency from the State Program Administrator, the county designated agency shall provide the consumer with written notice regarding the disposition of the request for an adjustment in consumer fee.

(e) Adjustments in consumer fee which are approved shall be effective as of the first day of the calendar month succeeding the month in which the written request is received by the county designated agency.

(f)A consumer requesting adjustment in his or her consumer fee shall continue to pay the original percentage of the total cost of service assessed pursuant to N.J.A.C. 10:140-4.3(a), (b), (c), and (d), pending the consumer's submission of written justification and verification of expenses under (a) and (b) above and approval by the State Program Administrator of the consumer's request for an adjustment under (c) above.

1.In the event a consumer has an outstanding cost share balance owed to the Program, the approval of an adjustment (reduction) in fees shall be contingent upon the consumer's completion of a repayment plan to retire the debt, which must be approved by the county designated agency and designated State agency.

2.Failure to complete the cost share repayment plan as described in (f)1 above and/or make restitution in the accordance with the plan shall result in suspension from the Program until such time the remaining debt is retired in full.

(g) The designated State agency shall deny an adjustment in the consumer's fee when the consumer fails to submit a written request, justification, and appropriate verification of expenses within the time frame specified in (a) above. In the event of a denial of a request for an adjustment in the consumer's obligation, the consumer shall be required to pay the determined percentage of the total cost of service assessed pursuant to N.J.A.C. 10:140-4.3.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Procedures for requesting adjustments in consumer fees".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

Rewrote (f) and (g).

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N.J.A.C. 10:140-5.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 5. PERSONAL ASSISTANTS

§ 10:140-5.1 Requirements for personal assistants/domestic household employees

(a) All persons desiring to serve as personal assistants under the Personal Assistance Services Program shall be at least 18 years of age or of age to obtain working papers.

(b) Personal assistants are considered to be domestic household employees as defined by the Internal Revenue Service at I.R.C. § 31.3306(c)(2)-1(a)(2), and shall adhere to all criteria associated with that designation.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Requirements for personal assistants". In the introductory paragraph of (a), substituted "or of age to obtain working papers." for "and shall meet at least one of the following requirements:"; deleted (a)1 through (a)4; rewrote (b); and deleted (c).

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N.J.A.C. 10:140-6.1

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

§ 10:140-6.1 Training requirements

(a) Newly eligible consumers under the Personal Assistance Services Program shall complete one mandatory training course entitled Orientation to Cash Model to be offered by the designated training agency, under contract with the Division. Consumers who have been previously trained may attend a refresher course as they deem it to be necessary.

1.Training will be available in lecture format and in self-paced format.

(b) All personal assistants may attend the Basic Techniques of Personal Assistance Course when offered, but only at the discretion of the consumer for whom they are employed.

(c) Training as set forth in (a) above shall be mandatory and no waivers of the requirement shall be considered.

(d) Consumer requests to receive in-home training sessions on the required training course shall be considered on a case-by-case basis.

(e) The county designated agency shall provide necessary information on consumers to the designated training agency to enable compliance with (a) above. Such information shall be furnished upon request by the designated training agency, as approved by the State Program Administrator, and shall include, but is not limited to, names, addresses and telephone numbers of consumers.

(f) The consumer shall provide or ensure the provision of necessary information on personal assistants to the designated training agency to enable compliance with (b) above. Such information shall be furnished upon request by the designated training agency, as approved by the State Program Administrator, and shall include, but is not limited to, names, addresses and telephone numbers of personal assistants, and as appropriate, written requests for a waiver of the Basic Techniques of Personal Assistance Services course.

(g) Consumers may request that the training vendor provide advanced or disability/task-specific training for their assistants, the cost of which will be the responsibility of the consumer and shall be deducted as an expense on the consumer's CMP.

(h) Newly hired staff of the county designated agency shall obtain training in the cash model within 45 days of their date of hire.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Rewrote (a) through (c); in (d), inserted "the" preceding "required", and substituted "course" for "courses"; in (f), substituted "consumer" for "county designated agency" and deleted ", pursuant to N.J.A.C. 10:140-6.2(a)2 and (b)" from the end; and added (g) and (h).

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N.J.A.C. 10:140-6.2

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

§ 10:140-6.2 Penalties for noncompliance with training requirements

Consumers who fail to complete the required course shall have their personal assistance services suspended and/or terminated, pursuant to N.J.A.C. 10:140-3.9.

History

HISTORY:

Recodified from N.J.A.C. 10:140-6.3 and amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Rewrote the section. Former N.J.A.C. 10:140-6.2, Waivers to training requirements for personal assistants, repealed.

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N.J.A.C. 10:140-6.3

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

§ 10:140-6.3 Compensation for attendance at training courses

(a) The rates of compensation for attendance at all training courses offered under the Personal Assistance Services Program shall be established by the designated State agency at a standardized rate.

