

Jersey has developed conservationally equivalent management measures that modify possession limits and modify the recreational seasons. For the Delaware Bay and its tributaries, the possession limit is modified from four fish in 2016 to three fish in 2017. With the exception of shore mode fishing at Island Beach State Park, which remains subject to the limitations specified in N.J.A.C. 7:25-18.1(c)5iv, in all other marine waters of the State, the possession limit is modified from five fish in 2016 to three fish in 2017. The summer flounder recreational open season for all marine waters of the State is modified from May 21 to September 25 in 2016 to May 25 to September 5 in 2017.

These changes will be reflected in the Division of Fish and Wildlife rules at N.J.A.C. 7:25-18.1(c). As required in N.J.A.C. 7:25-18.1(p), changes to N.J.A.C. 7:25-18.1(c) will be published in the New Jersey Register, the New Jersey Fish and Wildlife Digest, and via a news release submitted to individuals on the Division’s outdoor writers mailing list.

In addition, the Department, in conjunction with the Council, the ASMFC, and the National Oceanic and Atmospheric Administration (NOAA), will develop an outreach and education program to inform New Jersey fishermen of fishing practices that are intended to reduce discard mortality of summer flounder. This program may include the promotion of NOAA’s FishSmart outreach and education program and information available at [www.takemefishing.org](http://www.takemefishing.org); creating a New Jersey-specific video illustrating catch and release techniques to be promoted within the for-hire fleet, on social media, and in public service announcements; creating illustrated brochures to distribute to bait and tackle shops and the for-hire fleet, with brochures to be additionally posted on social media and other relevant websites; creating 30-second radio public service announcements for distribution to shore-based radio stations; creating signage for posting near popular surf fishing locations that illustrate best practices for returning undersized fish to the water; and promote the use of hooks that are less likely to cause fatal damage to an undersized fish. The Department estimates that the program will reduce discard mortality of summer flounder from 10 percent to approximately eight percent.

Full text of the changed rule follows (additions indicated in boldface thus, deletions indicated in brackets [thus]):

SUBCHAPTER 18. MARINE FISHERIES

7:25-18.1 Size, season, and possession limits

(a)-(b) (No change.)

(c) A person angling with a hand line or with a rod and line or using a bait net or spearfishing shall not have in his or her possession any species listed below less than the minimum length, nor shall such person take in any one day or possess more than the possession limits as provided below, nor shall such person possess any species listed below during the closed season for that species. Exceptions to this section as may be provided elsewhere in this subchapter shall be subject to the specific provisions of any such section. Fish length shall measure from the tip of the snout to the tip of the tail (total length), except as noted below:

Species	Minimum Size In Inches	Open Season	Possession Limit
...			
Summer Flounder (Fluke)			[5]
Delaware Bay and tributaries	17	May [21] <b>25</b> —Sept [25] <b>5</b>	[4] <b>3</b>
<b>Island Beach State Park (shore mode fishing only as provided at (c)5iv below)</b>	<b>16</b>	<b>May 25</b> —Sept <b>5</b>	<b>2</b>

All other marine waters 18 May [21] **25**—Sept [25] **5** [5] **3**

- 1.-4. (No change.)
- 5. The following provisions are applicable to the recreational harvest of summer flounder.
  - i. In Delaware Bay, which includes all New Jersey waters within the Delaware Bay and tributaries west of the COLREGS line from Cape May Point Light to Cape Henlopen, a person shall not take, or possess, more than [four] **three** summer flounder greater than or equal to 17 inches, total length, during the summer flounder recreational open season. The Cape May Canal is not considered a tributary of the Delaware Bay. Therefore, the authorization to take or possess summer flounder meeting the 17-inch size limit and [four] **three** fish possession limit is inapplicable to the Cape May Canal beginning at its confluence with the Delaware Bay at the Cape May Ferry Terminal; the waters of Cape May Canal are instead subject to limits specified in (c)5ii below.
  - ii. In all other waters of the State, a person shall not take, or possess, more than [five] **three** summer flounder greater than or equal to 18 inches, total length, during the summer flounder recreational open season.
  - iii.-v. (No change.)
- 6. (No change.)
- (d)-(r) (No change.)

