

N.J.A.C. 10:84

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION

Title 10, Chapter 84 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-12.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective: January 24, 2014.

See: 46 N.J.R. 357(a).

CHAPTER HISTORICAL NOTE:

Chapter 84, Program Administration, was adopted as new rules by R.1993 d.611, effective January 18, 1994. See: 24 N.J.R. 4480(b), 26 N.J.R. 374(a).

Pursuant to Executive Order No. 66(1978), Chapter 84, Program Administration, was readopted as R.1999 d.27, effective December 22, 1998. See: 30 N.J.R. 3911(a), 31 N.J.R. 135(c).

Chapter 84, Program Administration, was readopted as R.2003 d.301, effective June 30, 2003. See: 35 N.J.R. 1358(a), 35 N.J.R. 3582(a).

Chapter 84, Program Administration, was readopted as R.2007 d.361, effective October 25, 2007. See: 39 N.J.R. 3270(a), 39 N.J.R. 4930(a).

Subchapter 2, Exclusion from Contract Participation in the New Jersey Department of Human Services, Division of Family Development Programs, Pilot Projects, or Initiatives (Suspension, Debarment, and Disqualification), was adopted as new rules by R.2012 d.132, effective July 16, 2012. See: 44 N.J.R. 26(a), 44 N.J.R. 1975(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 84, Program Administration, was scheduled to expire on October 25, 2014. See: 43 N.J.R. 1203(a).

Chapter 84, Program Administration, was readopted, effective January 24, 2014. See: Source and Effective Date.

End of Document

N.J.A.C. 10:84-1.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS

§ 10:84-1.1 Authority of the Commissioner under P.L. 1990, c.66

- (a) The Commissioner of the Department of Human Services (DHS) is obligated to ensure that programs that serve eligible low-income persons administered by counties throughout the State are provided to eligible persons in an accessible, efficient, and cost-effective manner.
- (b) The Commissioner has the authority to establish rules, regulations, and directives, including incentives and sanctions, to ensure that county agencies provide benefits to eligible recipients in a manner consistent with State and Federal law.
- (c) The Commissioner shall have the authority to review and approve CWA budgets.
- (d) The Commissioner shall have the power to assume direct administration of all county welfare agency operations in situations in which the Commissioner determines that a county agency is failing to effectively administer or to substantially follow State and Federal law in its administration of those programs for which the Department of Human Services has responsibility, thereby placing clients, who are dependent on public assistance benefits, at serious risk.

N.J.A.C. 10:84-1.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS

§ 10:84-1.2 Factors prompting the assumption of county operations

- (a) The following are factors viewed as particularly significant program irregularities and management deficiencies. Elements such as unlawful activity, pervasive fiscal and/or program deficiencies are the primary basis for consideration of assumption action. Failure on the part of the county to correct any such deficiency so identified by the Department will result in the ultimate administrative takeover of program administration by the Department.
1. Unlawful activity refers to arrest, indictment or conviction by a court of law of any senior official of a county welfare agency, county welfare board or other appropriate county welfare agency governing body for abuse(s) related to public assistance program administration. Unlawful activity includes, but is not limited to, fraud, theft, perjury, removal, alteration or destruction of public records, other similar wrongdoing, or willful misuse of public assistance funds. Failure of the agency to remove such individual from the situation which enabled the unlawful activity shall be considered as evidence of noncompliance.
 2. Fiscal operations irregularities or management deficiencies refer to absence of adherence to State and Federal fiscal procedures and regulations relating to public assistance administration. Inauditable fiscal records shall be interpreted as evidence of noncompliance if the agency fails to effect corrective action within specified timeframes.
 3. Program operations irregularities or management deficiencies refer to persistent and pervasive failure on the part of the county welfare administrative agency to safeguard the confidentiality of its clients; or to regard an individual's civil rights in the administration of public assistance benefits and services; or to correctly determine program eligibility and/or timely and accurate benefit issuance in accordance with State and Federal program regulations and procedures; or failure to efficiently and effectively operate the public assistance program and fulfill the requirements of Federal and State public assistance laws. Failure on the part of the agency to take corrective action on formally identified deficiencies within specified time frames shall be considered evidence of noncompliance.