(b) Personal assistants shall be issued a stipend upon completion of training referenced in N.J.A.C. 10:140-6.1(b) at the rate of $ 10.00 per hour by the designated training agency responsible for the administration of the Statewide training program under contract with the designated State agency.

History

HISTORY:

Recodified from N.J.A.C. 10:140-6.4 and amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (b), inserted "referenced in N.J.A.C. 10:140-6.1(b)" and substituted "$ 10.00" for "$ 9.00". Former N.J.A.C. 10:140-6.3, Penalties for noncompliance with training requirements, recodified to N.J.A.C. 10:140-6.2.

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N.J.A.C. 10:140-6.4

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 6. CONSUMER INFORMATION AND PERSONAL ASSISTANT TRAINING

§ 10:140-6.4 (Reserved)

History

HISTORY:

Recodified to N.J.A.C. 10:140-6.3 by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Compensation for attendance at training courses".

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N.J.A.C. 10:140-7.1

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 7. COMPLIANCE WITH LAWS

§ 10:140-7.1 Requirements of fiscal intermediary service organization

(a) The fiscal intermediary service organization shall abide by all laws and regulations concerning employment of persons hired to administer or work in the Personal Assistance Services Program including, but not limited to, the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., and the Immigration Reform and Control Act of 1986 (P.L. 99-603).

(b) At the consumer's discretion, they may choose to have the fiscal intermediary service organization conduct a background check on a perspective employee. The cost of the background check shall be reflected on the CMP and be deducted from the consumer's cash allotment.

(c) The fiscal intermediary service organization shall establish a separate accounting regarding receipt and use of cost share fees collected to ensure that cost share funds are used to expand or enhance program services in that county. These funds shall not supplant any existing allocation. This separate accounting and supporting documentation shall be made available to the designated State agency.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Section was "Requirements of county designated agency". In (a) and (c), substituted "The fiscal intermediary service organization" for "All county designated agencies"; rewrote (b); and deleted (d) and (e).

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N.J.A.C. 10:140-7.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 51 No. 11, June 3, 2019

§ 10:140-7.2 Duties of county designated agency

(a) Under the direction of the designated State agency, the county designated agency serves in the role of a "consultant" providing primary front line support and guidance to consumer, and shall perform the following duties:

1.Ensure that the operation and performance of the county's personal assistance program is in compliance with law and rules as specified by the designated State agency;

2.Provide information and outreach for the Personal Assistance Services Program;

3.Complete the necessary forms to determine eligibility of applicants and provide appropriate assistance to applicants and consumers in completing all necessary forms;

4.Determine cost share amount when applicable;

5.Maintain and update individual consumer files;

6.Designate a staff person to serve as a contact person for applicants, eligible consumers and personal assistants involved in the program and document such contacts;

7.Refer applicants and eligible consumers to other agencies, programs and services for which they may be eligible and request that they make application where appropriate;

8.Maintain fiscal and program records for the program;

9.Serve as liaison to the designated State agency for the Program;

10. Coordinate activities with the designated training agency to ensure completion of mandatory training requirements for consumers and personal assistants, according to N.J.A.C. 10:140-6.1;

11. Explains the components and operation of the Program and assists the consumer in understanding the responsibilities and options involved under the cash model, as described in the Application for Service and Agreement of Understanding;

12. Develops an awareness of the consumer's personal assistance needs, including an awareness of any informal supports and the individual's preferences and choices;

13. Gathers information and maintains data on formal and informal support systems, community resources, and personal assistance services and shares the information with consumers at their request;

14. Assists consumers in completing a Plan of Service to determine personal assistance needs and with the development of a Cash Management Plan;

15. Advises the consumer regarding locating services or equipment, recruiting, hiring and firing workers, and using the fiscal intermediary service;

16. Assists consumers in locating sources of training and technical assistance;

17. Interacts and collaborates with staff from other Program components (fiscal intermediary, etc.) for Program coordination; and

18. Conducts periodic evaluation of consumer progress on Program effectiveness.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

In (a)6, substituted "a" for "primary" preceding "contact"; deleted former (a)7, (a)10 and (a)12; recodified former (a)8 and (a)9 as (a)7 and (a)8, former (a)11 as (a)9 and (a)13 as (a)10; and in (a)9, substituted "program; and" for "Program;".

Amended by R.2016 d.100, effective September 6, 2016.

See: 48 N.J.R. 362(a), 48 N.J.R. 1818(b).

In the introductory paragraph of (a), inserted "serves in the role of a 'consultant' providing primary front line support and guidance to consumer, and"; in (a)9, substituted "Program;" for "program; and"; in (a)10, substituted a semicolon for a period; and added (a)11 through (a)18.