HUMAN SERVICES

(a)

DIVISION OF DISABILITY SERVICES

Traumatic Brain Injury Fund

Readoption with Amendments: N.J.A.C. 10:141

Adopted New Rule: N.J.A.C. 10:141-1.12

Adopted Repeal: N.J.A.C. 10:141-1.3

Proposed: February 6, 2017, at 49 N.J.R. 240(a).

Adopted: May 8, 2017, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: May 25, 2017, as R.2017 d.127, with non-substantial changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:6F-5 et seq., specifically 30:6F-8.

Effective Dates: May 25, 2017, Readoption; June 19, 2017, Amendments, Repeal, and New Rule.

Expiration Date: May 25, 2024.

Summary of Public Comments and Agency Responses:

The following is a summary of the comments received from four individuals, and the Division of Disability’s (Division) responses.

Susan Seidel, Legal Director Disability Rights New Jersey  
 Thomas Grady, Advocacy Director Brain Injury Alliance of New Jersey

Richard Ziemkiewicz  
 Gail Morris

COMMENT: The Division received multiple comments from members of the public asking that the definition of traumatic brain injury be expanded to include those with acquired brain injuries.

RESPONSE: The Division thanks the commenters for their comments. The Division reminds the commenters that the definition was amended in 2010, after an extensive public comment period to comport with the definition of traumatic brain injury as recognized by the Federal Center for Disease Control and Prevention (CDC). The Division will proceed using its current definition.

COMMENT: The Brain Injury Alliance of New Jersey asked that the name of the New Jersey Brain Injury Association be changed to the Brain Injury Alliance of New Jersey to reflect the current correct agency name.

RESPONSE: The Division will make the requested change and thanks the commenter for its comment.

COMMENT: The commenter from Disability Rights New Jersey (DRNJ) has requested clarity on the Fund's assertion that it is the payer of last resort in N.J.A.C. 10:141-1.1, and expressed concern over a potential conflict created when the Division of Vocational Rehabilitation Services (DVRS) is involved in a case that they too also claim to be payer of last resort.

RESPONSE: The Division thanks the commenter for its comment. The Division has never had a conflict of this type, keeping in mind that the scope of services available from DVRS must be related to employment and, therefore, is much more limited. Additionally, the rules are consistent with the authorizing legislation, which state that the fund is the payer of last resort. Therefore, the Division's intention is to move forward with the rule as proposed.

COMMENT: Disability Rights New Jersey (DRNJ) is concerned that the traumatic brain injury (TBI) Fund Review Committee (Fund) hears both initial requests and requests for reconsiderations as detailed in N.J.A.C. 10:141-1.3. The commenter was concerned that there is no impartial party to hear requests for reconsiderations.

RESPONSE: The Division thanks the commenter for its comment. All requests to the Fund are reviewed anonymously, devoid of any identifying information to avoid bias of any type. In most cases, reconsiderations are used by the Review Committee to obtain answers to its initial questions or seek clarity on an element of the plan that may have been unclear on initial review. Therefore, the Division believes the method to be fair and conflict-free and will proceed as written.

COMMENT: DRNJ asked the Division to consider an exception to the suspension of services to those beneficiaries who become incarcerated while receiving services as detailed in N.J.A.C. 10:141-1.5(a)3vi. The commenter is concerned that this part of the rule may hinder discharge and return to the community for those who are in institutions because of the inability to receive services timely and efficiently.

RESPONSE: The Division thanks the commenter for its comment. The Fund routinely considers requests for services for those leaving a long-term care setting in anticipation of discharge, so long as no services are received prior to discharge, and would do the same for someone who is facing discharge after an incarceration. The Division sees no need for an exception and will, therefore, proceed as written.

COMMENT: DRNJ has suggested that the reference to the TBI Medicaid Waiver be removed from N.J.A.C. 10:141-1.5(b)4, as the waiver is now defunct and replaced by Managed Long-Term Supports and Services (MLTSS)

RESPONSE: The Division thanks the commenter for its comment. The Division will make this change upon adoption to update the program name to Managed Long-Term Supports and Services (MLTSS).