History

HISTORY:

Administrative Correction.

See: 26 New Jersey Register 1657(b).

Amended by R.1999 d.27, effective January 19, 1999.

See: 30 New Jersey Register 3911(a), 31 New Jersey Register 135(c).

In (a)3, inserted "; or failure to efficiently and effectively operate the public assistance program and fulfill the requirements of Federal and State public assistance laws" at the end of the first sentence.

Amended by R.2003 d.301, effective August 4, 2003.

See: 35 New Jersey Register 1358(a), 35 New Jersey Register 3582(a).

In (a)3, substituted "formally identified deficiencies" for ", identified based on a program audit" in the last sentence.

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2017 by the New Jersey Office of Administrative Law

End of Document

N.J.A.C. 10:84-1.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS

§ 10:84-1.3 Corrective action plans

- (a) The Department shall afford a county welfare administrative agency reasonable opportunity to correct identified deficiencies before assuming administration for violations as set forth in N.J.A.C. 10:84-1.2.
- (b) The corrective action or resolution procedure will be comprised of a multi-step process to include, but which is not limited to:
 - 1. Identification of Departmental findings of deficiencies and notification to the county agency of the need to take corrective action;
 - 2. Convening of one or more conferences of Departmental and county agency personnel to identify possible causes of the deficiencies in CWA operations and negotiation of appropriate corrective actions;
 - 3. Development, submittal and implementation of an approved corrective action plan by the CWA to improve CWA operations, within the time periods specified by the Department, to correct the identified deficiencies;
 - 4. Upon implementation of the corrective action plan, monitoring of CWA operations by the Department to verify that planned corrective actions are taking place as stipulated; and
 - 5. Reassessment by Department staff of the CWA's operations at the end of the designated period.
 - i. CWAs that have effected the corrective actions required for the identified deficiency shall be so notified and shall be regarded as having met the corrective action requirement for that deficiency which has been satisfactorily resolved.
 - ii. CWAs which have failed to effect required corrective action within the specified time frame or failed to show a good faith effort toward corrective action shall be subject to the following:
 - (1) The Department shall provide written notification of its findings and convene a meeting with representatives of the CWA, county welfare board or other appropriate CWA governing body, and the county governing authority to discuss any unresolved deficiencies.
 - (2) When it is determined that, after meeting with representatives of the CWA, county welfare board or other appropriate CWA governing body, and the county governing authority, barriers for improvement remain and cannot be resolved, the Department shall advise, in writing, all parties involved of its intent to assume direct administration of county operations in accordance with N.J.A.C. 10:84-1.4. That written notification shall include:
 - (A) The basis for the assumption action;
 - (B) The date the assumption will commence;

- (C) A statement advising the county that it shall be responsible for the payment of reasonable expenses incurred by the Department to make administrative and/or programmatic changes necessary to ensure that the CWA's operations are provided in an effective and efficient manner and comply with State and Federal law and regulations; and
- (D) A statement concerning county appeal rights advising the CWA of its right to request a State fair hearing in writing, which must be postmarked within 10 days of the mailing date of the notice of assumption (see N.J.A.C. 10:84-1.5 concerning State fair hearings).

History

HISTORY:

Amended by R.2003 d.301, effective August 4, 2003.

See: 35 New Jersey Register 1358(a), 35 New Jersey Register 3582(a).

In (b)5i, substituted "be regarded as having met" for "no longer be subject to" preceding "the corrective action requirement".

