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DIVISION OF MENTAL HEALTH AND ADDICTION SERVICES**Intoxicated Driving Program****Proposed Readoption with Amendments: N.J.A.C. 10:162****Proposed Repeals and New Rules: N.J.A.C. 10:162-2.8, 2.9, 2.10, 4.5, and 5.7****Proposed Repeals: N.J.A.C. 10:162-5.2 through 5.6, 6.6, 6.7, 6.8, 6.10, and 6.15, and 10:162 Appendices A and B**

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

Authority: N.J.S.A. 26:2B-9.2 et seq., 30:1-12, 39:4-50 et seq., especially 39:4-50(b) and (f); and Reorganization Plan 002-2004.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-200.

Submit written comments by November 4, 2017, to:

Lisa Ciaston, Legal Liaison
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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10:162, Intoxicated Driving Program, was scheduled to expire on December 7, 2017. As the Department of Human Services (Department or DHS), and its Division of Mental Health and Addiction Services (Division) has filed this notice of readoption prior to the expiration date, that date is extended 180 days to June 5, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). This notice of proposal is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5, because a 60-day public comment period is provided.

N.J.A.C. 10:162, Intoxicated Driving Program, was adopted as new rules on April 3, 2000. The purpose of these rules is to improve the driving behavior of individuals who have been identified as having had some alcohol or drug involvement in connection with the operation of a motor vehicle or vessel. In addition, the rules generally establish standards related to the operation and provision of services at county-designated intoxicated driver resource centers (IDRC), by the Intoxicated Driving Program (IDP) and by affiliated treatment agencies, as well as standards related to client attendance and compliance with IDRC and IDP requirements.

The rules are organized into 11 subchapters. N.J.A.C. 10:162-1 sets out the scope and purpose of the rules, definitions, and covers the establishment of IDRCs by counties. N.J.A.C. 10:162-2 sets out the procedures to be followed by the courts, the IDP, and the IDRCs subsequent to a client's conviction under the relevant statutes, including court and IDRC reporting requirements, referrals to the IDP, fees, recommendations for restoration or suspension of driver licenses, conflict of interest requirements, IDRC income and expenditure reports, the educational curriculum utilized by the IDRCs, confidentiality of client information, and data collection. N.J.A.C. 10:162-3 describes the scheduling of and attendance of clients at the IDRCs. N.J.A.C. 10:162-4 establishes client evaluation and referral procedures related to screening, evaluation, and treatment for substance use disorders (SUD). N.J.A.C. 10:162-5 establishes rules concerning SUD treatment programs utilized by the IDRCs for client treatment services and minimum standards for these programs. N.J.A.C. 10:162-6 delineates the operational requirements for SUD treatment programs utilized by the IDRCs regarding intake, treatment, treatment planning, treatment costs and payment, client noncompliance, and self-help groups. N.J.A.C. 10:162-7 establishes standards for the handling of incapacitated or intoxicated

clients or improper conduct by clients. N.J.A.C. 10:162-8 sets out standards and procedures related to noncompliance by clients with IDRC, IDP, and/or treatment programs or other requirements. N.J.A.C. 10:162-9 establishes procedures for the handling of miscellaneous offenders, such as multiple offenders, out-of-State offenders, New Jersey residents convicted out-of-State ("Z" clients) and intoxicated boaters. N.J.A.C. 10:162-10 describes the grant application procedures, eligibility criteria, and funding priorities for the Alcohol Treatment Program Fund. N.J.A.C. 10:162-11 establishes criteria and standards for fee increases requested by the IDRCs. N.J.A.C. 10:162 Appendices A and B are the IDRC Treatment Agency/Provider Affiliation Agreement and renewal, respectively.

Proposed Amendments and Repeals

The Division has reviewed the rules and finds that the rules continue to be necessary, reasonable, and proper for the purposes they were originally promulgated to serve, with the exception of the following amendments and repeals.

The current rules contain several references to the Division of Addiction Services, which is the outdated name of the division within which the IDP resides. By way of background, in Fiscal Year 2010-2011, the former Division of Addiction Services and the former Division of Mental Health Services merged to create the combined Division of Mental Health and Addiction Services. This rulemaking replaces all references to the "Division of Addiction Services" with either "Division of Mental Health and Addiction Services" or "the Division." In addition, at N.J.A.C. 10:162-1.2, an amendment is proposed to add "Division" to the definitions.

Subchapter 1

At N.J.A.C. 10:162-1.2, the following definitions are proposed to be retained, but amended. Amendments are proposed to the definitions of "affiliated treatment agency" and "affiliation agreement" in order to reflect consistency with changes to the affiliation procedures and requirements set out in Subchapter 5, as discussed below. An amendment to remove "Alcohol safety institute" is proposed because this term references an obsolete educational program. The amendments proposed for "ASAM PPC 2R" reflect technical revisions for purposes of clarity and to reflect the current edition of the publication: The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related and Co-Occurring Conditions, American Society of Addiction Medicine, Third Edition, 2013. Amendments are proposed to "Director" and "Intoxicated Driving Program" to reflect the current name of the Division. The definitions of "detoxification", "Intensive outpatient treatment," and "outpatient treatment" are proposed for deletion and replacement for clarity and consistency with the American Society of Addiction Medicine (ASAM) criteria and, where applicable, to remove references to N.J.A.C. 10:161B, Standards for Licensure of Outpatient Substance Use Disorder Treatment Facilities, as these DHS licensing rules may not be applicable to some solo healthcare practitioners or professionals. An amendment is proposed to "Intoxicated Driver Resource Center" for consistency with N.J.S.A. 39:4-50(f), namely, to specify that the IDRC is designated and established by the county. Amendments are proposed to remove "alcohol abuser" and "drug abuser," which are outdated nomenclature, and to add a definition for "substance use disorder" to better reflect updates to terminology in the Diagnostic and Statistical Manual of Mental Disorders (DSM), fifth edition, and to ensure that the most recent edition of the DSM is utilized in client evaluation and diagnosis.