COMMENT: DRNJ expressed concern that N.J.A.C. 10:141-1.6(a)3ii provides no definition of financial hardship.

RESPONSE: The Fund has purposefully left that definition vague owing to the fact that the Fund serves everyone with a TBI at all income levels. Financial hardship is very difficult to determine and is often determined by the individual circumstance of the applicant. Accordingly, the review committee has made these decisions based on individual circumstance and has never denied anybody payment of expenses for a consultative examination. The Fund will, therefore, continue with the language as written.

COMMENT: DRNJ expressed some concern about N.J.A.C. 10:141-1.7 and what types of third-party input would be allowed to assist with Committee decisions. Specifically, the commenter claims N.J.A.C. 10:141-1.7 is over broad.

RESPONSE: The Division thanks the commenter for the remark, however, believes a broad definition is best, given that the Committee may request the input of subject matter experts in rendering decisions on any of the available services paid through the Fund. Accordingly, the Division will proceed with the rule as written.

COMMENT: DRNJ believes that the definition of alternative therapy used in N.J.A.C. 10:141-1.11(a)13 places a burden on the participant to demonstrate efficacy and cost benefit to the therapy in treatment of brain injury.

RESPONSE: The Division believes that the commenter is mistaking the Fund's intent in this definition. The Fund welcomes all types of alternative therapies that can be demonstrated to benefit individuals with brain injury, however, there needs to be some base-level of regulation and monitoring in place to avoid charlatanism and snake oil treatments, which demonstrate no benefit. The Fund purposefully makes the definition broad to allow for maximum possibilities in current and future treatments of brain injury. In 12 years of Fund operation, no one has ever been denied an alternative therapy that could be determined to have efficacy in the treatment of brain injury and was backed by some national body. Accordingly, the Division will proceed as planned.

COMMENT: DRNJ has issue with the transportation benefit available under the Fund at N.J.A.C. 10:141-1.11(a)28ii, particularly that the rule does not consider Uber and Lyft services as transportation options.

RESPONSE: The Division thanks the commenter for its comment. While the rule does not specifically mention those two companies, as it does not mention any specific entity, the Fund is certainly not opposed to allowing transportation of this type for those who wish to use it. The Division is in the process of reviewing the matter and will consider adding language to the rule at another date in another rulemaking process, if deemed necessary.

COMMENT: With regard to N.J.A.C. 10:141-1.11(a)30, DRNJ has some issues with the language regarding assistive technology. Specifically, the commenter questions the use of the term "health, safety, and function" as having an unintended restriction to require that all three must apply. Also, the commenter raises the issue of the Fund's use of the term "cost effective" with no definition. And lastly, the commenter objects to the use of the word "consider" as it relates to replacing technology after 36 months.

RESPONSE: The Fund never intended the use of the terms "health, safety, and function" to be an all-inclusive criteria. The term "cost effective" is used as a guide in terms of technology to prevent individuals from requesting the best and newest of any type of technology in a world where technology changes rapidly. The Committee always yields to function and maximization of independence as its guiding principle to in turn justify cost effectiveness. Lastly, the use of the term "consider" allows the Review Committee to make decisions based on the appropriateness and support provided for each request. Accordingly, the Division will proceed as written.

#### Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments, a repeal, and a new rule are not subject to any Federal requirements or standards. However, both the rules readopted with amendments, a repeal, and a new rule and program operations are in compliance with the Americans with Disabilities Act of 1990.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:141.

**Full text** of the adopted amendments and new rule follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

#### SUBCHAPTER 1. GENERAL PROVISIONS; REQUIREMENTS

##### 10:141-1.1 Purpose and scope

The purpose of this chapter is to provide information about the operation of the Traumatic Brain Injury Fund, establish criteria for eligibility, and establish a standard methodology for determining the amount and type of supports and services to be allocated to individuals in the State of New Jersey who have survived a traumatic brain injury. The Fund provides financial assistance to New Jersey residents who have survived neurotrauma with a traumatic brain injury. As a payer of last resort, the Fund will provide support and financial assistance to assist with the costs of post-acute care, services, and supports to foster

independence for its beneficiaries. The act establishing the Fund, N.J.S.A. 30:6F-5 et seq., also requires the Brain Injury Association of New Jersey to coordinate public information and prevention education related to the Fund and to traumatic brain injury.