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2017 by the New Jersey Office of Administrative Law

N.J.A.C. 10:84-1.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS

§ 10:84-1.4 State assumption of direct administration of county operations

- (a) For each fiscal year, or portion thereof, in which a service or function associated with the provisions of P.L. 1990, c.66, is assumed by the Department, the county shall deduct from its final appropriations upon which its permissible county tax levy is calculated the amount which the county expended for that service or function during the last full budget year, or portion thereof, for which the service or function so transferred was funded from appropriations in the county budget. If the Commissioner determines that any county welfare agency has failed to effectively administer or to substantially follow State and Federal law in its administration of those programs for which the Department of Human Services has responsibility, the Commissioner shall have the authority to take the following actions:
1. Make the administrative and programmatic changes necessary to ensure compliance with State and Federal law and regulation;
 2. Bill the county for the reasonable expenses incurred by the Department in ensuring compliance;
 3. Hire any consultant or undertake any studies of the agency's operations deemed appropriate;
 4. Direct expenditures of the CWA in a reasonable and prudent manner to effectuate the purposes of any public assistance program, including reallocating funds within the CWA budget and determine additional amounts of revenue needed to ensure the efficient and effective administration of such programs within the agency's budget;
 5. Operate the CWA; and
 6. Do all acts necessary or appropriate to ensure that the needs of eligible public assistance recipients are met pursuant to State and Federal law.

N.J.A.C. 10:84-1.5

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS

§ 10:84-1.5 State fair hearings for State assumption of CWA operations

- (a) Any county that wishes to appeal a decision by the Department concerning State assumption of the CWA's operations is entitled to request a State fair hearing within 10 days of the date postmarked on the envelope containing the notice of State assumption of operations. The request shall be made, in writing, to DFD's Bureau of Administrative Review and Appeals (BARA) by the CWA director, president of the county welfare board or by a representative of the county governing authority.
1. When a request is received by BARA, it shall immediately be registered as of that date.
 2. All assumption hearing requests shall be transmitted to the Office of Administrative Law (OAL) for a hearing before an Administrative Law Judge (ALJ).
 3. The OAL shall schedule the State assumption hearing and send any necessary notices to all appropriate parties concerned. The hearing shall be in accordance with the provisions of N.J.A.C. 1:1.
- (b) A final administrative hearing decision shall be rendered by the Commissioner of the Department of Human Services or his or her designee. All parties to the matter shall be notified by mail of any decision or order. The final decision shall be effective on the date of issuance.
1. The county may appeal the final decision rendered by the Commissioner or designee through the Appellate Division of the Superior Court; however, such appeal shall not delay implementation of the final decision.

N.J.A.C. 10:84-1.6

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 1. EFFICIENCY AND EFFECTIVENESS OF PROGRAM OPERATIONS

§ 10:84-1.6 Standard of need

- (a) P.L. 1997, c.13 requires the Commissioner of the Department of Human Services to establish, by regulation, a standard of need and update the standard annually. In order to be in compliance with the law, New Jersey has established the standard of need in (d) below which only serves as a benchmark to assist the Legislature in determining payment levels in public assistance programs, as may be required.
- (b) The standard of need is comprised of housing, food, transportation, and miscellaneous expenses.
- (c) The standard of need shall be updated annually by the Division of Family Development (DFD) with the methodology used to determine the standard of need as follows:
1. Housing costs are calculated using the most current available values for that Metropolitan Statistical Area with the highest United States Department of Housing and Urban Development, 50th percentile, rental amounts for New Jersey.
 2. The cost of food is based on the USDA Moderate Cost Food Plan, and reflects weighted composite families representative of the current caseload. Future updates can be revised to match a changing caseload.
 3. Transportation costs are calculated using the New Jersey Transit 2 zone bus pass amount and adding an allowance for each additional family member to cover the cost of children utilizing public transportation services.
 4. Miscellaneous expenses are calculated by adding the total of housing, food and transportation costs in (c)1 through 3 above and taking 15 percent of that amount. Miscellaneous expenses include clothing, paper products, baby products, cleaning supplies, household items, nonprescription items, personal hygiene items, and telephone.
- (d) The standard of need is set forth in the table below. Each year, the Department of Human Services will provide, through a notice of administrative change published in the New Jersey Register, an updated standard of need.