The proposed amendments at N.J.A.C. 10:162-1.3(a) set out a formal IDRC approval process by the Division, so that it may meet its statutory obligation under N.J.S.A. 39:4-50(f) to approve the county-designated IDRCs in a consistent manner. In particular, the amendments delineate the specific information and documentation that counties need to submit to the Division for approval of the county-designated 12 and 48-hour IDRCs. In order to properly evaluate whether county-designated IDRCs can adequately operate and provide required educational classes, screening, and monitoring services, the Division needs information and documentation related to IDRC administrator qualifications, IDRC staff, the frequency and capacity of classes, and copies of written policies addressing class access for special populations, the confidentiality of

client records, and procedures for referrals to treatment agencies. Moreover, these amendments communicate to the counties what the Division will be considering in evaluating their designated IDRCs. Further, the amendments address the operation of 48-hour IDRCs, which require special capabilities, including the provision of overnight accommodations and security measures that must be considered by the counties during their designation process. In addition, there are minor technical revisions to better reflect consistency with N.J.S.A. 39:4-50(f), which describes the responsibilities of the counties and the Division with respect to the IDRCs and the necessary qualifications of the IDRC administrator. In all, these amendments serve to ensure that the county-designating authority is an active participant in the designation process.

Subchapter 2

An amendment is proposed at N.J.A.C. 10:162-2.7(a) to require the IDRCs to submit their annual income and expenditure report to their county-designating authority. Currently, the income and expenditure report is only submitted to the IDP. However, it is essential for the county, as the designating authority, to have information and familiarity with the income and expenditures of their IDRC.

The proposed repeal and replacement of N.J.A.C. 10:162-2.8 reflects consistency with N.J.S.A. 39:4-50(b) and (f), in that the Chief of the IDP has the authority to prescribe the educational curriculum used by the IDRCs and to clarify the approval process for the use of any alternate educational curriculum by the IDRCs. N.J.A.C. 10:162-2.8(b) provides clarity regarding the expectation that the IDRC Director and staff responsible for teaching the educational curriculum have training in the educational curriculum so as to properly instruct clients.

The proposed repeal and replacement of N.J.A.C. 10:162-2.9 remove antiquated language about coding mechanisms for access to IDRC databases. Instead, the proposed new section adds a provision that generally reinforces the need for client information and records to be kept confidential and secure in accordance with any applicable Federal and State confidentiality laws, rules, and regulations. Additionally, the rule requires that the IDRCs ensure that appropriate policies and procedures are in place to maintain and safeguard client records and information. These changes from the rule proposed for repeal are necessary to ensure client records and information, which involve sensitive information, are protected from unauthorized use and disclosure.

The proposed repeal and replacement of N.J.A.C. 10:162-2.10 removes language regarding the need for monthly operational data reports and more accurately reflects the current practice of requiring that the IDRCs submit client information through the use of Division-approved and designated computer systems.

Subchapter 4

An amendment is proposed at N.J.A.C. 10:162-4.1(c) to remove the option for referral to the "ASI" because it is an obsolete educational program and to remove referrals to self-help groups because such groups are not actual stand-alone treatment programs, but are more properly included as one aspect of a comprehensive treatment plan.

Amendments are proposed at N.J.A.C. 10:162-4.2 to provide clarification. At N.J.A.C. 10:162-4.2(b) and (b)7 and 9, amendments are proposed to remove the reference to "referral to treatment" because the criteria set out in this section do not apply to a referral for treatment, which referral is solely based on an assessment and determination by a qualified clinician as required at N.J.A.C. 10:162-4.5, and only apply to a referral for further evaluation as to the need for treatment by the IDRC. An amendment is proposed at N.J.A.C. 10:162-4.2(b)7 to remove the obsolete references to "alcohol abuser" and "drug abuser" and replace with more neutral language regarding persons with a "substance use disorder." There are minor technical revisions proposed at N.J.A.C. 10:162-4.2(b)8 and 9. In addition, proposed new N.J.A.C. 10:162-4.2(b)10 and 11 add two additional facts and test results, indicating the presence of alcohol and/or drugs and other relevant clinical information, that may be considered in making a decision to refer the offender for further evaluation as to their need for treatment.

The proposed repeal and replacement of N.J.A.C. 10:162-4.5 eliminates the descriptions of when outpatient, intensive outpatient, and inpatient treatment and self-help groups are to be used for treatment.

Rather, the new rule makes clear that SUD treatment should be provided in accordance with clinical findings by a qualified clinician and recognized clinical standards in order to ensure that clients receive treatment services at the appropriate level of care that best meets their individualized needs.

Amendments are proposed at N.J.A.C. 10:162-4.6(a) to reflect that the referral procedures apply to the referral for evaluation, not for treatment, to remove language regarding the provision of group sessions provided by IDRCs because the IDRCs do not provide treatment services, and to remove redundant language concerning type of treatment and counseling.

An amendment is proposed at N.J.A.C. 10:162-4.6(b) to clarify that a client's refusal, unwillingness, or failure to select a treatment program, if referred for treatment, shall be cause for a finding of non-compliance with the IDRC or IDP requirements.

It is further proposed that subsection (c), which permits the IDRC to choose a program for the client, be deleted, as such a provision conflicts with and discourages the client choice promoted in subsection (b) and the expectation that the IDRC should support client choice in choosing a program.

An amendment to delete subsection (d) is proposed in order to encourage client choice in the selection of a treatment program; however, such deletion does not preclude the IDRCs in making suggestions as to those treatment programs that may best meet a client's needs.

The deletion of existing subsection (h) is proposed because it is redundant and unnecessary as court orders and State and Federal confidentiality laws, rules, and regulations set out the permissible exceptions that permit communication when a client is unwilling to sign a records release authorization and similarly for disclosure and release forms.

Subchapter 5

The proposed amendments at N.J.A.C. 10:162-5.1 reflect a more streamlined approach to the use of SUD treatment provider agencies and healthcare practitioners/professionals by the IDRCs. Although the rule still requires an affiliation agreement, the amendments remove the need for submission of documentation to the IDP of affiliation agreements and relationships. The IDP will facilitate the affiliation process between the IDRCs and DHS-licensed SUD treatment provider agencies. The amendment places responsibility for affiliation agreements between the IDRCs and licensed healthcare practitioners/professionals on the IDRCs, and as such, the IDRCs delineate the contents of those affiliation agreements, except for including certain minimum standards set out in the rule that must be met for licensed practitioners/professionals who are subject to professional licensing standards, but are not subject to licensing standards set by DHS for the provision of SUD treatment. Significantly, the minimum standards are substantially the same as those previously required for use in the affiliation application. In addition, an amendment is proposed to update the requirement regarding the communication of client information to Division-approved and designated computer systems.

