

Department of Human Services
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The agency proposal follows:

Summary

The Department of Human Services (Department) is proposing the readoption of the rules with an amendment. Pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 10:2 were scheduled to expire on February 19, 2022. As the Department filed this notice of proposed readoption prior to that date, the expiration date is extended 180 days to August 18, 2022. This chapter contains the rules of the Department of Human Services governing the County Human Services Advisory Councils, the State Human Services Advisory Council, and the Commissioner’s Executive Advisory Committee. Specifically, N.J.A.C. 10:2 establishes the rules that outline and clarify the minimum standards applicable to the County Human Services Advisory Councils, the State Human Services Advisory Council, and the Commissioner’s Executive Advisory Committee.

The following is a summary of the subchapters at N.J.A.C. 10:2 and a description of the amendment proposed at N.J.A.C. 10:2-2.2.

Subchapter 1 provides an overview of the County Human Services Advisory Councils including: the mission, purpose, and scope; the definition of terms used throughout the chapter; Council membership criteria; the relationship to other county advisory groups is defined as the principal human services advisory body to the departments and to the county; guidance regarding required committees and Council functions; as well as Council procedural requirements.

Subchapter 2 provides an overview of the State Human Services Advisory Council including: the mission, purpose, and scope; the membership requirements; as well as the administrative requirements and composition of this Council. An amendment is proposed for N.J.A.C. 10:2-2.2 to revise the reference to “Department of Health and Senior Services” to the “Department of Health” in the State government membership requirements for the Council.

Subchapter 3 describes the requirements for the Commissioner’s Executive Advisory Committee including: the mission and the required composition of the Committee, as well as the administrative requirements regarding the work of the Committee.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with an amendment will have a positive social impact. The rules will continue to benefit applicants, recipients, and providers of services, as well as have a positive impact on the planning and delivery of social services at the State and local levels.

Economic Impact

The rules proposed for readoption with an amendment will have no negative economic impact.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with an amendment are not subject to any Federal standards or requirements.

Jobs Impact

The rules proposed for readoption with an amendment will not generate or cause the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with an amendment will not impact the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with an amendment do not impose any new or additional reporting, recordkeeping, or compliance requirements for small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Accordingly, a regulatory flexibility analysis is not needed.

Housing Affordability Impact Analysis

The rules proposed for readoption with an amendment will not impact the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption with an amendment would evoke a change in the average costs associated with housing because the rules pertain to clarifying the minimum standards for the Department.

Smart Growth Development Impact Analysis

The rules proposed for readoption with an amendment will not impact the number of housing units or the availability of affordable housing in this State and will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with an amendment will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, an analysis is not required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:2.

Full text of the proposed amendment follows (deletion indicated in brackets [thus]):

SUBCHAPTER 2. STATE HUMAN SERVICES ADVISORY COUNCIL

10:2-2.2 Membership requirements

(a) The State Human Services Advisory Council shall consist of:

1.-2. (No change.)

3. Representatives from other departments of State government (to include, but not be limited to, the Departments of Labor and Workforce Development, Education, Community Affairs, and Health [and Senior Services]) as ex-officio non-voting members.

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

(a)

THE COMMISSIONER

Role of the County Adjuster

Proposed Readoption with Amendments: N.J.A.C. 10:7

Authorized By: Sarah Adelman, Acting Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12 and 30:4-60 through 78; and Reorganization Plan 001-2018.

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

Proposal Number: PRN 2022-039.

Submit comments in writing by June 3, 2022, to:

Gerard Hughes, Assistant Commissioner
Office of Legal and Regulatory Affairs
Department of Human Services
PO Box 700
Trenton, New Jersey 08625-0700
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The agency proposal follows.

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:7 were scheduled to expire on February 19, 2022. The Department of Human Services (Department) is proposing the readoption of the rules with amendments. As the Department submitted this notice of proposal to the Office of Administrative Law prior to February 19, 2022, the expiration date is extended 180 days to August 18, 2022, pursuant to N.J.S.A.