#### 10:141-1.2 Definitions

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

...  
 "Excluded assets" are assets that are excluded from consideration for Fund service(s). Excluded assets include the home occupied by the individual as his or her principal residence, one automobile necessary for the transportation of the applicant/beneficiary, personal effects, and household goods. Financial instruments recognized by the United States Internal Revenue Service for the purpose of retirement shall be considered excluded assets. These include 401k Plans, IRAs, and similar such instruments.

...  
 "Funding year" is defined as the continuous 12-month period that begins the day after the Committee renders a decision on an applicant's/beneficiary's support plan.

"Immediate family" is defined as:

1. (No change.)
2. Persons who have been legally determined to be financially responsible for an applicant/beneficiary who is over the age of 18, including a legally recognized partner.

...  
 "Order of selection" is defined as the criteria utilized by the Traumatic Brain Injury Fund Review Committee to establish priority for applicants to receive services in the event that the financial resources of the Fund are limited.

...  
 "TBI Fund Review Committee (Committee)" means the group appointed by the Director of the Division of Disability Services to review service plans, render decisions, hear appeals, and review policies associated with the operation of the Fund.

...

#### 10:141-1.3 Administration of the Fund

(a) The following procedures and methods will be used for the administration of the Fund:

1. (No change.)
2. A committee known as the TBI Fund Review Committee shall be established within the Division of Disability Services, Department of Human Services, to implement the provisions of the Fund. Responsibilities of the Committee shall be:
  - i. Reviewing requests for services and supports under the Fund;
  - ii. (No change.)
  - iii. Hearing initial reconsiderations for services and supports, which were previously denied by the Review Committee;
  - iv. Developing policies and procedures; and
  - v. Identifying problems associated with the administration of the Fund.
3. (No change.)
4. The Committee shall be comprised of seven members, to be nominated by their respective bodies or interest groups and appointed by the Commissioner of Human Services or designee, as follows:
  - i.-iii. (No change.)
  - iv. A representative of the Brain Injury \*[Association]\* **\*Alliance\*** of New Jersey;
  - v.-vi. (No change.)

5.-12. (No change.)

...

10:141-1.4 Expenditure caps and limitations

(a)-(d) (No change.)

(e) (No change in text.)

...

#### 10:141-1.5 Eligibility for services and supports

(a) Applicants to the Fund must meet the following eligibility requirements. Responsibility for adherence to the criteria shall be vested with the Division Director, and shall remain an administrative function of the Division:

1. Clinical requirements:

i. (No change.)

Recodify existing iv.-vi. as ii.-iv. (No change in text.)

2. Financial requirements:

i. The requested expenditure shall not exceed established program caps as set forth at N.J.A.C. 10:141-1.4;

ii.-viii. (No change.)

3. Residency requirements:

i. The applicant shall be a citizen or permanent resident of the United States, as defined by the Immigration and Nationality Act, Pub. L. 82-414, living in New Jersey, and shall be a resident of New Jersey at least three consecutive months prior to the date of application. Applicants shall maintain legal residence in New Jersey during the period in which supports and services are being provided under the Fund to remain eligible;

ii.-vi. (No change.)

(b) In the event that the Fund is unable to provide funding for all eligible individuals, persons will be given priority according to the following criteria and these criteria will be applied in descending order, and in combination, by the Committee to the eligible applicants in the current review cycle. The Committee will record the basis for its decisions. The criteria to be utilized to determine the order of selection will be:

1.-3. (No change.)

4. Situations where Fund services will be utilized as an alternative to enrollment in the \*[New Jersey Medicaid TBI Waiver]\* **\*Managed Long-Term Supports and Services (MLTSS) Program\***;

5.-6. (No change.)

(c)-(g) (No change.)

#### 10:141-1.6 Application process for the services/supports of the Fund

(a) The following process shall be used to apply for assistance under the Fund:

1. An individual shall contact 888-285-3060 for an application to the Fund.

i.-iv. (No change.)

2.-3. (No change.)