N.J.A.C. 10:162-5.2 through 5.6 are proposed for repeal because they are unnecessary in light of the changes to the affiliation agreement and procedure requirements proposed at N.J.A.C. 10:162-5.1.

The proposed repeal and replacement of N.J.A.C. 10:162-5.7 includes the elimination of the revocation, suspension, and investigation standards. These standards are obsolete based on amendments made to the affiliation agreement process discussed above. Instead, this new section will indicate that the IDP will refer and report any complaints or allegations received about affiliated treatment agencies to the applicable IDRC, county designating authority, and relevant Federal, State, and local agencies.

Subchapter 6

Amendments are proposed at N.J.A.C. 10:162-6.1(b) to ensure consistency and avoid duplication. First, the elimination of language regarding the use of a Division-approved tool and notation of that tool in the evaluation are proposed for elimination because these provisions are redundant in that N.J.A.C. 10:162-4.5 is proposed for amendment to require the use of SAMHSA-approved, evidence-based, and validated

assessment tools and because it is the best and standard practice to note the tool used for evaluation purposes in client records. Second, the provisions related to warning clients about potential jail sentencing if non-compliant are proposed for elimination because this information is already conveyed more properly by the court to clients and such communications may inadvertently hinder the relationship between a client and affiliated treatment agency.

The proposed amendment at N.J.A.C. 10:162-6.3 requires that the length of treatment and the level of care should be in accordance with clinical recommendations and standards, so as to ensure clients receive appropriate and individualized treatment services. This proposed amendment also ensures consistency with and reinforces the proposed amendment at N.J.A.C. 10:162-4.5, which requires that referrals to treatment be based upon clinical determinations. As such, the requirement for a standard of 16 sessions of treatment services at N.J.A.C. 10:162-6.3 and additional requirements related to the provision of the standard 16 weeks of treatment services at N.J.A.C. 10:162-6.14(b) and (c) are proposed for deletion because these 16-week requirements are no longer necessary and are incompatible with the need for individualized treatment.

An amendment is proposed at N.J.A.C. 10:162-6.13(a) to remove the obsolete references to “alcohol abuser” and “drug abuser” and replace with more neutral language regarding who may or may not have a “substance use disorder.”

N.J.A.C. 10:162-6.6, 6.7, 6.8, 6.10, and 6.15 regarding the use of self-help groups are proposed for repeal. Because SUD treatment services must be provided by licensed SUD treatment agencies or appropriately licensed healthcare practitioners/professionals, the elimination of self-help groups from Subchapter 6 is necessary in order to clarify and underscore that self-help groups are not treatment programs and cannot provide treatment services to IDRC clients. Rather, self-help groups are peer support groups that allow participants to give mutual support to each other during treatment and recovery. As such, self-help groups are more properly incorporated into a treatment plan as one piece of an individual’s treatment plan.

Subchapter 8

Amendments are proposed to delete N.J.A.C. 10:162-8.6(a) and (b). Those two subsections require mandatory terms of treatment before a request can be made to restore a client’s driving privileges. However, mandatory treatment terms conflict with the need for SUD treatment to be based on individualized clinical assessment and determinations related to length and type of care. Moreover, subsection (c) sufficiently encompasses the completion of clinically determined care prior to any request for the restoration of driving privileges. Technical revisions at N.J.A.C. 10:162-8.6(c) are proposed to ensure consistency with terms and to provide clarity.

Subchapter 9

An amendment is proposed at N.J.A.C. 10:162-9.1(a)2 to remove the requirement for a multiple offender to “successfully” complete “at least three months” of treatment as part of the driver’s license restoration requirements. Instead, a multiple offender will be expected to “successfully” complete his or her individualized treatment requirements as part of the restoration requirements.

Subchapter 10

The proposed amendments at N.J.A.C. 10:162-10.4 replace all outdated references to the “ASAM PPC 2R” with the “ASAM Criteria” and also reflect revisions to correspond with updates to the ASAM Criteria’s level of care numeric system from Roman numerals to Arabic numerals.

N.J.A.C. 10:162 Appendices A and B

The proposed repeal of N.J.A.C. 10:162 Appendices A and B is consistent with the changes at N.J.A.C. 10:162-5 regarding the affiliation agreement process. Although the chapter still requires an affiliation agreement, affiliation agreements between the IDRCs and appropriately licensed healthcare practitioners/professionals are the responsibility of the IDRCs. With respect to DHS-licensed SUD treatment provider agencies, the IDP will facilitate the affiliation process. Therefore, these appendices are no longer necessary.

Social Impact

The Division anticipates that the rules proposed for readoption with amendments, new rules, and repeals will have a positive impact by improving the quality of services provided to clients by IDRCs and affiliated treatment agencies. The Division services an average of 27,500 individuals convicted of driving under the influence (DUI) each year. Of these individuals, approximately 10,500 are referred for a substance use disorder evaluation or for SUD treatment. The proposed amendments will ensure that individuals receive a uniform and evidence-based educational curriculum Statewide and that individuals referred for SUD evaluation and/or treatment will be assessed and treated in accordance with evidence-based practices in a clinically appropriate treatment setting. Further, these amendments incorporating evidence-based practices and clinically-driven treatment will promote access to and completion of SUD treatment. As a whole, appropriate SUD treatment, coupled with mandatory license suspension periods, reduces recidivist DUI behaviors and thereby lowers vehicle accidents and fatalities in New Jersey.

Economic Impact

The Division anticipates that the rules proposed for readoption with amendments, new rules, and repeals will have a negligible impact on the IDRCs and their clients. By streamlining the administrative requirements related to the affiliation process, there may be some cost savings for the IDRCs. In addition, the proposed amendments eliminate the mandatory treatment term of 16 weeks for clients; instead, changes are proposed that base referrals to treatment on clinical determinations. As a result of these proposed changes, IDRC clients may see reductions or increases in treatment costs based on the length and type of SUD treatment that is clinically determined necessary to address their SUD.

Federal Standards Statement

Although there are Federal confidentiality laws and regulations, such as HIPSS and 42 CFR Part 2, which may apply to the IDRCs and affiliated treatment agencies, the rules proposed for readoption with amendments, new rules, and repeals do not exceed those Federal standards.