52:14B-5.1.c(2). N.J.A.C. 10:7 contains rules governing the role of the county adjuster of the 21 New Jersey counties. The rules proposed for readoption with amendments ensure that the role of each county adjuster is standardized and carried out in an effective and efficient manner throughout the 21 counties.

The following is a summary of the subchapters at N.J.A.C. 10:7 and a description of the amendments proposed at N.J.A.C. 10:7-2.1, 4.1, and 5.1.

Subchapter 1 articulates the chapter’s purpose and scope regarding the role of the 21 county adjusters.

Subchapter 2 defines the words and terms that are used throughout the chapter. The following amendments are proposed for the definitions found at N.J.A.C. 10:7-2.1. “County psychiatric facility” has a proposed amendment to update the reference to the Division of Mental Health Services (DMHS) to the Division of Mental Health and Addiction Services (DMHAS). The definition of DMHS is amended to be “DMAHS” (this change is made throughout the chapter). “Short-term care facility” has a proposed amendment to change the phrase “mentally ill” to “person with a mental illness.” “Special psychiatric hospital” has a proposed amendment to delete “and Senior Services” in the reference to the Department of Health.

Subchapter 3 provides the county adjuster responsibilities regarding commitments, admissions, reviews, and discharges for individuals receiving DMHAS services and Division of Developmental Disabilities (DDD) services, as well as providing the requirements to make the records available to the Department and for cooperation with the Department’s designated agents and contractors.

Subchapter 4 sets forth the county adjuster’s responsibilities for preparing court orders of settlement and support for clients/legally responsible representatives (LRR) of DMHAS and/or county psychiatric facilities, as well as the Charity Care fee scale income eligibility criteria and documentation. An amendment is proposed at N.J.A.C. 10:7-4.1(b)5 and (c)6, to revise DYFS (the Division of Youth and Family Services) references to DCF (Department of Children and Families). DYFS is now the Division of Child Protection and Permanency within DCF.

Subchapter 5 sets forth the rules for county adjuster accounting with regard to State and county billing for clients/LRRs including DDD clients/LRR. An amendment is proposed at N.J.A.C. 10:7-5.1(g) to delete a reference to DMHS because the State psychiatric hospitals are under the authority of the Department of Health.

Subchapter 6 provides guidance for handling liens against real and personal property of DDD clients who have State and county settlements and are admitted to services; requires the Division of Medical Assistance and Health Services (Medicaid) to handle liens for Medicaid clients; as well as sets forth specific circumstances for the filing of liens against LRRs.

Subchapter 7 sets forth the administration rules for the county adjuster’s office, such as record retention requirements, compliance with the Health Insurance Portability and Accountability Act, and membership on the county Board of Social Services, among other responsibilities.

Subchapter 8 requires compliance with Federal and State law, as well as the associated rules, or be subject to sanctions and sets forth the appeals procedures.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is exempted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments will have a positive social impact by providing for the standardization of procedures to be used by the adjusters benefiting the clients and their relatives when dealing with the county adjusters.

Economic Impact

The rules proposed for readoption with amendments will have no negative economic impact on Department clients and compliance with this chapter does not require additional financial expenditures by the State or any counties or other affected parties, including the recipients of mental health services and the State. The taxpaying public is anticipated to benefit from these rules, because they help to ensure that the various services

provided through the 21 county adjusters are implemented as effectively and efficiently as possible.

Federal Standards Statement

The rules proposed for readoption with amendments do not exceed Federal standards and address compliance with Federal laws such as the Health Portability and Accountability Act of 1996 (P.L. 104-191, 1996; 45 CFR Part 160 and Part 164, Subparts A and E), Community Services Block Grant Program (42 U.S.C. §§ 9901 et seq.), and Medicaid (42 U.S.C. §§ 1396 et seq.).