4. Once a complete application is received by the Division, it shall be referred for assessment and follow-up to a case management provider under contract to the Division. The case manager shall:

i. Meet with the applicant and make a recommendation to the Division to approve or disapprove the application;

ii. (No change.)

iii. Assist the applicant to revise the application and to develop a support plan.

5.-6. (No change.)

(b) (No change.)

#### 10:141-1.7 Approval and denial of supports/services from the Fund

(a) The following shall be the procedure and method for approval and denial for services:

1. The Committee shall review completed support plans and may take the following actions on each support plan for services:

i.-iv. (No change.)

2. If the support plan is approved, the Division shall notify the applicant. Notice shall include start and end dates, frequency, and cost of the approved services/supports.

3. If an application is denied, the Committee shall notify the applicant, in writing, outlining the reason(s) for the decision. Individuals may appeal the denial as follows:

i. Within 30 calendar days of receipt of the notice of denial, the applicant may request reconsideration of the Committee's decision. The request shall be in writing and include additional information to clarify or refute the Committee's decision.

ii. Upon receipt of the applicant's request for reconsideration, the Committee, at its next regularly scheduled Review Cycle meeting, will

conduct an informal review of the previous decision. The Committee may seek input from third-parties, if necessary. The Committee shall notify the applicant of its decision, in writing, within 60 days.

iii. If the denial is upheld, the applicant will be informed of the right to appeal to the Office of Administrative Law (OAL) in accordance with N.J.A.C. 10:6.

(b) If funds are limited, the Committee shall invoke the order of selection for the purpose of prioritizing applications for receipt of services/support from the Fund. Applicants with approved support plans not fully funded shall be considered for inclusion when funds are available, or at subsequent meetings of the Committee.

(c) (No change.)

10:141-1.8 (No change in text.)

10:141-1.9 Responsibilities of the case manager

(a) Beneficiaries meeting the requirement for case management shall receive it as a covered service of the Fund. A case manager shall:

1.-3. (No change.)

4. Be responsible for educating the beneficiary/family on methods and options to maintain, enhance, or increase independence;

5.-6. (No change.)

10:141-1.10 Payments for supports/services

(a) The Fund is the payer of last resort. Payment shall be made only for those supports where no other benefit, funding, insurance coverage, subsidy, or other source of payment is available and when documentation can be rendered to show a need and a link to the habitation of the traumatic brain injury.

(b)-(c) (No change.)

(d) Where specified under N.J.A.C. 10:141-1.11(a) and with prior approval of the case manager and the Division, payment may be made to the beneficiary as reimbursement for services rendered, with the submission of appropriate receipts.

(e) (No change.)

(f) All providers of service/support must be appropriately licensed, certified according to rules and regulations of their profession/service and the State of New Jersey, and/or comply with the provider requirements as specified under N.J.A.C. 10:141-1.11(a).

(g)-(h) (No change.)

10:141-1.11 Eligible supports and services

(a) The following is a list of eligible supports and services that will be considered for sponsorship under the Fund:

1.-6. (No change.)

7. Substance abuse evaluation/treatment, defined as clinical intervention to resolve alcohol and/or drug problems experienced by the person with a traumatic brain injury. A certified alcohol and drug counselor with experience treating brain injury or a licensed alcohol/drug program shall provide services;

8.-12. (No change.)

13. Alternative therapy is defined as a heterogeneous set of practices or treatment modalities that are offered as an alternative or complementary adjunct to conventional medicine for the treatment of brain injury. Treatment modalities are time limited and must be approved by a national regulatory authority specifically for the treatment of brain injury. Evidence must be produced by the applicant/beneficiary of the efficacy and cost benefit of the particular therapy in treating brain injury. Providers of alternative therapy must be credentialed and recognized by an appropriate governing/regulatory body. Alternative therapy under the Fund shall be limited to:

i.-ii. (No change.)

iii. Chiropractic therapy, which is a therapy that emphasizes treatment of mechanical disorders of the musculoskeletal system, focusing on manual manipulation of joints, spine, and soft tissue;

iv.-v. (No change.)

14.-15. (No change.)

