

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Department of Children and Families Hearings Right to Counsel in Child Abuse Registry Cases

Adopted New Rules: N.J.A.C. 1:10A-3

Proposed: November 18, 2019, at 51 N.J.R. 1645(a).

Adopted: February 18, 2020, by Hon. Ellen S. Bass, Acting Director,
Office of Administrative Law.

Filed: February 25, 2020, as R.2020 d.035, **without change**.

Authority: N.J.S.A. 52:14F-5(e), (f), and (g); and *New Jersey Department of Children and Families, Division of Child Protection and Permanency v. L.O. 460 N.J.Super 1* (App Div 2019).

Effective Date: March 16, 2020.

Expiration Date: November 5, 2022.

Summary of Public Comment and Agency Response:

COMMENT: A comment was received via email from Jean Public. The commenter stated that the “taxpayers of this state cannot afford to provide free lawyers for all occurrences ... it is time to call a halt. This person can hire an attorney or please to get free help but passing the bill on to neighbors need to stop...”

RESPONSE: The Office of Administrative Law (OAL) thanks the commenter for her comments; however, the OAL notes that it is required by law to evaluate litigants in Child Abuse Registry cases for the right to counsel, pursuant to *New Jersey Department of Children and Families, Division of Child Protection and Permanency v. L.O. 460 N.J.Super 1* (App Div 2019).

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules are promulgated in implementation of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and are not subject to any Federal standards or requirements.

Full text of the adopted new rules follows:

SUBCHAPTER 3. RIGHT TO COUNSEL IN CHILD ABUSE REGISTRY CASES

1:10A-3.1 Representation in Child Abuse Registry hearings

A party shall have the right to be represented by counsel in any matter at the Office of Administrative Law that has a potential outcome of placement on the Child Abuse Registry.

1:10A-3.2 Application and determination for assignment of court appointed counsel to indigent parties

(a) Any party who wants to apply for representation by a public defender shall complete an Office of Administrative Law (OAL) Application for Assignment of Counsel, incorporated herein by reference as N.J.A.C. 1:10A-3 Appendix, and shall appear before an OAL Administrative Law Judge (ALJ), who will render an indigency determination.

(b) A determination of indigency under (a) above will be found if the applicant’s gross household income is at or below the income amount for the applicant’s household size, pursuant to the New Jersey Administrative Office of the Courts 2019 Income Eligibility Guidelines for Indigent Defense Services, which are incorporated herein by reference, as amended and supplemented, and available at <https://www.njcourts.gov/courts/asets/municipal/indigencyguidelines.pdf>.

(c) The ALJ shall advise the applicant of his or her eligibility for a court-appointed attorney at the end of the hearing held pursuant to (a) above.

(d) If an applicant is deemed eligible for a court-appointed attorney, after the hearing held pursuant to (a) above, then the OAL shall notify the Office of the Public Defender for such appointment. The appointed public defender shall file an appearance with the OAL no more than 10 days after being appointed to the case.

(e) If an applicant is deemed ineligible for a court-appointed attorney, then the ALJ shall advise the applicant that his or her matter will be assigned by the OAL to an ALJ for an evidentiary hearing.

(f) Representation of the party by a public defender appointed pursuant to this section shall continue through the filing of exceptions to the OAL decision and any appeal of the Department of Children and Families Commissioner’s final decision.

APPENDIX

Approved
 Rejected

Application for Assignment of Counsel

In the matter of _____

Applicant Name		DOB (applicant)		Docket Number	
Home Address - Street			Apt No.	Social Security Number	
City	State	Zip	Home Phone Number		
Applicant's Employer			Supervisor Name		
Street Address			Work Phone Number ext.		
City	State	Zip	Length of Employment		

Dependents currently living in the household (#): _____

Living Arrangement (check one)
 Married Married, Separated Living Together Divorced Other (Specify) _____

Income (monthly)	Total (\$)	Liabilities/Debt (monthly)	Total (\$)
Welfare	\$	Mortgage	\$
Salary	\$	Rent	\$
Cash on hand	\$	Utilities	\$
Unemployment	\$	Insurance	\$
Disability	\$	Medical	\$
Social Security	\$	Loans	\$
Pension	\$	Car	\$
Support/Alimony	\$	Home Equity	\$
Other Income & Source	\$	Credit Card Debt	\$
Total Income (monthly)	\$ 0.00	Tuition	\$
Other Assets	Value	Other Loans	\$
Own Home (check one) <input type="checkbox"/> Yes <input type="checkbox"/> No/No \$		Court Obligations	\$
Real Estate (specify)	\$	Fines, Fees, Costs	\$
Other Personal Property (specify)	\$	Support/Alimony	\$
Total Value of Assets	\$ 0.00	Other debt	\$
		Total Expenses/Debt	\$ 0.00
		Open Judgments (Amount)	\$
		Specify	

I certify that the foregoing statements made by me are true. I am aware if any of the foregoing statements made by me are willfully false, I am subject to punishment. (Certification Rule 1:4-4(b))

Signature of Witness (Court Designee) _____ Date _____

Signature (of person giving information) _____ Date _____

Version 2019-1

(a)

OFFICE OF ADMINISTRATIVE LAW
Notice of Readoption
Special Rules
Division of Medical Assistance and Health Services
Applicant/Recipient Hearings
Readoption with Technical Changes: N.J.A.C. 1:10B

Authority: N.J.S.A. 52:14F-5.e, f, and g.
 Authorized By: Hon. Ellen S. Bass, Acting Director, Office of Administrative Law.
 Effective Date: February 21, 2020.
 New Expiration Date: February 21, 2027.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for matters transmitted to the Office of Administrative Law (OAL) by the Division of Medical Assistance and Health Services involving applicants for or recipients of Medicaid or medically needy benefits and services were scheduled to expire on June 18, 2020. The Office of Administrative Law has reviewed these rules, in cooperation with the Division of Medical Assistance and Health Services, and has determined them to be necessary, reasonable, and adequate for the purpose for which they were originally

promulgated. The hearing process provided by these rules has proven to be effective and efficient. Therefore, the Office of Administrative Law proposes to readopt them with the technical changes discussed below.

A summary of the readopted subchapters follows:

Subchapter 1 sets forth the applicability of the rules.

Subchapter 2 defines applicant, recipient, and provider.

Subchapter 5 states that applicants or recipients may be represented at the hearing by a friend, relative, or other spokesperson.

Subchapter 9 provides that notice of hearing will be sent at least 10 days before the scheduled hearing date and will notify the applicant or recipient that he or she may represent him- or herself, use legal counsel, or be represented by a friend, relative, or other spokesperson. Hearings shall be scheduled at a reasonable time, date, and place. Upon presentation of acceptable information that the applicant/recipient has an illness or infirmity that prevents his or her appearance at the hearing, the hearing may be scheduled at the applicant/recipient's home.

Subchapter 10 provides that the applicant/recipient has the right to review his or her case file and all the documents to be used at the hearing. This review can occur a reasonable time before the hearing or during the hearing itself. If a party wants additional information, permission must be received from the administrative law judge who will grant additional discovery only if there is good cause. The hearing may not be delayed to permit additional discovery.