

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CHILDREN AND FAMILIES

(a)

DIVISION OF CHILD PROTECTION AND PERMANENCY

Service Delivery General Provisions Dispute Resolution

Proposed Readoption with Amendments: N.J.A.C. 3A:11

Proposed Repeal: N.J.A.C. 3A:11-1.8

Proposed Amendment: N.J.A.C. 3A:5-1.3

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner,
Department of Children and Families.

Authority: N.J.S.A. 9:3A-7f and g and 30:4C-4(h).

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

Proposal Number: PRN 2017-102.

Submit written comments by August 18, 2017, to:

Pamela Wentworth
Office of Policy and Regulatory Development
Department of Children and Families
PO Box 717
Trenton, New Jersey 08625
or rules@dcf.state.nj.us

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 3A:11, Service Delivery General Provisions, was scheduled to expire May 20, 2017. Pursuant to N.J.S.A. 52:14B-5.1.c(2), this date is extended to November 16, 2017. The Division has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

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

N.J.A.C. 3A:11 was originally promulgated in January 1993. It was readopted December 31, 1997, expired December 31, 2002, was adopted as new rules December 6, 2004, and readopted in 2010. The Department of Children and Families, in conjunction with the Office of Administrative Law, administratively recodified N.J.A.C. 3A:11 from N.J.A.C. 10:133. See 49 N.J.R. 98(a).

The purpose of this chapter is to provide information applicable to several of the Division of Child Protection and Permanency's chapters in one central location, rather than repeating the information in each

chapter. It is more convenient for the reader to find definitions for terms in one place rather than to search each chapter. This also ensures that the Division uses standard definitions for the terms used in this series of chapters as much as possible.

In addition to definitions, this chapter contains the rights and responsibilities of clients and applicants, the responsibilities of the Division, service limitations, and appeals.

The Division is amending N.J.A.C. 3A:11-1.1(a) and 1.2 to remove the phrase "series of chapters." In Title 10 of the New Jersey Administrative Code, N.J.A.C. 3A:11 was N.J.A.C. 10:133. The series of chapters referred to other chapters numbered, for example, 133D, 133E, 133H, 133J, and 133K. In Title 3A, these chapters are not numbered consecutively, so "series of chapters" is replaced by each chapter's citation. N.J.A.C. 3A:11-1.1(b) is similarly amended to remove the phrase "which follow," which refers to the series of chapters on service delivery. Again, each chapter is listed.

At N.J.A.C. 3A:11-1.3, the Division proposes to amend the definition of "adoption subsidy" to match the definition at N.J.A.C. 3A:23-1.1. The definition at N.J.A.C. 3A:11-1.3 contains extraneous language that is more properly contained in the rule text of N.J.A.C. 3A:23-1.3, including specific services that are covered by the adoption subsidy and to whom the subsidy payments are made.

At N.J.A.C. 3A:11-1.3, in the definition of "applicant," the Division is removing "through 3A:18" and replacing it with the list of chapters that were formerly cited as N.J.A.C. 10:133 through 133K. Each chapter is listed separately, as they are no longer consecutive.

The Division is amending N.J.A.C. 3A:11-1.3 to add definitions that support the proposed amendments to N.J.A.C. 3A:18, New Jersey Safe Haven Infant Protection Act Procedures and Requirements, to be published in a future issue of the New Jersey Register. These terms include ambulance, emergency medical responder, firefighter, and fire department. These terms are necessary to support the proposed amendments because of the 2015 amendments to N.J.S.A. 30:4C-15.5 et seq. The term "safe haven infant" is also amended to include a firefighter at a fire department and emergency medical personnel in an ambulance as persons to whom an infant may be given to be in accordance with the amended statute.

The definition of "camp" in N.J.A.C. 3A:11-1.3 is amended to correct the name of the Department of Health and Senior Services to the Department of Health, pursuant to N.J.S.A. 26:1A-2.1.

The Division is removing the term "and/or" from the definitions of "child advocate" and "family friend" in order to clarify that only one of the two conditions listed is required. The Division is also removing "and/or" from the definition of "treatment home" and replacing it with "or" to clarify that treatment homes treat children with at least one of the following challenges: emotional, social, or behavioral.

The definition of "child care" is proposed for amendment to include "an approved individual," rather than "and individual approved by the Division." The purpose of this amendment is to allow for the possibility

of agencies other than the Division to approve child care providers in the child's own home.