Further, with respect to the operation and provision of services by the IDP or the IDRCs, the rules proposed for readoption with amendments, new rules, and repeals do not impose standards on the IDP or IDRCs in New Jersey that exceed those contained in any Federal regulations as there are no Federal laws that are analogous to these State rules. Therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments, new rules, and repeals will have a negligible impact on job creation in the State of New Jersey. However, there is the potential for the creation of employment opportunities should affiliated treatment agencies choose to expand services, including hiring additional staff, in order to fill service gaps and meet service needs of the IDRC client population.

Agricultural Industry Impact

The rules proposed for readoption with amendments, new rules, and repeals will have no impact on agriculture in the State of New Jersey.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments, new rules, and repeals may impose reporting, recordkeeping, and other compliance requirements on “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent that the rules will apply to small businesses, it will apply to those IDRCs that are independent entities from local county government and to affiliated treatment agencies.

However, any reporting, recordkeeping, and other compliance requirements resulting from the proposed amendments should be minimal as those requirements are not substantially different than what is currently required of the IDRCs and from affiliated treatment agencies. Notably, the changes include a streamlining of the affiliation process that should reduce administrative tasks for the IDRCs. Moreover, the IDP provides recordkeeping systems through Division-designated databases to the IDRCs, as well as the educational curriculum

and related training to the IDRCs. Additionally, the existing rules and proposed amendments in this chapter involving reporting, recordkeeping, and compliance requirements for affiliated treatment agencies are similar and in keeping with those required in the normal course of their business operations and their provision of SUD treatment services to clients, including the use of evidence-based assessment tools and the ASAM criteria.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, new rules, and repeals will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption with amendments, new rules, and repeals will evoke a change in the average costs associated with housing because the rules pertain to the IDP and county IDRCs.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, new rules, and repeals will have an insignificant impact on smart growth. There is an extreme unlikelihood that the rules proposed for readoption with amendments, new rules, and repeals will evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because these rules pertain to the IDP and county IDRCs. The rules do not involve land use policies or infrastructure development. Therefore, the rules proposed for readoption with amendments, new rules, and repeals do not impact smart growth.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:162.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:162-2.8, 2.9, 2.10, 4.5, 5.2 through 5.7, 6.6, 6.7, 6.8, 6.10, and 6.15, and 10:162 Appendices A and B.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. INTOXICATED DRIVING PROGRAM/INTOXICATED DRIVER RESOURCE CENTER

10:162-1.2 Definitions

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

“Affiliated treatment agency” means [an] **a DHS-licensed substance use disorder treatment agency or a licensed healthcare practitioner or professional** affiliated with an Intoxicated Driver Resource Center [with the approval of the Intoxicated Driving Program pursuant to N.J.A.C. 10:162-5.3] to provide [alcohol and drug] **substance use disorder** treatment services for the education, rehabilitation, and treatment of clients.

“Affiliation agreement” means a written contract wherein the treatment program in consideration of being approved agrees to abide by State rules.]

“Alcohol abuser” means any person who chronically, habitually, or periodically consumes alcoholic beverages to the extent that such use substantially injures his or her health or substantially interferes with his or her social or economic functioning in the community on a continuous basis, or he or she has lost the power of self-control with respect to the use of such beverages. The 1994 edition of the Diagnostic and Statistical Manual on Mental Disorders (DSM-IV) published by the American Psychiatric Association, 1400 K Street, NW, Washington, DC 20005, as amended and supplemented, incorporated herein by reference, shall be used as a guide in evaluating persons under this definition.]

“Affiliation agreement” means a written agreement between the **Intoxicated Driver Resource Center and a DHS-licensed substance use disorder treatment agency or a licensed healthcare practitioner or professional establishing the terms of the relationship and provision of treatment services for individuals with driving under**

the influence convictions or driving under the influence-related convictions.

...
 [“Alcohol Safety Institute” (ASI) means the designation given to clients who have been evaluated by the Intoxicated Driver Resource Center/Intoxicated Driving Program and are not referred to treatment.]

...
 “ASAM [PPC 2R] **Criteria**” means the [publication of] **criteria developed by the American Society of Addiction Medicine**[, Inc., Chevy Chase, Maryland titled “ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition-Revised,” available from ASAM Publications Distribution, PO Box 101, Annapolis Junction, MD 20701-0101,] **as contained in the ASAM Criteria, Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, Third Edition, 2013, which is incorporated herein by reference, as amended and supplemented, which can be obtained from the ASAM Publications Center, Tel: 1-800-844-8948, [Fax: 301-206-9789; www.asam.org], which is incorporated herein by reference.**

...
 [“Detoxification” means services that are consistent with the definition of “non-hospital based (medical) detoxification” included at N.J.A.C. 8:42A-1.3.]

“**Detoxification**” means the provision of care, usually short-term, prescribed by a physician and conducted under medical supervision, for the purpose of withdrawing a person from a specific psychoactive substance in a safe and effective manner according to established written medical protocols and the ASAM Criteria. This term is synonymous with “withdrawal management” as referenced in the ASAM Criteria.

...
 “Director” means the Assistant Commissioner or successor official who serves as head of the Division of **Mental Health and Addiction Services** in the Department of Human Services.

“**Division**” means the **Division of Mental Health and Addiction Services in the Department of Human Services.**

...
 [“Drug abuser” means a person who is using a controlled dangerous substance or other drug and who is in a state of physic or physical dependence, or both, arising from the use of that controlled substance on a continuous basis. Drug abuse is characterized by behavioral and other responses, including, but not limited to, a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence. The 1994 edition Diagnostic and Statistical Manual on Mental Disorders (DSM-IV) published by the American Psychiatric Association shall be used as a guide in evaluating persons under this definition.]

...
 [“Inpatient treatment” means treatment for alcohol and/or drug dependence within a **short-term or long-term** residential [alcohol or drug treatment] **substance use disorder** treatment facility licensed by the Department of Human Services[, Division of Addiction Services].

[“Intensive outpatient treatment” means the type of treatment defined as Level II in the ASAM PPC 2R, consistent with the Standards for Licensure of Outpatient Substance Abuse Treatment Facilities (N.J.A.C. 8:43A-26 or any successor rules).]

“**Intensive outpatient treatment**” means the type of treatment that approximates ASAM Criteria Level 2.1.