Standard of Need

Number in Family	Monthly Standard
1	\$ 1,898
2	\$ 2,210
3	\$ 2,920
4	\$ 3,782

Standard of Need

Number in Family	Monthly Standard
5	\$ 4,095
6	\$ 5,004
7	\$ 5,316
8	\$ 5,629
more than 8	add \$ 313 each person

History

HISTORY:

New Rule, R.2003 d.232, effective June 16, 2003.

See: 34 N.J.R. 4307(a), 35 N.J.R. 2668(a).

Administrative change.

See: 36 N.J.R. 4146(a).

Administrative change.

See: 37 N.J.R. 2543(a).

Administrative change.

See: 38 N.J.R. 3307(a).

Administrative change.

See: 39 N.J.R. 4930(b).

Amended by R.2008 d.252, effective August 18, 2008.

See: 40 N.J.R. 1734(a), 40 N.J.R. 4817(a).

Rewrote (c)1; in (c)2, substituted "USDA Moderate" for "2001 USDA Low"; and in (c)3, substituted "New Jersey" for "NJ" and "allowance" for "additional \$ 27.00", and deleted "of \$ 54.00 per month" following "amount".

Administrative change.

See: 40 N.J.R. 6969(a).

Administrative change.

See: 42 N.J.R. 486(a).

Administrative change.

See: 43 N.J.R. 1204(a).

Administrative change.

See: 44 N.J.R. 2652(b).

Administrative change.

See: 46 N.J.R. 2368(b), 2416(a).

Administrative change.

See: 48 N.J.R. 137(a).

Administrative change.

See: 49 N.J.R. 765(b).

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2017 by the New Jersey Office of Administrative Law

End of Document

N.J.A.C. 10:84-2.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 2. EXCLUSION FROM CONTRACT PARTICIPATION IN THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES, DIVISION OF FAMILY DEVELOPMENT PROGRAMS, PILOT PROJECTS, OR INITIATIVES (SUSPENSION, DEBARMENT, AND DISQUALIFICATION)

10:84-2.1 Program participation

- (a) The provisions of this subchapter were adopted and issued pursuant to Executive Order No. 34 (1976), and the authority vested in the Division of Family Development (DFD) to implement the programs by rules and regulations, as set forth in N.J.S.A. 30:1-9 and 30:4B-1 and 2.
- (b) Suspension, debarment, and disqualification are measures that shall be invoked by DFD to exclude or render ineligible certain persons or entities from participation in contracts and subcontracts involving DFD programs, pilot projects, and initiatives, or contracts performed with the assistance of, and subject to the approval of, DFD on the basis of a lack of responsibility. These measures shall be used for the purpose of protecting the interests of DFD and not as punitive measures. To assure participants in DFD programs the benefits to be derived from full and free competition between and among such persons, and to maximize the opportunity for honest competition and performance among providers, these measures shall not be invoked for any period of time longer than deemed necessary to protect the interests of DFD.
1. Any person including, but not limited to, owners, officers, administrators, assistant administrators, employees, accountants, attorneys, and management services, who have been suspended, debarred, or disqualified from participation in DFD programs or initiatives for any reason shall not be involved in any activity relating to DFD programs or initiatives during the period of suspension, debarment, or disqualification.
 2. Providers reimbursed on a cost-related basis may not claim as allowable costs any amounts paid or credited to such individuals, and such amounts shall not be reimbursed by DFD.
 3. Providers may not submit claims, invoices, or bills, electronic or otherwise, and shall not be reimbursed for any goods supplied or services rendered by such individuals. This requirement shall apply only for the period during which such individuals are suspended, debarred, or disqualified from the DFD contracting process.
 4. Claims, invoices, or bills, electronic or otherwise, shall not be submitted and shall not be reimbursable for any item or service furnished, at the direction of a person or other entity, during the period when such person or other entity is excluded from participation in DFD programs or initiatives, and when the person or other entity furnishing such item or service has received written notice from the Division that the person or other entity has been excluded from participation in DFD programs or initiatives.
- (c) The following words and terms, as used in this section, shall have the following meanings:
- "Affiliates" means persons having an overt or covert relationship, such that any one of them directly or indirectly controls or has the power to control another.