The Division of Youth and Family Services (DYFS) was renamed the Division of Child Protection and Permanency (CP&P) by the amendment of N.J.S.A. 9:3A:10, effective June 29, 2012. The Division is amending the name of the agency throughout the chapter at N.J.A.C. 3A:11-1.3, definitions of DYFS Legal Guardianship Subsidy Program, Director, Division, Division representative, local office, adoptive care, resource family home, Safe Haven for Infants Hotline, and substance abuse services. Recodified N.J.A.C. 3A:11-1.6(c)4 is also amended from the "DYFS" to the "CP&P" Legal Guardianship Subsidy Program to agree with the title of N.J.A.C. 3A:20.

The definition of "domestic violence services" is amended to bring the definition up to date. Services that are not provided to individuals, such as community networking and community education and awareness, are removed, as is the specification that certain services be available 24 hours a day. Emergency shelter care is moved from the primary service to one of the listed services. Instead, emergency shelter care is replaced by a referral to community partners that support the safety of victims of domestic violence and their dependent children. Safety can be achieved through use of various services, based on the individual situation.

The definition of "educational support" is proposed for amendment to bring it up to date. The concept of the prudent parent, articulated at recently amended 42 U.S.C. § 671(a)24 and 675(10), is included. The proposed definition includes referring the child to services or resources to maximize the child's potential, including participation in extracurricular activities and informing the child, age 14 and over, of his or her educational rights.

The definition of "health care services" is proposed for amendment to bring it up to date by including comprehensive and preventative services and developmental services, including screening, assessment, and treatment services.

The definition of "out-of-home placement" is amended to remove "or with the Division's approval." The Division no longer approves and supports placements made by another party.

The definition of "foster home or foster care" is amended to remove the term "foster home," which has been replaced by the term "resource family home," which is already included in the definitions. Foster care is one of three services that a resource parent may provide in accordance with N.J.A.C. 3A:51-1.2(b)1. The Division no longer uses "contract agency home care" to provide foster care to children in placement. See 49 N.J.R. 299(a).

Similarly, the Division is removing the term "foster home" from the definition of "group home" and replacing it with "resource family home." The definition of group home is also amended to be in agreement with N.J.A.C. 3A:56-1.2(a), which defines a group home as having 12 or fewer children.

The Division is amending the definition of "resource family home" to remove Special Home Service Provider foster care and contract agency home care. The Division no longer operates the Special Home Service Provider foster care program and no longer contracts for resource family homes. The Division is also adding that a resource family home is located in New Jersey as that is contained in the definition of resource family home at N.J.A.C. 3A:51-1.3(a).

The term "shelter care" is proposed for amendment to more closely reflect the definitions of "children's shelter care home" and "children's shelter care facility" at N.J.A.C. 3A:53-1.2 by specifying that shelter care is a public or private facility or residence providing care in a non-physically restrictive environment.

The Division is amending the legal citation at N.J.A.C. 3A:11-1.3, in the definition of Title XIX Medicaid, to add "et seq." This is a more accurate citation.

The Division proposes to remove the definition of "treatment-based out-of-home placement program" because the term is interchangeable with "residential facility."

The Division proposes to amend the definition of "post-adoption services" to remove the exclusion of adoption registry services, which are now considered to be post-adoption services.

The Division is correcting an error in the citation to 20 U.S.C. § 1070a in the definition of "satisfactory academic progress" at N.J.A.C. 3A:11-1.3.

The Division is proposing to amend the term "substance abuse services" to the term "substance use disorder services," in keeping with the current usage. In addition, the specific services that make up substance abuse services are brought up-to-date to include short-term residential treatment, long-term residential treatment, halfway house treatment, outpatient and intensive outpatient treatment, medication-assisted treatment, and recovery supports. The term is used at N.J.A.C. 3A:5-1.3, in the definition of "Division service issue" and defined at N.J.A.C. 3A:11-1.3.

The definition of "treatment home" within the definition of "out-of-home placement" at N.J.A.C. 3A:11-1.3 is amended to match the definition of "treatment home" in N.J.A.C. 3A:56-1.2(b)4. Treatment homes are no longer located in a private home, but only in agency-operated residences.