...
 “Intoxicated Driver Resource Center” or “IDRC” means the personnel and facilities **designated and established by the county, and approved by the Intoxicated Driving Program, that detain and determine, on the basis of an evaluation instrument and counselor evaluation and other information, the extent, if any, of a client’s [alcohol or drug-related] substance use disorder-related problem and that monitor and report on referrals to approved treatment programs.**

“Intoxicated Driving Program” or “IDP” means the unit within the Division of **Mental Health and Addiction Services** responsible for [administering the State post-conviction evaluation and referral program for persons convicted of alcohol or drug-related offenses] **managing**

and coordinating court-mandated requirements for individuals with driving under the influence convictions or driving under the influence-related convictions and monitoring services provided by IDRCs.

...
 ["Outpatient treatment" means the type of treatment defined as Level 1 in the ASAM PPC 2R, consistent with the Standards for Licensure of Outpatient Substance Abuse Treatment Facilities (N.J.A.C. 8:43A-26 or any successor rules).]

"Outpatient treatment" means the type of substance use disorder treatment that approximates ASAM Criteria Level 1.

...
 "Substance use disorder" is evidenced by a cluster of cognitive, behavioral, and physiological symptoms that indicate that the person continues to use a substance (for example, alcohol, drugs) despite the presence of significant substance-related impairments and problems. See American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, fifth edition, Arlington, VA, American Psychiatric Association, 2013. The Diagnostic and Statistical Manual of Mental Disorders (DSM), fifth edition, published by the American Psychiatric Association, which is incorporated herein by reference, as amended and supplemented, shall be used as a guide in evaluating persons under this definition.

10:162-1.3 Establishment of an Intoxicated Driver Resource Center (IDRC)

(a) Subject to the approval of the [Intoxicated Driving Program] Division of Mental Health and Addiction Services, the counties shall, with its cooperation, designate [or] and establish Intoxicated Driver Resource Centers on a county or regional basis as required by N.J.S.A. 39:4-50(f). The counties may establish such a center themselves or in cooperation with other counties. The counties may either operate the IDRCs themselves, or they may contract for the operation of the IDRCs.

1. Each county shall designate and establish a 12-hour IDRC and a 48-hour IDRC.

i. The 12-hour IDRC shall detain assigned clients for no less than six hours each day during two consecutive days.

ii. The 48-hour IDRC shall detain assigned clients for 48-consecutive hours.

2. The Division of Mental Health and Addiction Services shall review county designations of 12-hour and 48-hour IDRCs every two years.

3. During the Division of Mental Health and Addictions Services review and approval process for the county-designated 12-hour IDRCs, each county shall submit the following information to the Intoxicated Driving Program:

- i. Name and address of the IDRC;
- ii. Name and qualifications of the IDRC administrator. Documentation verifying the appropriate qualifications shall include, but are not limited to, copies of a current resume and any professional certifications and licenses;
- iii. Copy of any resolution designating the IDRC;
- iv. Copy of the contract between the county and the IDRC;
- v. Written notification regarding conflict of interest determinations as required by N.J.A.C. 10:162-2.6;
- vi. Copy of the IDRC's table of organization;
- vii. List of IDRC staff, IDRC contracted staff, and IDRC consultants with titles, qualifications, and job descriptions;
- viii. Copy of the IDRC class schedule with dates, times, and locations of classes for at least six months and maximum number of attendees for classes;
- ix. Description of public transportation to the IDRC, including type and proximity to transportation sites;
- x. List of affiliated treatment agencies; and
- xi. Copies of written policies pertaining to the following:
 - (1) Class access for the following special populations: individuals with communication disabilities (for example, vision, hearing, or speech), individuals with physical or mental disabilities, and individuals with limited English proficiency;

(2) Maintenance and safeguarding of client records and information; and

(3) Handling of referrals to affiliated treatment agencies.

4. During the Division of Mental Health and Addictions Services review and approval process for the county-designated 48-hour IDRCs, each county shall submit the information listed at (a)3 above and the following additional information to the Intoxicated Driving Program:

i. Description of overnight accommodations;

ii. Written acknowledgement that the 48-hour IDRC facility is in compliance with all applicable codes governing building, fire, safety, and health requirements in the State, county, and municipality in which it resides; and

iii. Copies of written policies pertaining to the following:

(1) Handling of medical emergencies and medication storage; and

(2) Supervision and security measures provided during the 48-hour time period.

5. The IDRC must be administered by a certified alcohol and drug counselor or other certified or licensed healthcare practitioner or professional with a minimum of five years experience in the treatment of substance use disorders.

6. The IDRC must make every effort to schedule classes as frequently as necessary in order to ensure that clients have an opportunity to attend class prior to the expiration of their license suspension.

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

SUBCHAPTER 2. ACTIONS SUBSEQUENT TO CONVICTION
 FOR N.J.S.A. 39:4-50 ET SEQ., OR 39:4-50.4(A)
 OR 39:4-50.14 OR 12:7-57 OR 12:7-34.19 OR
 12:7-46 OR 39:3-10.24 OR 39:4-143G

10:162-2.4 Fees

Fees shall be paid as provided for at N.J.S.A. 39:4-50, 39:4-50.4, 39:4-50.14, 39:4-14.3g, 12:7-57, 12:7-34.19, 12:7-46, and 39:3-10.24 or any amendment thereto and shall be payable as designated by the Division [of Addiction Services] from every person each time the person is convicted of a relevant alcohol or drug-related offense. These fees are owed and due upon conviction, pursuant to N.J.S.A. 39:4-50 if the conviction occurred on or after October 9, 1986, and upon referral or evaluation to the Intoxicated Driver Resource Center and the Intoxicated Driving Program if the conviction occurred prior to October 9, 1986.

10:162-2.7 Intoxicated Driver Resource Center Income and Expenditure Report

(a) No later than April 1 of each calendar year, each Intoxicated Driver Resource Center shall submit to the Intoxicated Driving Program and their county-designating authority (for example, Board of Freeholders) a detailed income and expenditure report for the previous calendar year [as specified by Intoxicated Driving Program], which shall include:

1.-14. (No change.)

10:162-2.8 Curriculum

(a) The Chief of the Intoxicated Driving Program shall prescribe the educational curriculum for use by the Intoxicated Driver Resource Center.

1. In order to make changes to the prescribed educational curriculum or to use an alternate educational curriculum, the Intoxicated Driver Resource Center must seek and obtain the approval of the Chief of the Intoxicated Driving Program.

2. Suggestions for changes to the prescribed educational curriculum or requests to use an alternate educational curriculum shall be submitted in writing by the Intoxicated Driver Resource Center Director with approval of the county designating authority to the Chief of the Intoxicated Driving Program.