16. Vocational services, defined as prevocational and extended vocational support to assist the beneficiary in obtaining and maintaining employment. A vocational professional with experience working with brain injury shall provide services;

17.-23. (No change.)

24. Companion care, defined as non-medical care, supervision, and socialization provided to the beneficiary to ensure safety and enhance quality of life. An individual experienced in working with brain injury may provide services, or a relative who is not a regular caregiver and does not reside in the residence of the applicant/beneficiary may provide services;

25.-27. (No change.)

28. Transportation/vehicle modification, defined as payment for transportation services to provide access for the beneficiary to medical appointments, treatment facilities, or vocational programs. Activities under this service may include:

i. The modification of a vehicle specifically for the use/transport of the beneficiary if it is justified under the service plan as appropriate and cost effective. Certified licensed vendors must provide modifications to vehicles. If the vehicle is to be operated by the beneficiary, the beneficiary must have a valid driver's license, and demonstrate capacity to maintain insurance coverage. This benefit is limited to one vehicle per 12-month period;

ii. The purchase of services from a commercial transportation vendor including certified transportation services, such as ambulances, mobility assistance vehicles, or taxis. Payments may be made to the provider of the service or to the beneficiary/family upon presentation of the proof of purchase or service; and/or

iii. (No change.)

29. (No change.)

30. Durable medical equipment and assistive technology. Durable medical equipment includes any equipment necessary to the beneficiary's health, safety, and function. Assistive technology is defined as any technological device that improves the functional independence of the beneficiary. Equipment and technology must be justified under the service plan as necessary, cost effective, and directly related to clinical rehabilitation. Social interaction and normal usage activities cannot be considered to justify a purchase of equipment or technology. The Fund shall, with clinical documentation of need, consider replacement of equipment after a period of 36 months after the original purchase date. Age and functionality are insufficient reasons to request replacement of equipment. The Fund shall limit purchases to essential computer periphery. This benefit is limited to one hard drive per applicant. This definition excludes payment for routine repairs, upgrades, or service contracts. Such expenses shall remain the responsibility of the beneficiary. Suppliers must be certified equipment providers. Payments may be made to the provider of service or to the beneficiary/family upon presentation of proof of purchase. A certified durable medical equipment provider or technology provider shall provide this service. Replacement or repair of lost or damaged equipment by the Fund is not guaranteed and shall be evaluated on a case-by-case basis.

10:141-1.12 Ineligible supports and services

(a) The following list represents ineligible goods, services, and other items that will not be considered for assistance from the Fund:

1.-2. (No change.)

3. Recreational drugs, alcohol, or any illegal substances;

4.-5. (No change.)

6. Entertainment equipment, such as TVs, VCRs, and gaming systems;

7. (No change.)

8. Services provided by relatives, except as provided for under N.J.A.C. 10:141-1.11;

9. (No change.)

10. Furniture or home furnishings, except as provided for under N.J.A.C. 10:141-1.11;

11. (No change.)

12. Legal services other than those provided for under N.J.A.C. 10:141-1.11;

13. (No change.)

14. Items to be used as gifts, including cash;

15.-17. (No change.)

18. Payment for insurance coverage other than medical or pharmaceutical insurance;

- 19.-24. (No change.)
- 25. Services requested because a provider does not accept insurance, including Medicare, Medicaid, and/or other government health programs for which the applicant is otherwise entitled or eligible;
- 26.-27. (No change.)
- 28. Therapies and treatments, other than those set forth in N.J.A.C. 10:141-1.11;
- 29.-32. (No change.)
- 33. Payment for desktop and laptop computers in circumstances other than defined in N.J.A.C. 10:141-1.11(a)30.

10:141-1.13 Emergency services

(a) The Fund shall utilize the following procedure where emergency services are requested under the Fund:

- 1. (No change.)
- 2. Emergency services shall be authorized at the discretion of the Division Director and shall be invoked when a delay in the provision of services would cause a direct threat to the health and safety of the applicant. Emergency services shall include but not be limited to:
  - i.-ii. (No change.)
  - iii. One-time payment of housing security deposit, one-time payment of rent or mortgage in circumstances of unforeseen homelessness, to facilitate physical access or to facilitate institutional discharge. Beneficiaries must demonstrate the ability to maintain self-sufficiency after Fund assistance has been provided; and
  - iv. (No change.)
- (b)-(c) (No change.)