The Division is removing N.J.A.C. 3A:11-1.4(d) and (f), as they no longer describe the application process. The application process is handled by telephone through the Division's State Central Registry. Subsection (d) allows a representative to speak, act, and apply on behalf of an applicant or client. It allows a Division representative to be the representative and apply for services. The Division does not have the legal authority to represent a client in this way. While the Division gives applicants and clients various documents related to their interaction with the Division, copies of a completed application are no longer distributed.

The Division is deleting N.J.A.C. 3A:11-1.4(g)9, as the Division does not distribute generic written information about the purpose and procedures regarding an assessment. N.J.A.C. 3A:11-1.6(a) requires the Division representative to explain how the Division will work with a family.

The Division is correcting the cross-reference to the Health Insurance Portability and Accountability Act at recodified N.J.A.C. 3A:11-1.4(e)12 to 42 U.S.C. § 1320f.

The Division amended N.J.A.C. 3A:10 in 2013, to go from two child abuse or neglect findings to four findings. See 42 N.J.R. 3034(a); 44 N.J.R. 263(a). The Division proposes to add the two new findings, established and not established, to recodified N.J.A.C. 3A:11-1.4(g) in order to be clear that all clients are notified that a disposition was made.

The Division is deleting N.J.A.C. 3A:11-1.4(h) because it is redundant. The Division treats confidential information in accordance with N.J.A.C. 3A:3, Client Information. Restating that in this rule is unnecessary.

The Division proposes to remove N.J.A.C. 3A:11-1.4(l) as it is redundant. This does not add anything to a client's or applicant's rights.

The Division is proposing a new N.J.A.C. 3A:11-1.6(b) to state that the Division may provide services directly or through third-party social service contracts with other service providers, as well as referring clients to service providers. The Division recently repealed N.J.A.C. 10:133E where this rule was formerly found. See 48 N.J.R. 1774(a); 49 N.J.R. 640(a). The Division has added this information to N.J.A.C. 3A:11 in order to clarify for the public the ways in which the Division assists clients to obtain needed social services.

The Division is repealing N.J.A.C. 3A:11-1.8 as it is redundant. N.J.A.C. 3A:5 addresses clients' and applicants' opportunities to resolve a dispute with the Division. It is not necessary to restate that in this chapter.

Social Impact

As of December 31, 2016, the Division had 48,049 children, who were part of 25,185 families, under supervision. These rules affect each applicant or client of the Division.

Giving potential applicants or clients, as well as actual applicants and clients, information about their rights and responsibilities can help them know what to expect from the Division and what the Division expects of them. The impact of establishing responsibilities is that the Division can hold applicants and clients to the listed responsibilities. The effect on the applicants' and clients' rights is to require the Division to take the measures necessary to ensure that the applicants' and clients' rights are respected.

The Division expects a positive reaction to the rules proposed for readoption with amendments and a repeal, as the reaction to prior rulemakings has been positive.

Economic Impact

The rules proposed for readoption with amendments and a repeal have no economic impact on the public. They may have a potential impact on applicants and clients because they require applicants and clients to provide financial information related to their eligibility for certain social services at N.J.A.C. 3A:11-1.5. The rules also require that the Division inform a client of his or her responsibility to either reimburse or pay for certain services at N.J.A.C. 3A:11-1.6(a)12.

The implementation of service limitations will have an economic impact on the Division if the Division ever imposes them. One reason to impose service limitations is to reduce spending. Service limitations might also have an economic impact on clients who might have to pay for services that they previously received from the Division at no cost. The Division has not implemented service limitations since these rules were initially adopted in 1993.

The Division’s 2017 Federal Social Security Act’s Title IV-E appropriation is \$93,947,000. In order to be eligible to receive the Title IV-E funds, a state must have a plan that provides that the state may not delay or deny a child’s placement in foster care or for adoption on the basis of race, color, or national origin. See 42 U.S.C. § 671(a)18. This chapter confirms, at N.J.A.C. 3A:11-1.4(i), New Jersey’s nondiscrimination standards for all services provided through this chapter and related chapters.

42 U.S.C. § 674(e) requires a graduated reduction in Federal payments under Title IV-E when requirements are not met.

Federal Standards Statement

The Federal Social Security Act requires a state to have a plan that provides that the state does not deny or delay foster care or adoption services on the basis of the child’s or the foster or adoptive parent’s race, color, or national origin. See 42 U.S.C. § 671(a)18 and 45 CFR 1355.38.