3. The Chief of the Intoxicated Driving Program shall have the authority to alter and approve the proposed changes to the prescribed educational curriculum or alternate educational curriculum after consultation with the Intoxicated Driver Resource Center Director(s).

(b) The Intoxicated Driver Resource Center Director shall identify staff responsible for instructing clients on the educational curriculum.

1. The Intoxicated Driver Resource Center Director and identified education staff shall be certified by the IDP, or its designee, to provide the educational curriculum used by the Intoxicated Driver Resource Center.

2. The Intoxicated Driver Resource Center Director and identified education staff shall attend educational curriculum training(s) provided by the Intoxicated Driving Program or its designee.

10:162-2.9 Confidentiality

(a) The Intoxicated Driver Resource Center shall keep client information and records confidential in accordance with any and all applicable Federal and State laws, rules, and regulations including, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Parts 160 and 164, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2.

(b) The Intoxicated Driver Resource Center shall establish and implement policies and procedures for the maintenance, preservation, and safeguarding of client records and information, which shall be reviewed at least bi-annually by the Director. These policies and procedures shall address, at a minimum, the following: protection of client records and information from loss, tampering, alteration, and unauthorized use or disclosure; retention and destruction of client records and information; and the transfer of client records and information to other Intoxicated Driver Resource Centers, affiliated providers, or other health care entities.

10:162-2.10 Data collection and reporting

The Intoxicated Driver Resource Centers shall input and report client information and status, and such additional client and service data as the Intoxicated Driving Program may require, through a Division-approved and designated computer system.

SUBCHAPTER 4. EVALUATION AND TREATMENT PROCEDURES

10:162-4.1 Evaluation procedures

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

(c) [Referrals to ASI shall be so noted on the roster. Referrals to treatment or self help shall also be noted on the roster.] If a client is referred to a treatment program, a packet shall be prepared for transmittal to the treatment program, which shall include the following information:

1.-8. (No change.)

(d) The records release authorization form shall be filled out to allow information to be released to the court, Intoxicated Driving Program, and the Division [of Addiction Services], the treatment program, the Division of Motor Vehicles, the Intoxicated Driver Resource Centers, and the client's attorney. In addition, the client may authorize any other persons to receive protected information by so indicating on the form.

10:162-4.2 Criteria for client referral [to treatment]

(a) (No change.)

(b) A referral [to treatment or] for further evaluation by the Intoxicated Driver Resource Center or Intoxicated Driving Program shall take into consideration the following facts as relevant to a client's need for [treatment or] further evaluation:

1.-6. (No change.)

7. Counselor interview and observations. All counselor observations and data used to determine treatment appropriateness shall be documented. They may include symptoms of [alcohol or drug abuse] **substance use disorder** including voluntary admission by the client that an alcohol or drug problem exists. A counselor's evaluation based on documented observations and data that a client [is an alcohol or drug abuser (as defined herein)] **has, or may have, a substance use disorder** is sufficient to refer a client [to treatment] for further evaluation;

8. Outside information. The Intoxicated Driver Resource [Center/Intoxicated] **Center/Intoxicated** Driving Program staff may receive information from outside sources such as a client's family, treatment facilities, counselors, or physicians. Such information may be utilized if the source of the information is disclosed to the client and he or she is given the opportunity to review and comment on the information; [and]

9. Age. The age of an offender may be considered as a factor, but only in addition to other criteria listed in this subsection indicating the appropriateness of a referral [to treatment.] **for further evaluation;**

10. **Test results. The results of any current or prior alcohol and/or drug tests indicating the presence of alcohol and/or drugs in the offender's system (for example, blood, hair, saliva, urine); or**

11. **As otherwise clinically indicated, with documentation supporting the need for further evaluation.**

10:162-4.5 Determining need for substance use disorder treatment and level of care

(a) **In determining the need for substance use disorder treatment and identifying the appropriate level of care, the affiliated treatment agency shall:**

1. **Make a determination based upon the ASAM criteria and a DSM diagnosis;**

2. **Utilize a SAMHSA-approved, evidence-based, validated assessment tool; and**

3. **Ensure that only affiliated treatment agency staff possessing the appropriate clinical background, education, and qualifications perform and provide the diagnosis and assessment.**

10:162-4.6 Referral procedures

(a) The Intoxicated Driver Resource Center shall provide each client referred for [treatment] **evaluation** with a list of affiliated treatment [programs] **agencies**. The list shall reflect the following items:

1.-2. (No change.)

3. Days/times of operation [of any Intoxicated Driver Resource Center client group sessions];

4. Type of treatment and type of counseling [(that is group, individual and number of self help group meetings required, and if family involvement is required)]; **and**

5. (No change.)

(b) Clients shall choose a program from the list and sign the appropriate form indicating that he or she was shown the list and selected a program. **Any refusal, unwillingness, or failure by a client to choose a program shall be cause for a finding of non-compliance.**

(c) If the Intoxicated Driver Resource Center chooses a program for the client it shall be because it would substantially benefit the client in his or her present condition.

(d) When a specific modality or program is recommended it shall be noted on the appropriate form with the reason for recommendation. All clients shall sign the form to indicate that they understand the content.]

Recodify existing (e)-(g) as (c)-(e) (No change in text.)

[(h) The client's refusal to sign the form shall not interfere with any lawful right of the above agencies to communicate.]

SUBCHAPTER 5. TREATMENT PROGRAM AFFILIATION REQUIREMENTS

10:162-5.1 Affiliation and [renewal-of-affiliation agreements] **treatment program standards**

[(a) In order to treat Intoxicated Driver Resource Center/Intoxicated Driving Program clients, a treatment agency or provider shall sign a standard affiliation or renewal-of-affiliation agreement (see Appendices A and B). All affiliation and renewal-of-affiliation agreements are subject to approval by the Intoxicated Driving Program for compliance with the requirements of N.J.A.C. 10:162-5.3 and 5.6 as applicable (see *Alternatives Counseling Center, Inc. v. New Jersey Department of Health and Senior Services*, N.J.Super. Ct., App. Div. No. A-45-98T5, Oct. 8, 1999). All such affiliation and renewal-of-affiliation agreements shall expire at the end of the last day of June of the relevant calendar year.]