"Debarment" means an exclusion from State contracting, on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

"Disqualification" means a debarment or a suspension that denies or revokes a qualification to bid or otherwise engage in State contracting that has been granted or for which application has been made pursuant to laws, rules, or regulations.

"Exclusion" means the suspension, debarment, or disqualification of any individual or entity from participation in any capacity in any program administered in whole or in part by DFD.

"Person" means any natural person, company, firm, association, corporation, or other entity.

"State" means the State of New Jersey or any of the departments or agencies in the executive branch of government with the lawful authority to engage in contracting.

"State contracting" means any arrangement giving rise to an obligation to supply anything to or perform any service for the State, other than by virtue of State employment, or to supply anything to or perform any service for a private person when the State provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

"Suspension" means an exclusion from State contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

- (d)** Any of the following, subject to the other conditions described in this subchapter, shall constitute good cause for exclusion of a person or other entity by DFD:
1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;
 2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;
 3. Violation of the Federal or State antitrust statutes, or of the anti-kickback provisions of the Social Security Act at 42 U.S.C. § 1320a-7b(b);
 4. Violations of any of the laws governing the conduct or elections of the State of New Jersey or of its political subdivisions;
 5. Violation of the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., the Act Banning Discrimination in Public Works Employment, N.J.S.A. 10:2-1 et seq., or Act Prohibiting Discrimination by Industries Engaged in Defense Work in the Employment of Persons Therein, N.J.S.A. 10:1-10 et seq.;
 6. Violations of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, or child labor;
 7. Violations of any laws, regulations, or code of ethics governing the conduct of occupations or professions or regulated industries;
 8. Willful failure to perform in accordance with contract specifications or within contractual time limits;
 9. A record of failure to perform or a record of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;
 10. Violations of contractual or statutory provisions regulating payments or fees;
 11. Presentment for allowance or payment, to DFD or its authorized agent, any false or fraudulent claim, invoice, or bill, electronic or otherwise, for services or merchandise;

12. Submission of false information, to DFD or its authorized agent, for the purpose of obtaining greater compensation than that to which the person or entity is legally entitled;
 13. Submission of false information, to DFD or its authorized agent, for the purpose of obtaining authorization for program services or payments;
 14. Failure to disclose or make available to DFD or its authorized agent, records of services provided to, or payments made on behalf of, participants in DFD programs;
 15. Failure to provide and maintain quality services to DFD program participants within accepted standards as determined in rule;
 16. Engaging in a course of conduct or performing an act deemed improper or abusive of DFD programs or clients, following notification that said conduct shall cease;
 17. Breach of the terms of the provider agreement entered into with DFD;
 18. Violating any provision of the law including, but not limited to, Work First New Jersey General Public Assistance Act, N.J.S.A. 44:8-107 et seq., Work First New Jersey Act, N.J.S.A. 44:10-55 et seq., the Food and Nutrition Act of 2008, P.L. 110-246, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, Child Care and Development Block Grant Act of 1990, P.L. 101-508, as amended or supplemented, or any rule or regulation promulgated by the Commissioner of Human Services pursuant thereto;
 19. Conviction of any crime involving moral turpitude;
 20. Submission of a false or fraudulent application for provider status to the DFD program or to its authorized agent;
 21. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by DFD to warrant exclusion, including such conduct as may be proscribed by the laws or contracts enumerated in this subsection, even if such conduct has not been or may not be prosecuted as violations of such laws or contracts;
 22. Suspension, debarment, or disqualification by an executive department or agency of another state or the Federal government;
 23. Exclusion from participation in any state-funded assistance program of another state;
 24. Exclusion from participation in the delivery of services under the Federal Social Security Act by the Secretary of the United States Department of Health and Human Services; or
 25. Failure to comply with an administrative subpoena issued by the DFD.
- (e) Conditions for debarment are as follows:
1. Debarment shall be made only upon approval of the Director of DFD, except as otherwise provided by law.
 2. The existence of any of the causes set forth in (d) above, shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Director of DFD unless otherwise required by law, and shall be rendered in the best interest of the program.
 3. All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance, and in deciding whether debarment is warranted.
 4. The existence of a cause set forth in (d)1 through 7 above shall be established upon the rendering of a final judgment or conviction by a court of competent jurisdiction or by an administrative agency empowered to render such judgment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