Pursuant to 42 U.S.C. § 1996b, noncompliance with the above prohibitions is a violation of Title VI of the Civil Rights Act of 1964. Recodified N.J.A.C. 3A:11-1.4(f) supports and does not exceed the Federal standards.

The Social Security Act also requires that a state notify adult relatives within 30 days of a child’s out-of-home placement at 42 U.S.C. § 671(a)29. Recodified N.J.A.C. 3A:11-1.6(c) supports and does not exceed the Federal standard.

42 U.S.C. §§ 671(a)(24) and 675(10), effective September 29, 2015, add the prudent parent standard, which this chapter includes.

Therefore, a Federal exceedance analysis is not required for this rulemaking.

Jobs Impact

The Division anticipates that the rules proposed for readoption with amendments and a repeal will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a repeal have no impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Division nor those who receive services from the Division are considered a small business as defined at N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act (the Act). In general, those who make abuse or neglect reports or referrals to the Division are considered individuals, not small businesses as defined in the Act. N.J.S.A. 30:4C-11 states that applications may be filed with the Division “by a parent or other relative of such child, by a person standing in loco parentis to such child, by a person or association or agency or public official having a special interest in such child or by the child himself . . .” While the associations and agencies mentioned may be small businesses, the Division cannot establish separate referral procedures for small businesses that might endanger a child’s safety or health. Nothing in this chapter or the chapters covered by this rule requires a reporter to complete any recordkeeping or compliance requirements.

Therefore, a regulatory flexibility analysis is not necessary. The rules proposed for readoption with amendments and a repeal state the definitions used in chapters, client and applicant rights and responsibilities, Division responsibilities, and information about service limitations.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and a repeal have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to general provisions of the Division’s service delivery.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and a repeal have no impact on smart growth and there is an extreme unlikelihood that the rules would 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 the rules proposed for readoption with amendments and a repeal pertain to general provisions of the Division’s service delivery.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3A:11.

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

CHAPTER 5
DISPUTE RESOLUTION

SUBCHAPTER 1. INTRODUCTION AND OVERVIEW

3A:5-1.3 Definitions

(a) The definitions in N.J.A.C. 3A:14-1.3 and 3A:11-1.3 are hereby incorporated by reference. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...
 “Division service issue” means a Division action affecting a case goal or a case plan necessary to achieve a case goal, as allowed in N.J.A.C. 3A:12-1, and limited to: the denial of a request for, or the reduction, suspension, or termination by a Division representative of the following services, as defined in N.J.A.C. 3A:11-1.3: adoption subsidy, child care, discharge planning and aftercare services, domestic violence services, CP&P Legal Guardianship Subsidy Program, educational support, emergency maintenance service, family preservation services, health care services, homemaker service, mentor services, out-of-home placement, post-adoption services, pre- and post-natal services, psychological/therapeutic services, respite care, self-sufficiency skills, substance [abuse] **use disorder** services, Title XIX Medicaid, or transportation; parent and child visitation as described in N.J.S.A. 9:6B-4 and N.J.A.C. 3A:15-1; or the failure of a Division representative to act with reasonable promptness on a request for any of the above services.
 ...

CHAPTER 11
SERVICE DELIVERY GENERAL PROVISIONS

SUBCHAPTER 1. GENERAL PROVISIONS

3A:11-1.1 Purpose

(a) The purpose of the [series of] chapters on service delivery, **N.J.A.C. 3A:3, 3A:12, 3A:13, 3A:18, and 3A:21** is to describe certain services provided by the Division, the processes used by the Division to determine what actions to take in response to an abuse or neglect report, referral, or application for services, what applicants and clients may expect of the Division and any standards and requirements for applicants, clients, and the Division related to those services.

(b) The purpose of this chapter is to provide certain general provisions and to define certain words and terms to be used throughout the chapters on service delivery by the Division [which follow], so as to

provide standardization and ease of accessibility to the user of the New Jersey Administrative Code. **The definitions stated at N.J.A.C. 3A:11-1.3 apply to N.J.A.C. 3A:3, 3A:5, 3A:12, 3A:13, 3A:18, 3A:20, and 3A:21.**

3A:11-1.2 Scope

The provisions of this chapter and [this series of chapters] N.J.A.C. 3A:3, 3A:12, 3A:13, 3A:18, and 3A:21 apply to each Division representative, each applicant for services from the Division, each client receiving services from the Division, each person referred for Division services, each person making an abuse or neglect report or referral to the Division, and each out-of-home placement provider for a child under the supervision of the Division.