(a)

**DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES**

**Notice of Readoption  
Licensed Community Residences for Adults with Mental Illnesses**

**Readoption: N.J.A.C. 10:37A**

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:11B-1 et seq., specifically, 30:11B-4.

Effective Date: May 25, 2017.

New Expiration Date: May 25, 2024.

**Take notice** that pursuant to the provision of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:37A were to expire on July 6, 2017. The rules establish standards required of providers of licensed community residences for adults with mental illnesses in the State of New Jersey. The standards include general provisions; policies and procedures manual; consumer admission criteria; consumer services; clinical record documentation; services; staff qualifications, responsibilities, and training; facility; hearings, appeals, complaints; quality assurance; exclusion and discharge from supervised residences; licensing, site review, and waivers; Appendix A, Statement of Consumer Rights Regarding Discharge and Exclusion from a Supervised Residence; and Appendix B, Guiding Principles. The rules were last amended and adopted on August 15, 2016. These amendments did not substantially change the current system for licensing, funding, and operating housing in which the services are provided by the owner of the housing (supervised housing) and funded at a flat daily rate, but the changes codified the Department's efforts to separate programs providing supervised community residences for adults with mental illness from supportive housing, which comprises independent living situations with community supports as needed and elected by the consumer. Since amendments, repeals, and new rules for N.J.A.C. 10:37A were adopted less than one year ago, the Department of Human Services (Department) believes that more time is required for provider agencies to implement the August 2016 changes. As such, the Department has determined that the rules should be readopted without

amendment. The rules remain necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 10:37A is readopted without change and shall continue in effect for a seven-year period.

**LABOR AND WORKFORCE DEVELOPMENT**

(b)

**DIVISION OF WORKFORCE DEVELOPMENT**

**Workforce Development Partnership Program Rules**

**Readoption with Amendments: N.J.A.C. 12:23**

**Adopted Repeal: N.J.A.C. 12:23-6.3**

Proposed: February 6, 2017, at 49 N.J.R. 244(a).

Adopted: May 25, 2017, by Aaron R. Fichtner, Ph.D., Acting Commissioner, Department of Labor and Workforce Development.

Filed: May 25, 2017, as R.2017 d.128, **without change**.

Authority: N.J.S.A. 34:15D-1 et seq.; specifically, 34:15D-11.

Effective Dates: May 25, 2017, Readoption;

June 19, 2017, Amendments and Repeal.

Expiration Date: May 25, 2024.

**Summary of Hearing Officer's Recommendation and Agency's Response:**

A public hearing on the proposed readoption of the chapter, with amendments, was held on February 28, 2017, at the Department of Labor and Workforce Development, John Fitch Plaza, Trenton, New Jersey. David Fish, Executive Director, Legal and Regulatory Services, was available to preside at the hearing and to receive testimony. There were no attendees at the public hearing and the Department received no written comments. The hearing officer recommended that the Department proceed with the readoption, with amendments, without change.

**Summary of Public Comment and Agency Response:**

**No comments were received.**

**Federal Standards Statement**

On July 22, 2014, the Workforce Innovation and Opportunity Act (WIOA) was signed into law, reauthorizing the Workforce Investment Act of 1998, P.L. 1-5-220 for six years, from 2015 through 2020. WIOA opens the door to states' greater use of sector partnerships and career pathway models and includes higher levels of accountability and outcome data reporting. The rules readopted with amendments and a repeal do not exceed standards imposed by Federal law, including WIOA. The Workforce Development Partnership Program is a separate State-funded program that is not mandated under Federal law.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 12:23.

**Full text** of the adopted amendments follows:

SUBCHAPTER 1. DEFINITIONS

12:23-1.1 Definitions

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

...  
 "Domestic violence" means the occurrence of one or more of the following acts inflicted upon a person protected under the Prevention of Domestic Violence Act of 1991, N.J.S.A. 2C:25-17 et seq., by an adult or an emancipated minor:

- 1.-12. (No change.)
- 13. Harassment (N.J.S.A. 2C:33-4);