5. The existence of a cause set forth in (d)8, 9, 10, and 19 above shall be established by evidence that DFD determines to be clear and convincing in nature.
 6. The existence of a cause set forth in (d)1 through 7, 11 through 20, and 22 above shall be established by a preponderance of the believable evidence.
 7. Debarment for the cause set forth in (d)22 above shall be proper, provided that one of the causes set forth in (d)1 through 21 above was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency or upon a combination of such facts and additional facts.
- (f) If DFD seeks to debar a person or his or her affiliates, DFD shall furnish such party with a written notice stating that debarment is being considered, setting forth the reasons for the proposed debarment and indicating that such party will be afforded an opportunity for a hearing if he or she so requests within a stated period of time. All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. However, where one department or agency has imposed debarment upon a party, a second department or agency may also impose a similar debarment without affording an opportunity for a hearing, provided that the second agency furnishes notice of the proposed similar debarment to that party and affords that party an opportunity to present information in his or her behalf to explain why the proposed similar debarment should not be imposed in whole or in part.
- (g) Debarment shall be a reasonable, definitely stated period of time which, as a general rule, shall not exceed five years. Debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is accorded an opportunity to present information in his or her behalf to explain why the additional period of debarment should not be imposed.
- (h) The scope of debarment rules is as follows:
1. Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced at the discretion of the debarring agency upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management or control, or the elimination of the causes for which the debarment was imposed.
 2. A debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances. The offense, failure, or inadequacy of performance of an individual may be imputed to a person with whom he or she is affiliated, where such conduct was accomplished within the course of his or her official duty or was affected by him or her with the knowledge or approval of such person.
 3. Debarment by the Director of any provider of service shall preclude such provider from submitting claims, bills, or invoices, electronic or otherwise, for payment, either personally or through any individual, group, corporation, or other association to the program or its authorized agent for any services or supplies he or she has provided under DFD programs or initiatives, except for services or supplies provided prior to the debarment. No individual, group, corporation, or other association that is a provider of services shall submit claims, bills, or invoices, electronic or otherwise, for payment to the program or its authorized agent for any services or supplies provided by a person within such organization who has been debarred by the program, except for services or supplies provided prior to the debarment.
 4. When the provisions of this section are violated by a provider of service that is an individual, group, corporation, or other association, the Director may debar such organization and/or any individual person within said organization who is responsible for such violation.

- (i) DFD may suspend a person in the public interest for any cause specified in (d) above, or upon a reasonable suspicion that such cause exists or when, in the opinion of DFD, such action is necessary to protect the general public welfare, the welfare of clients or the interests of DFD.
- (j) Conditions for suspension are as follows:

 1. Suspension shall be imposed only upon approval of the Director of the Division and upon approval of the Attorney General, except as otherwise provided by law.
 2. The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the Director of DFD and of the Attorney General, and shall be rendered in the best interests of DFD programs or initiatives.
 3. Suspension shall not be based upon unsupported accusation, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists.
 4. In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence that is available, to the existence or absence of corroboration as to important allegations, and to inferences that may properly be drawn from the existence or absence of affirmative facts.
 5. Reasonable suspicion of the existence of a cause described in (d) above may be established by a judgment or order of an administrative agency, or court of competent jurisdiction, or by a judgment of conviction, grand jury indictment, accusation, arrest, or by evidence that such violations of civil or criminal law did in fact occur.
 6. A suspension invoked by DFD for any of the causes described in (d) above may be the basis for the imposition of a concurrent suspension by another agency, which may impose such suspension without the approval of the Attorney General.
- (k) DFD may suspend a person or his or her affiliates provided that within 10 days after the effective date of the suspension, DFD provides such party with a written notice stating that a suspension has been imposed and its effective date; setting forth the reasons for the suspension to the extent that the Attorney General determines that such reasons may be properly disclosed; stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue; and indicating that, if such legal proceedings are not commenced or the suspension removed within 60 days of the date of such notice, the party shall be given either a statement of the reasons for the suspension and an opportunity for a hearing, if he or she so requests, or a statement declining to give such reasons and setting forth the agency's position regarding the continuation of the suspension. Where a suspension by DFD has been the basis for suspension by another agency, the latter shall note that fact as a reason for its suspension.
- (l) A suspension shall not continue beyond 18 months from its effective date unless civil or criminal action regarding the alleged violation shall have been initiated within that period, or unless debarment action has been commenced. Whenever prosecution or debarment action has been initiated, the suspension may continue until the legal proceedings are completed.
- (m) Scope of the suspension rules is as follows:

 1. A suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances. The offense, failure, or inadequacy of performance of an individual may be imputed to a person with whom he or she is affiliated, where such conduct was accomplished within the course of his or her official duty or was effectuated by him or her with the knowledge or approval of such person.
 2. Suspension by DFD of any provider of service shall preclude such provider from submitting claims, bills, or invoices, electronic or otherwise, for payment either personally or through claims, bills, or invoices submitted by any individual, group, corporation, or other association to DFD, its programs, or its authorized agent, for any services or supplies he or she has provided under DFD programs or initiatives, except for services or supplies provided prior to the suspension. No individual, group,

corporation, or other association that is a provider of services shall submit claims, bills, or invoices for payment to DFD, its programs, or its authorized agent for any services or supplies provided by a person within such entity who has been suspended by DFD, except for services or supplies provided prior to the suspension.

3. When the provisions of this section are violated by a provider of service that is an individual, group, corporation, or other association, the Director may suspend such organization and/or any individual person within said organization who is responsible for such violation.
 - (n) Exclusion from State contracting by virtue of debarment, suspension, or disqualification shall extend to all State contracting and subcontracting within the control or jurisdiction of DFD. However, when it is determined essential to the public interest by the Director of DFD, and upon filing of a finding thereof with the Attorney General, an exception from total exclusion may be made with respect to a particular State contract.
 - (o) Insofar as practicable, prior notice shall be given to the Attorney General and the State Treasurer of any proposed debarment or suspension.
 - (p) DFD shall provide the State Treasurer with the names of all persons suspended or debarred and the effective date and term thereof, if any.
 - (q) This section shall be applicable to all persons, providers, contractors, agents, and their affiliates who engage in State contracting with DFD as defined in this section.
 - (r) A provider or other entity may be granted an administrative hearing because of a determination by the Division involving their contracting or subcontracting status, including termination, debarment, suspension, or exclusion from participation in any capacity in any program or initiative by the DFD.

N.J.A.C. 10:84-2.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 2. EXCLUSION FROM CONTRACT PARTICIPATION IN THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES, DIVISION OF FAMILY DEVELOPMENT PROGRAMS, PILOT PROJECTS, OR INITIATIVES (SUSPENSION, DEBARMENT, AND DISQUALIFICATION)