3A:11-1.3 Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

...
 “Adoption subsidy” means [financial] payments [made] for the care[,] and maintenance [and medical and surgical expenses] of a special needs child, as defined in N.J.A.C. 3A:23-1.1[, to the person with whom the child has been placed for adoption or by whom the child has been adopted or to a medical provider when such medical and surgical payments are applied for prior to adoption].

“Ambulance” means a public or private, first aid, or rescue squad, vehicle, or station that is staffed 24 hours a day, seven days a week, for the purpose of providing emergency medical care or transporting an individual in need of medical services to a licensed or general hospital or a medical center operating in the State of New Jersey under applicable State law.

“Applicant” means a person, either adult or minor, who requests services from the Division, for himself or herself or his or her family; or a person referred by another person or agency for child welfare services. For the purposes of this chapter and N.J.A.C. [3A:11 through 3A:18,] 3A:3, 3A:12, 3A:13, 3A:18, and 3A:21, the term “applicant” does not include those persons applying to become resource parents or other providers of service.

...
 “Camp” means a set of recreational and developmental activities on either a day or residential basis for limited duration during the summer months, as licensed by the Department of Health [and Senior Services].

...
 “Child advocate” means a person specializing in the field of child advocacy who demonstrates his or her education [and/or] or experience in that field to the satisfaction of the Division, but is limited to such persons who have had direct involvement in permanency planning for the child. Child advocates include, but are not limited to, Court Appointed Special Advocates (CASA) and Law Guardians.

“Child care” means a series of comprehensive and coordinated activities provided to each individual child for a portion of the day, which provides direct personal care, attention, and supervision, which may include education, socialization, nutritional, referral, and transportation activities, and which is provided in a licensed child care center or school-age child care program, in a registered family day care home, or in the child’s own home by an approved individual [approved by the Division].

“Child welfare information” means every record, computer file, verbal or written report, and evaluation relating to any service provided by the Division, except records defined as protective service information.

...
 “CP&P Legal Guardianship Subsidy Program” means a service provided by the Division in accordance with N.J.A.C. 3A:20 to provide financial support to certain children for whom a relative or family friend has obtained kinship legal guardianship pursuant to N.J.S.A. 3B:12A-1 et seq.

...
 “Director” means the Director of the Division of [Youth and Family Services] Child Protection and Permanency in the Department of Children and Families.

“Discharge planning and aftercare services” means the assessment and identification of a client’s need for services when the client is discharged from a treatment-based out-of-home placement program, medical treatment facility, correctional facility, or day treatment program and recommending or arranging for the services for the client.

“Division” or [“DYFS”] “CP&P” means the Division of [Youth and Family Services] Child Protection and Permanency in the Department of Children and Families.

“Division representative” means a professional or paraprofessional employee of the Division of [Youth and Family Services] Child Protection and Permanency.

“Domestic violence services” means [emergency shelter care and related core services provided] referral to [adult] community partners that support the safety of victims of domestic violence and their dependent children and provide services to perpetrators of domestic violence[, which]. Services may include:

- [1. Twenty-four hour hotline and emergency response capability;]
1. **Hotline access;**
2. [Twenty-four hour] **Emergency shelter entry and care;**
3. Legal, financial, and housing advocacy services;
4. Counseling for victims, children, and perpetrators of domestic violence; **and**
- [5. Community networking;
6. Community education and awareness; and]
- [7.] 5. (No change in text.)

[“DYFS Legal Guardianship Subsidy Program” means a service provided by the Division in accordance with N.J.A.C. 3A:20 to provide financial support and permanency to certain children for whom a relative or family friend has obtained kinship legal guardianship pursuant to N.J.S.A. 3B:12A-1 et seq.]

“Educational support” means serving as an educational advocate for a child, collecting and providing educational information to relevant parties including, but not limited to, the child, parents, resource parents, school[s] staff, and other [resources] interested parties, if appropriate, and referring the child to appropriate services or resources[, such as a child study team] to maximize the child’s potential. This may include, but is not limited to:

1. [Develop] **Referral to the Child Study Team** for an appropriate educational program for the child;
2. [Facilitate] **Facilitating** the child’s access to educational opportunities, including [prompt enrollment in school following a change in placement or educational venue] **participation in extracurricular activities;** and
- [3. Maximize the child’s potential.]
3. **Informing the child, age 14 and over, of his or her educational rights.**

...
 “Emergency medical responder” means a trained medical professional, paid or volunteer, certified to provide emergency medical care to an individual in a facility, or on a medical transport vehicle. “Emergency medical responder” includes: emergency medical technician or “EMT,” nurse, paramedic, physician assistant, or rescue squad staff.