Jobs Impact

The rules proposed for readoption with amendments governing the role of the county adjuster will not generate or cause the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not impact the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments governing the role of the county adjuster only affect certain Human Services clients, public employers, and employees. A regulatory flexibility analysis is not needed because the rules proposed for readoption with amendments do not impose any new or additional requirements on small businesses, as defined at N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not have an impact on the affordability of housing in New Jersey, nor will the rules proposed for readoption with amendments affect the average costs associated with housing because the rules proposed for readoption with amendments concern the duties of the county adjuster in the State counties.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will not impact the number of housing units or the availability of housing in this State and will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules proposed for readoption with amendments concern the duties of the county adjuster in the State counties.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The rules proposed for readoption with amendments will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:7.

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

SUBCHAPTER 2. DEFINITIONS

10:7-2.1 Definitions

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

...
 “County psychiatric facility” means a county operated psychiatric facility which participates in the State Aid Program of the New Jersey Division of Mental Health and Addiction Services [(DMHS)] (DMHAS).
 ...

[“Division of Mental Health Services” (DMHS)] “**Division**” or “**DMHAS**” means [a division] **the Division of Mental Health and Addiction Services** within the Department of Human Services which establishes Statewide policy and coordination regarding the delivery of mental health services, operates the State psychiatric hospitals, and contracts with community-based mental health providers for direct services.

...
 "Short-term care facility" means an inpatient, community based mental health treatment facility which provides acute care and assessment services to a [mentally ill] person **with a mental illness** whose mental illness causes the person to be dangerous to self or dangerous to others or property. A short-term care facility is so designated by the Commissioner and is authorized by the Commissioner to serve persons from a specified geographic area. A short-term care facility may be a part of a general hospital or other appropriate health care facility and meets certificate of need, licensing, and inspection requirements of the Department of Health [and Senior Services] pursuant to P.L. 1971, [c.136] c. 136 (N.J.S.A. 26:2H-1 et seq.), and in accordance with standards developed jointly with the Commissioner of Human Services. (N.J.S.A. 30:4-27.2bb[; N.J.A.C. 8:43E-3.3])

"Special psychiatric hospital" means a public or private hospital licensed by the Department of Health [and Senior Services] to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment, and rehabilitation services to persons who are mentally ill. (N.J.S.A. 30:4-27.2cc)

...

SUBCHAPTER 3. COUNTY ADJUSTER RESPONSIBILITIES REGARDING COMMITMENTS, ADMISSIONS, REVIEWS, AND DISCHARGES

10:7-3.1 [DMHS] **DMHAS** services

(a) The county adjuster shall be responsible for commitment, admission, review, and discharge of persons receiving [DMHS] **DMHAS** services, including those receiving services from county psychiatric facilities.

(b)-(k) (No change.)

SUBCHAPTER 4. COURT ORDERS OF SETTLEMENT AND SUPPORT

10:7-4.1 County adjuster's responsibilities for preparing court orders of settlement and support for clients/LRRs of [DMHS] **DMHAS** and/or county psychiatric facilities

(a) (No change.)

(b) The formal investigation of support regarding the county of legal settlement shall, as necessary, take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1.-4. (No change.)

5. Obtain residency data from Federal, State, and county agencies supplying the client with benefits or assistance (SSA, SSI, SSD, RR, VA Pensions, Medicare, Medicaid, [DYFS] **DCF**, **DFD**, General Assistance, etc.);

6.-10. (No change.)

(c) The formal investigation of support to determine financial ability of the client and/or LRR(s) to pay shall, as necessary, take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1.-5. (No change.)

6. Obtain financial data from Federal, State, and county agencies supplying the client with benefits or assistance (SSA, SSI, SSD, RR, VA Pensions, Medicare, Medicaid, [DYFS] **DCF**, **DFD**, General Assistance, etc.);

7.-14. (No change.)

(d)-(h) (No change.)