(a) **In order for an Intoxicated Driver Resource Center client to receive substance use disorder treatment at a DHS-licensed**

substance use disorder treatment agency or by a licensed healthcare practitioner/professional, the IDRC and the DHS-licensed substance use disorder treatment agency or licensed health care practitioner/professional must execute a written affiliation agreement.

(b) The affiliation agreement between the IDRC and DHS-licensed substance use disorder treatment program shall include and be facilitated by the IDP.

(c) The affiliation agreement between the IDRC and a licensed health care practitioner/professional shall be the responsibility of the IDRC. The IDRC shall delineate and define the contents of the written affiliation agreement, except that the minimum requirements set forth at (c)1 below must be included within the affiliation agreement.

1. Any affiliation agreement between an Intoxicated Driver Resource Center and a healthcare practitioner/professional to provide substance use disorder treatment services to clients must, at a minimum, include the following standards:

i. Conformance with N.J.S.A. 39:4-50 et seq., 45:2D-1 et seq., 26:2H-1 et seq., and 40A:9-22.1 et seq., and this chapter, as appropriate;

ii. Acknowledgement that the healthcare practitioner/professional possesses the appropriate educational qualifications and proper license and/or credentials to provide substance use disorder treatment services;

iii. Maintenance of a fee schedule, including any sliding fee schedule;

iv. Provision of the address, telephone number, hours of operation, and contact person for each office location;

v. A written description of the treatment program vision and mission, program requirements, and treatment modalities, including ASAM criteria level of care designations for treatment services offered; and

vi. Provision of copies of commercial liability insurance and individual or agency professional liability insurance, as appropriate.

[(b)] (d) The chief of the Intoxicated Driving Program or an Intoxicated Driver Resource Center Director may approve an individual treatment plan at a non-affiliated agency or provider in or out of the State. [Such approval shall not exceed four months and shall be approved in the best interest of a client.]

[(c)] (e) All [approved] **affiliated** treatment programs and **healthcare practitioners/professionals** shall **input and report client information and status, and such additional client and service data as the Intoxicated Driving Program may require**, to the Division [of Addiction Services] through [the Division's Alcohol and Drug Abuse Data System or any successor treatment management information system implemented by the Division] a **Division-approved and designated computer system**.

10:162-5.7 Handling of complaints to the IDP

Upon receipt of a complaint, notification, or allegation of a violation of law, rule, or affiliation agreement by affiliated treatment agencies, the Intoxicated Driving Program shall refer and report such complaint, notification, or allegation to the applicable IDRC, county designating authority, and/or relevant Federal, State and local agencies, as appropriate.

SUBCHAPTER 6. TREATMENT PROGRAM OPERATIONAL REQUIREMENTS

10:162-6.1 Intake evaluation

(a) (No change.)

(b) The treatment program shall conduct an independent evaluation of the client's need for treatment[, using an instrument approved by the Division of Addiction Services] **that addresses the six ASAM criteria dimensions**. Any testing tool utilized must be noted in the evaluation. The information packet received from the Intoxicated Driving Program shall also be utilized. The treatment program shall inform the client of his or her specific responsibility under the treatment plan. If a client is determined by the treatment program to need treatment, a treatment plan shall be developed and a copy of the plan shall be provided to the client.

[Clients shall be advised that failure to participate in treatment will result in license suspension and a minimum two-day jail sentence, or if he or she has been sentenced to treatment in place of jail, imposition of the applicable jail sentence.] The treatment agency shall establish a written, signed contract with the client regarding the treatment plan. The client shall sign a records release authorization during the intake process. The form shall be completed to allow the court, the Intoxicated Driver Resource Center, the Intoxicated Driving Program, the Division [of Addiction Services], the Motor Vehicle[s] Commission, the client's attorney, and the treatment program/approved grantee and coordinating grantee, as appropriate, to exchange information.

(c) (No change.)

(d) When determining whether a client is an eligible recipient, an approved grantee shall require proof of income and, when applicable, documentation of medical indigency status pursuant to N.J.A.C. 10:162-6.16(c) in the form of the prior year's tax returns, pay stubs, or other documentation deemed suitable by the Division [of Addiction Services].

10:162-6.3 Length of [treatment] and level of care for substance use disorder treatment

The [minimum] length of treatment [for outpatient] shall be [16 sessions, one session per week] **for a duration of time that is clinically necessary**. [Each session shall be a minimum of one hour. The Intoxicated Driver Resource Center may require a mixture of outpatient, intensive outpatient, and/or inpatient and self help for a total time of one year from the date treatment commences.] **The level of care identified for a client must be supported by ASAM criteria and a DSM diagnosis.**

10:162-6.13 Final client treatment release, evaluation, and request for payment

(a) In releasing a client from treatment, the counselor is making a professional judgment about the client's alcohol/drug behavior. The client should be in control of his or her problem. For [alcohol or drug abusers] **clients with a substance use disorder**, this will mean abstinence; for [others] **clients** who [are not alcohol or drug abusers] **do not have a substance use disorder**, this will mean the ability for the client to make rational decisions regarding alcohol/drug use and driving.

(b) (No change.)

(c) An approved sub-grantee shall present suitable documentation to a coordinating grantee designated by the Division [of Addiction Services] for payment for a covered treatment episode, indicating the date or dates on which services were provided, the number of units of service provided, the modality or modalities of service provided and proof that the client was an eligible recipient.

(d) The Division [of Addiction Services] may authorize provider service sub-contracts in the form of payments by a coordinating grantee to approved grantees based on the documentation provided pursuant to N.J.A.C. 10:162-[6.13(c) and] 10.4(a) through (c) **and (c) above**.

10:162-6.14 Client treatment procedures

(a) (No change.)

[(b)] If a convicted intoxicated driver or licensed driver is sent to treatment by Intoxicated Driver Resource Center or by the Intoxicated Driving Program, he or she must successfully complete a minimum of 16 weeks of treatment. Each session shall consist of one session per week which shall last no less than one hour in duration. The requirement of treatment within a 16 week period can be waived by the Intoxicated Driver Resource Center Director to meet the extraordinary circumstances of the client, upon a written petition from the client and with the approval of the Intoxicated Driving Program (for example, if the client has an out-of-State work assignment or is attending an out-of-State educational institution). The requirement of 16 sessions of treatment cannot be waived.