...
 “Family friend” means a person who is connected to a child [and/or] or the child’s parent by an established positive psychological or emotional relationship and not a biological or legal relationship.

...
 “Fire department” means a municipal, county, or volunteer fire station or house that is staffed 24 hours a day, seven days a week, by trained and licensed firefighters charged with the prevention and extinguishing of fires.

“Firefighter” means a member of a fire department trained to prevent and extinguish fires.

...
 “Health care services” means comprehensive and preventive medical, dental [and mental/behavioral], behavioral health, and developmental services, including screening, assessment, examination[s], [assessments] and treatment services, and the services

covered by [provided through] the Early and Periodic Screening, Diagnosis and Treatment [Program or other providers] **benefit.**

...
 “Local office” means an office of the Division of [Youth and Family Services] **Child Protection and Permanency**, which provides direct services to clients and refers clients to other services within a limited geographic area of New Jersey. The services provided may be child welfare services, child protective services, and adoption services. A local office also provides supportive services to resource family parents.

...
 “Out-of-home placement” or “placement” means physically locating a child by the Division [or with the Division’s approval,] in any out-of-home setting, including a resource family home, group home, shelter care or a residential facility for temporary treatment or long-term care, and not including placement with the child’s birth parent or a parent of a child whose adoption has been finalized. The following are the definitions for the different types of out-of-home placement services:

1. “Adoptive care” means a type of resource family home in which care is provided for a child placed by the Division of [Youth and Family Services] **Child Protection and Permanency** for the purpose of adoption by the resource family parent until said adoption is finalized.

2. “Foster [home]” or “foster care” means [either] regular foster care [or contract agency home care] as provided in a resource family home in which care is provided for a child in need of temporary out-of-home placement for protective or other social services reasons. “Foster [home]” or “foster care” shall not include placement with the child’s birth parent or a parent of a child whose adoption has been finalized.

3. “Group home” means any public or private establishment other than a [foster] **resource family** home that provides board, lodging, care, and treatment services on a 24-hour basis to [six to] 12 **or fewer** children in a home-like, community-based setting. A group home typically serves children with less severe behavioral and emotional problems, who are capable of functioning in a home-based setting.

4. (No change.)

5. “Resource family home” means a private residence, **located in New Jersey**, other than a children’s group home, treatment home, teaching family home, alternative care home, or shelter home, in which board, lodging, care, and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of the Division of [Youth and Family Services] **Child Protection and Permanency**, including a home [approved] **licensed** by the Division of [Youth and Family Services] **Child Protection and Permanency** for the placement of a child for the purpose of adoption. A resource family home does not include a child living with his or her own birth parent or parent who has adopted that child. A resource family home may provide one or more of the following services:

i. (No change.)

[ii. Special Home Service Provider foster care;

iii. Contract agency home care;]

Recodify existing iv.-v. as **ii.-iii.** (No change in text.)

6. (No change.)

7. “Shelter care” means [an out-of-home placement in which shelter, food, and care are provided in a shelter facility or shelter home and available on a 24-hour per day, temporary basis in an emergency,] **a public or private facility or residence that provides 24-hour-a-day residential care in a non-physically restrictive environment for a period of time usually not exceeding 30 days.**

8. (No change.)

[9. “Treatment-based out-of-home placement program” or “treatment-based out-of-home placement” means any public or private facility that provides room, board, care and treatment services for children on a 24-hour a day residential basis. Such facilities shall include Division-contracted or Division-operated programs that provide services such as, but not limited to:

i. Psychiatric, psychological and medical services;

ii. Drug and alcohol treatment services;

iii. Services to children with physical disabilities;

iv. Behavior modification;

v. Intensive structure and supervision;

vi. Individualized educational programs, located on or off grounds;

vii. Living and vocational skills development;

viii. Recreational programs; and

ix. Adventure programs consisting of planned activities of a wilderness or athletic nature that require specially trained staff members and special equipment that is utilized with children with emotional or behavioral problems, or both, to assist in their development of self-confidence and insight.]