10:84-2.2 Withholding of provider payments

- (a) In accordance with the Commissioner of Human Services' delegated authority in N.J.S.A. 30:1-12b., and the authority vested in the Director of DFD in N.J.S.A. 30:1-9 and 30:4B-1 and 2, when the Division receives reliable evidence of theft, fraud, willful misrepresentation, or tampering with records by a provider, the Division shall withhold program payments, in whole or part, upon approval of the Division Director or Assistant Division Director or their designee.
- (b) "Reliable evidence," as used in this section, shall include, but is not limited to, the following:
 - 1. Receipt of information from a Division unit or from another executive branch department or agency, or from a law enforcement, investigatory, or prosecutorial agency that indicates theft, fraud, willful misrepresentation, or tampering with records has occurred or is occurring; or
 - 2. Information from any other local, county, state, or Federal agency indicating theft, fraud, willful misrepresentation, or tampering with records has occurred or is occurring.
- (c) Withholding may be total or partial, and if partial, may be predicated upon specific claims, bills, or invoices, electronic or otherwise, or actions of providers or clients, or other factors as determined by DFD.
- (d) The Division shall send notice of the withholding to the affected provider or entity within five days of taking such action, if practicable. It shall set forth the general allegations as to the nature of the withholding action, but need not disclose specific information concerning any ongoing civil or criminal investigation. The notice shall state the following:
 - 1. Payment is being withheld in accordance with this section;
 - 2. Withholding is for a period not to exceed six months initially, until a review by DFD determines whether it is warranted for an additional period. If the Division determines there is insufficient evidence of theft, fraud, willful misrepresentation, or tampering of records, and legal proceedings have been completed, withholding shall be terminated;
 - 3. If appropriate under the circumstances, the claims, bills, invoices, and providers or clients the withholding affects;
 - 4. The right of the provider or entity to submit written evidence for consideration by DFD;
 - 5. The provider's or entity's right to submit to DFD, within 20 days of their receipt of the withholding notice, a request for an administrative hearing. Upon receipt of such request, DFD shall schedule a hearing according to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

6. DFD shall make corrective payments to the provider or entity retroactive to the date the incorrect action was taken by DFD, when the administrative hearing is favorable to the provider or entity, or a review by DFD prior to the administrative hearing is favorable to the provider or entity.

NEW JERSEY ADMINISTRATIVE CODE

Copyright © 2017 by the New Jersey Office of Administrative Law

End of Document

N.J.A.C. 10:84-2.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 49 No. 8, April 17, 2017

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 84. PROGRAM ADMINISTRATION > SUBCHAPTER 2. EXCLUSION FROM CONTRACT PARTICIPATION IN THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES, DIVISION OF FAMILY DEVELOPMENT PROGRAMS, PILOT PROJECTS, OR INITIATIVES (SUSPENSION, DEBARMENT, AND DISQUALIFICATION)

10:84-2.3 Provider reinstatement

- (a) Persons who have been debarred, disqualified, or suspended from participating in the programs or initiatives of DFD are required to petition the Director for reinstatement.
 - 1. Persons debarred or disqualified for a definitely stated period of time may petition the Director for reinstatement 90 days prior to the expiration of the period of debarment or disqualification.
 - 2. Persons disqualified for an indefinitely stated period of time may petition the Director for reinstatement after a disqualification period of eight years.
 - 3. Persons who have been suspended, debarred, or disqualified as the result of an indictment, conviction, or license revocation may immediately petition the Director for reinstatement upon acquittal, reversal of the conviction upon appeal, or restoration of the license, whichever is applicable.
- (b) The Director of the DFD may order the reinstatement of debarred, disqualified, or suspended persons or refer the matter to the Commissioner.
- (c) Reinstatement will not be granted unless it is reasonably certain that the causes that led to the debarment, disqualification, or suspension shall not be repeated. In determining a person's fitness for reinstatement, the Director may consider, along with other factors, the following:
 - 1. Statements from the person setting forth the reasons for reinstatement;
 - 2. Statements from peer review bodies, law enforcement agencies, or other professional associations attesting to their belief, based upon facts known to them, that the cause that led to the exclusion will not be repeated;
 - 3. The absence of any pending civil, criminal, licensing, or other disciplinary proceedings;
 - 4. Whether full restitution and the payment of any legal fines imposed have been made;
 - 5. Whether full satisfaction of any civil penalties imposed have been made;
 - 6. Whether full satisfaction of any payments owed have been made;
 - 7. Compliance with the terms and conditions of consent orders or court orders; and
 - 8. Satisfaction of any conditions and requirements previously imposed by DFD or the Department of Human Services.

End of Document