(i) The county adjuster shall submit a petition for the court to determine the client's legal settlement and provision for payment of expenses of the client's care and maintenance, in accordance with Civil Practice Rules 4:74-7 and 4:74-7A, or as otherwise directed by the AOC. The county adjuster shall attach a report to the petition that includes the investigative findings and/or testimony, the Charity Care Fee Scale and/or Treasury Formula worksheet(s), the results of the investigation, and the recommendations for an order of settlement and support. The county adjuster shall schedule a hearing, with proper notice, for settlement and support, only if there are objections to the proposed court order. The county adjuster shall distribute a copy of the petition and report:

1.-4. (No change.)

5. To the [DMHS] **DMHAS** for State and no settlement clients in county psychiatric facilities, by regular mail; and

6. (No change.)

(j)-(n) (No change.)

SUBCHAPTER 5. ACCOUNTING

10:7-5.1 County adjuster accounting procedures

(a) The county adjuster is responsible for accounting activities regarding clients/LRRs of [DMHS] **DMHAS** and the county psychiatric facilities with respect to the State billing for clients with county settlement, the county billing for clients with State or no settlement, and billing and collection of client and/or LRR maintenance contributions and recoveries for clients with county settlement. The county adjuster is also responsible for accounting activities regarding DDD clients/LRRs with respect to the State billing for clients with county settlement, and the reporting of all maintenance collections and all recoveries received by the county from the client and/or LRR or a third party on behalf of the client. Payment from DDD clients and their LRRs shall be made in accordance with N.J.S.A. 30:4-60b and N.J.A.C. 10:46-2.3(f). The State and counties' settlement agreement pursuant to [County of Union v. Gibbs] *County of Union v. Gibbs* (Docket No. 38428, New Jersey Supreme Court, stipulation of dismissal, February 17, 1995) case does not preclude the county from reporting all the maintenance collections and all recoveries received by the county. Under terms of the settlement agreements, the counties are required to submit documentation and remit certain recoveries immediately to the State.

(b) (No change.)

(c) The county adjuster shall review the county billing to the State and certify to the State that clients billed by the county psychiatric facility have appropriate State or county settlement and that the clients were resident in the facility for the number of days charged.

1. The DHS, [DMHS] **DMHAS** shall notify the county adjuster in writing, if necessary, within 25 workdays from the receipt of the county billing of any adjustments required.

2. The county adjuster shall review all credits issued by the county to the State to determine if the clients were properly charged to the State. The [DMHS] **DMHAS** will review the accuracy of the credit(s) information submitted to the State and notify the county adjuster within 25 workdays of receipt of any adjustments required.

3. The county adjuster shall file a report with the [DMHS] **DMHAS** on all revenue received by the county psychiatric facility. The report shall be on a cash basis by revenue source for the calendar year. The report is due to [DMHS] **DMHAS** by June 30 of the year following the end of the calendar year.

(d) The county adjuster shall actively pursue court-ordered and voluntary contributions due from county chargeable clients and/or LRRs of [DMHS] **DMHAS** and/or the county psychiatric facilities, pursuant to billing by the facility supervisor of patient accounts. A monthly statement shall be issued to contributing clients and/or LRRs of [DMHS] **DMHAS** and/or the county psychiatric facilities indicating the amount of contribution expected (court ordered or voluntary) for the month as well as any open balances from previous months. Court ordered contribution amounts based on assessments completed prior to September 20, 2005, the effective date of P.L. 2005, c. 55, for clients in a [DMHS] **DMHAS** or county psychiatric facility on September 20, 2005, shall be the amount resulting from the original calculation or the amount resulting from utilizing the Charity Care Fee Scale, whichever is less.

(e)-(f) (No change.)

(g) Any payments due the State for [DMHS] State psychiatric facility clients and DDD clients shall be incorporated into the reconciliation of the mental health billings for the State psychiatric facilities. The payments due shall be considered as adjustments.

(h) (No change.)