[10.] **9.** “Treatment home” means a type of group home, which [may be either a private home or operated by a treatment home agency,] **is an agency-operated residence** serving five or fewer children who are capable of community living but who need a small group environment and intensive supervision by staff members in order to ameliorate emotional, social, [and/or] **or** behavioral difficulties[, in a home-like, community-based setting].

...
 “Post-adoption services” means all services[, other than adoption registry services as defined in N.J.A.C. 3A:22-1.3,] offered by or through the auspices of the Division to any party involved in an adoption after finalization of the adoption.

...
 “Safe Haven for Infants Hotline” means the toll-free, 24-hour hotline, established and operated in the State Central Registry of the Division of [Youth and Family Services] **Child Protection and Permanency** in the Department of Children and Families, pursuant to N.J.S.A. 30:4C-15.9.

“Safe [Haven] **haven** infant” means a live infant who is or appears to be no more than 30 days old, who was voluntarily given to an officer at a police station, **firefighter at a fire department, emergency medical personnel in an ambulance**, or an employee of a hospital emergency department by a parent wanting to permanently give up rights to the infant or a person acting on behalf of the parent, pursuant to the intent of the New Jersey Safe Haven Infant Protection Act, N.J.S.A. 30:4C-15.5 et seq.

“Satisfactory academic progress” means the standard that an institution adopts to determine eligibility for Federal student aid programs under Title IV of the Higher Education Act of 1965, [42] **20** U.S.C. [§1070a] **§ 1070a**, as amended, and its implementing regulations and rules.

...
 “Substance [abuse] **use disorder** services” means preventive, treatment or recovery services provided in a culturally sensitive environment to [DYFS-supervised] **CP&P-supervised** adolescents or parents of [DYFS-supervised] **CP&P-supervised** children. Specific services include:

1.-3. (No change.)

[4. Intensive outpatient and inpatient counseling;

5. Residential treatment;

6. Substance abuse education;

7. Transitional living; and

8. Aftercare services.]

4. Short-term residential treatment;

5. Long-term residential treatment;

6. Halfway house treatment;

7. Outpatient and intensive outpatient treatment;

8. Medication-assisted treatment; and

9. Recovery supports.

...
 “Title XIX Medicaid” means medical assistance provided to certain persons with low income and limited resources as authorized under Title XIX (Medicaid) of the Social Security Act (42 U.S.C. § 1396 **et seq.**).

3A:11-1.4 Rights of applicants and clients

(a)-(c) (No change.)

[(d) An applicant or client may orally or in writing authorize a representative to speak and act on his or her behalf. If the applicant or client is incompetent or incapacitated or in an emergency, the application may be signed for him or her by someone determined by the Division to be able to act responsibly on his or her behalf, including a Division representative. The Division representative shall help the client, applicant or representative complete the application, if necessary.]

[(e)] (d) (No change in text.)

[(f)] The applicant, client, or representative shall receive a copy of the completed application.]

[(g)] (e) The applicant or client shall receive written information about:

1.-8. (No change.)

[9. The purpose and general procedures for an assessment;]

Recodify existing 10.-12. as **9.-11.** (No change in text.)

[13.] **12.** The Notice of Privacy Practices pursuant to the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. [§§164 et seq.] **§§ 1320d.**

[(h)] Confidential information shall be defined and treated as provided for in N.J.A.C. 3A:3, Client Information.]

[(i)] (f) (No change in text.)

[(j)] (g) The applicant, client, or reporter, if a request is made, shall have the right to receive a written disposition from the Division as soon as practical but not later than 10 calendar days from the date upon which a finding of substantiated, **established, not established,** or unfounded is made or upon which a decision to provide or not to provide child welfare services is made.

[(k)] (h) (No change in text.)

[(l)] An applicant or client shall have the right to have the rules of this chapter followed.]

[(m)] (i) (No change in text.)

3A:11-1.5 Responsibilities of applicants and clients

(a) A person applying for or receiving services shall provide information necessary to determine his or her eligibility for services, including requested financial information.

(b) (No change.)

3A:11-1.6 Responsibilities of the Division

(a) (No change.)

(b) The Division may provide services through direct service delivery or through third-party social service contracts with other service providers. The Division may also refer applicants and clients to service providers.