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N.J.A.C. 10:140-7.3

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§ 10:140-7.3 State Consumer Advisory Council on Personal Assistance Services

(a) The duties of the State Consumer Advisory Council on Personal Assistance Services shall consist of the following:

1.Serve as a resource to the Commissioner on matters pertaining to personal assistance services, and the development, implementation and evaluation of such services;

2.Advise the designated State agency on issues relevant to the development, implementation and evaluation of the Personal Assistance Services Program;

3.Evaluate the effectiveness of the Personal Assistance Services Program in meeting its objectives and share that evaluation with the Commissioner;

4.Actively explore innovative service delivery models to enhance the consumer-driven nature of the Personal Assistance Services Program; and

5.Implement (a)1 through 4 above through utilization of staff and equipment as provided by the Division of Disability Services, Department of Human Services.

(b) The State Consumer Advisory Council on Personal Assistance Services shall adhere to the following requirements regarding membership:

1.The Advisory Council shall consist of 19 members appointed by the Commissioner, at least 75 percent of whom are consumers of personal assistance services;

2.Members shall serve for a term of three years from the date of their appointment, effective on April 16, 2012, and until their successors are appointed. Vacancies in the membership shall be filled in the same manner provided for the original appointments. A member of the council shall be eligible for reappointment. The Commissioner shall appoint the council to staggered terms, which shall begin at the beginning of each fiscal year.

i.Seven members of the Council shall serve a one-year term;

ii. Six members of the Council shall serve a two-year term; and

iii. Six members of the Council shall serve a three-year term;

3.The Advisory Council shall have the following county-based makeup:

i.No less than five of the members shall be residents of Central Jersey, which for the purposes of this subparagraph, shall consist of the counties of Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Somerset and Warren;

ii. No less than five of the members shall be residents of North Jersey, which for the purposes of this subparagraph, shall consist of the counties of Bergen, Essex, Hudson, Morris, Passaic, Sussex and Union; and

iii. No less than five of the members shall be residents of South Jersey, which for the purposes of this subparagraph, shall consist of the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, Ocean and Salem;

4.Three members, appointed as follows:

i.One shall be a person representing a fiscal intermediary service organization;

ii. One representing a training vendor; and

iii. One from a vendor agency that provides personal care services;

5.The Commissioner or designee shall serve as a member of the Advisory Council;

6.The Advisory Council shall organize no later than 30 days after the appointment of its members and shall select a chairperson and vice chairperson from among its members and a secretary who need not be a member of the Advisory Council; and

7.Members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(c) Local advisory bodies may form in the best interest of the program, but are not mandated and shall have no official duties.

History

HISTORY:

Amended by R.2012 d.079, effective April 16, 2012.

See: 43 N.J.R. 2551(a), 44 N.J.R. 1262(b).

Rewrote (a)5; in (b)1, substituted "19" for "21", and deleted "one from each county in New Jersey and" following "Commissioner,"; rewrote the introductory paragraph of (b)2; added (b)2i through (b)2iii; added new (b)3 through (b)5; recodified former (b)3 and (b)4 as (b)6 and (b)7; in (b)6, inserted "organize no later than 30 days after the appointment of its members and shall" and "and vice chairperson"; and added (c).

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N.J.A.C. 10:140-7.4

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§ 10:140-7.4 County designated agency disqualification

(a)A county designated agency may be disqualified from participation in Personal Assistance Service Program funding for good cause including, but not limited to, the following:

1.Failure or refusal to comply with program rules and/or contract requirements; or

2.Refusal to furnish the designated State agency with required reports, or to make available for review such files and records as required.

(b) If a county designated agency is not in compliance with program requirements pursuant to (a)1 and 2 above, as determined by the designated State agency, the following actions shall be implemented:

1.Upon a determination of noncompliance in the administration of the Program, the designated State agency shall provide a written notice to the county designated agency and require the completion of a written corrective action plan. The notice shall specify the designated State agency's reason(s) for requiring such a plan, indicate the corrective actions required to achieve compliance, and the time frames for submission;

2.The designated State agency shall review the written corrective action plan as completed by the county designated agency, and render a decision as to its appropriateness in addressing the identified noncompliance with program requirements;

3.In the event the county designated agency fails to provide an appropriate corrective action plan, or fails to implement corrective actions in accordance with an approved plan, resulting in continued noncompliance, the county designated agency shall be disqualified, unless the county designated agency demonstrates good cause as determined by the designated State agency; and

4.The designated State agency shall provide a 60-day written notice to the county designated agency if it intends to pursue disqualification. A copy of this notice shall also be sent to the State Consumer Advisory Council on Personal Assistance Services.

(c) The process of county designated agency disqualification should not result in loss or interruption of services to those eligible consumers currently receiving services.

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N.J.A.C. 10:140-7.5

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 140. PERSONAL ASSISTANCE SERVICES PROGRAM > SUBCHAPTER 7. COMPLIANCE WITH LAWS

§ 10:140-7.5 Disqualification appeal process

If the designated State agency seeks to disqualify a county designated agency from participation in the Personal Assistance Services Program for failure to comply with N.J.A.C. 10:140-7.4(a)1 and 2, said county designated agency shall be afforded an opportunity to request an administrative 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.

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