(c) If the treatment program decides that the client needs additional treatment beyond 16 sessions, the program shall state its reasons in writing to the Intoxicated Driver Resource Center or Intoxicated Driving Program as appropriate and receive written approval before commencing any additional treatment. The client shall receive written notice regarding the request for the extension and may submit comments regarding the appropriateness of the decision to the Intoxicated Driver

Resource Center or the Intoxicated Driver Program, as appropriate, within 10 days of this notice.]

Recodify existing (d)-(e) as **(b)-(c)** (No change in text.)

10:162-6.16 Treatment costs

(a) The Division [of Addiction Services] shall not be responsible for any treatment costs for any treatment or treatment agency evaluation costs for a client unless the client provides proof that he or she is an eligible recipient, and the grantee or sub-grantee providing such services indicates what percentage of the costs have been or will be paid from other sources. The Division [of Addiction Services] may then make payments from the Fund on a sliding scale up to 100 percent of the costs.

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

(d) A client who claims to be an eligible recipient shall provide proof of income and, when applicable, documentation of medical indigency status including, but not limited to, garnishments, alimony, child support and legal fines, to an approved grantee pursuant to N.J.A.C. 10:162-6.1(d). Proof of eligibility does not relieve the client of the responsibility to pay the Intoxicated Driving Program and Intoxicated Driver Resource Center fees required pursuant to N.J.A.C. 10:162-2.4 and 8.1, and any nominal co-payment charged by an approved grantee for therapeutic purposes, as approved by the Division [of Addiction Services].

SUBCHAPTER 8. CLIENT NON-COMPLIANCE PROCEDURES

10:162-8.6 Conditions for a request for restoration of a client's driving privileges [after a finding of noncompliance by a court]

[(a) A client referred to treatment who is subsequently found in noncompliance by the court shall satisfactorily complete two consecutive months of treatment before the Intoxicated Driving Program shall be notified by the Intoxicated Driver Resource Center to request that the Division of Motor Vehicles restore the client's licensed driving privilege.

(b) A multiple offender who was found in noncompliance by a court shall satisfactorily complete three consecutive months of treatment before the Intoxicated Driving Program shall be notified by the Intoxicated Driver Resource Center to request that the Division of Motor Vehicles restore the client's driving privilege. However, at the discretion of the Intoxicated Driver Resource Center Director, program completion may be required.]

[(c)] The Intoxicated Driver Resource Center shall receive written notice from the **affiliated treatment** [facility] **agency** of satisfactory performance **of treatment** before notifying the Intoxicated Driving Program to request that the Division of Motor Vehicles restore the client's driving privileges.

SUBCHAPTER 9. MISCELLANEOUS OFFENDERS

10:162-9.1 Multiple offenders

(a) Prior to restoration of a multiple offender's driver's license, the offender shall be evaluated by the Intoxicated Driver Resource Center/Intoxicated Driving Program, and if treatment is complete, a recommendation for license restoration will be made to the Division of Motor Vehicles providing that:

1. (No change.)

2. The client has successfully completed [at least three months of] approved treatment requirements and agrees to complete the remainder of any ordered treatment plan.

(b) (No change.)

SUBCHAPTER 10. ALCOHOL TREATMENT PROGRAM FUND GRANTS

10:162-10.1 Form and manner in which application for provider service contracts to the fund shall be made

(a) The Division [of Addiction Services] shall annually publish specific application procedures, qualifications, and requirements for award of funding to a coordinating service agency and approved sub-contracted providers in the Department of Human Services Directory of Contracted Services or through a public notice in such form as may be used by the Department of Human Services for announcing other

funding initiatives, based upon the availability of funding, consistent with this subchapter.

(b) Eligible applicants may apply to the Division [of Addiction Services] for funding pursuant to the procedures and requirements indicated in (a) above and, upon execution of a provider service contract or sub-contract, will be considered approved grantees. Applicant programs shall apply to:

Division of **Mental Health and** Addiction Services
New Jersey Department of Human Services
PO Box [362] **700**
Trenton, NJ 08625-[0362]**0700**

10:162-10.2 Length of provider service contracts

Subject to the availability of funds, the Division [of Addiction Services] may contract with the coordinating grantee or grantees for a time period that is appropriate and consistent with Department of Human Services policies and procedures for the administration of provider service contracts.

10:162-10.4 Funding priorities

(a) The Division [of Addiction Services] may make funding available to a coordinating grantee or grantees and approved sub-grantees for certain populations pursuant to (b) through (e) below.

(b) First priority is for residential or combined residential and detoxification services, and clinically indicated continuing care treatment services, provided to eligible recipients who, at the time of admission, meet the Level [III.7] **3.5, 3.7** or [III.7-D] **3.7-WM** criteria of the ASAM [PPC 2R] **Criteria** on or after October 17, 2005.

(c) Second priority is for intensive outpatient clinically-indicated subsequent continuing care treatment services provided to eligible recipients who, at the time of admission, meet the Level [II] **2.1** criteria of the ASAM [PPC-2R] **Criteria**, and who were referred to treatment on or after October 17, 2005.

(d) Third priority is for outpatient and other treatment services provided to eligible recipients who meet the Level [I] **1** criteria of the ASAM [PPC-2R] **Criteria**, and who were referred to treatment on or after October 17, 2005.

(e) The Division [of Addiction Services] may disburse funds or authorize the disbursement of any funds for others who have been convicted of an offense under N.J.S.A. 39:4-50 et seq., 39:4-50.4(a), 39:4-50.14, 12:7-46, 12:7-57, 39:3-10.24, or 39:4-14.3g no more than five years prior to October 17, 2005, and who meet the ASAM [criteria] **Criteria** referenced in (b) through (d) above, as long as its estimates of need permit it to do so and funding is available.

SUBCHAPTER 11. INTOXICATED DRIVER RESOURCE CENTER PER DIEM FEE INCREASES

10:162-11.1 Criteria for Intoxicated Driver Resource Center per diem fee increases

(a) The Commissioner of Human Services, in consultation with the Governor's Council on Alcoholism and Drug Abuse, may entertain and grant a request from the Division [of Addiction Services], in coordination with the Directors of the Intoxicated Driver Resource Centers, for a per diem fee increase for all Intoxicated Driver Resource Centers, when it has been determined by the Director of the Division [of Addiction Services] that more than 50 percent of the Intoxicated Driver Resource Centers are operating in deficit, based upon the annual income and expenditure reports submitted pursuant to N.J.A.C. 10:162-2.7.

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