[(b)] (c) Within 30 days of a child's out-of-home placement, the Division shall notify each adult relative of the child:

1.-3. (No change.)

4. Of the requirements to participate in the [DYFS] **CP&P** Legal Guardianship Subsidy Program in accordance with N.J.A.C. 3A:20.

[3A:11-1.8 Appeals

Any person included in the scope of this series of chapters, as described at N.J.A.C. 3A:11-1.2, shall refer to N.J.A.C. 3A:5, Dispute Resolution, to determine any opportunity available to resolve a dispute with the Division.]

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES LOCAL FINANCE BOARD

Electronic Disbursements and Claimant Certification

Proposed Repeals and New Rules: **N.J.A.C. 5:30-9A.4 and 9A.6**

Proposed Amendments: **N.J.A.C. 5:30-9A.1, 9A.2, 9A.3, 9A.5, and 9A.7 and 5:31-4.1 and 4.2**

Proposed Repeal: **N.J.A.C. 5:30-9A.8**

Authorized By: Local Finance Board, Timothy J. Cunningham,
Chair.

Authority: N.J.S.A. 40A:5-16.c and d, 40A:5-16.5, and 40A:5A-10.c.

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

Proposal Number: PRN 2017-094.

Please submit written comments on the notice of proposal by August 18, 2017, via e-mail to dllgs@dca.nj.gov or by regular mail to:

Patricia Parkin McNamara, Executive Secretary
Local Finance Board
Department of Community Affairs
PO Box 803
Trenton, NJ 08625-0803

For comments submitted via e-mail, please include the subject heading "Electronic Disbursement Regulations."

The agency proposal follows:

Summary

P.L. 2016, c. 29, enacted on August 18, 2016, and codified as N.J.S.A. 40A:5-16.5, amended the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.) to permit local units subject to said law, along with school districts and county colleges, to utilize "standard electronic funds transfer technologies" for the payment of claims "in lieu of payment through the use of signed checks or warrants." N.J.S.A. 40A:5A-10.c permits the Local Finance Board to enact rules extending provisions of the Local Fiscal Affairs Law to entities subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.), which encompasses entities such as, but not limited to, county improvement authorities, municipal utilities authorities, housing authorities, parking authorities, and fire districts. The term "standard electronic funds transfer technologies" is defined under N.J.S.A. 40A:5-16.5 to mean "technologies that facilitate the transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, initiated by means such as, but not limited to, an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account, and incorporate, at a minimum, internal controls set forth in regulations promulgated by the Local Finance Board."

The Local Finance Board voted to promulgate the within rulemaking at its May 10, 2017 meeting. This rulemaking amends certain existing rules in order to implement N.J.S.A. 40A:5-16.5. N.J.A.C. 5:30-9A proposed for amendment permits local units subject to the Local Fiscal Affairs Law, local authorities subject to the Local Authorities Fiscal Control Law (N.J.S.A. 40A:5A-1 et seq.), boards of education, and county colleges to utilize standard electronic funds transfer technologies for payment of claims subject to, at minimum, certain fiscal and operational controls, with the caveat that boards of education may not utilize procurement cards, charge cards, or charge accounts as defined in proposed amendments to N.J.A.C. 5:30-9A.2. The existing rules set forth in N.J.A.C. 5:30-9A were last amended in 2013, to permit local units and local authorities to keep procurement cards on purchase of any dollar amount if they had the role of "program manager," a Qualified Purchasing Agent (QPA) licensed by the Division of Local Government Services. As required by N.J.S.A. 40A:5-16.5.d, the Local Finance Board consulted with the Department of Education and the Office of the Secretary for Higher Education prior to proposing this rulemaking.

In order to maintain the integrity of electronic disbursements and funds transfers, the proposed rules set forth standard fiscal and operational controls, along with minimum technological features and cybersecurity measures that shall be incorporated into an electronic funds transfer technology. N.J.A.C. 5:30-9A.1 is amended to reflect the corresponding change to the purpose of Subchapter 9A.

N.J.A.C. 5:30-9A.2, which sets forth definitions for certain terms utilized in Subchapter 9A, is proposed for amendment to add definitions for the following: Automated Clearing House (ACH) Transfer, board of education, charge account or charge card, claimant certification (or vendor certification), county college, Electronic Funds Transfer and Indemnification Agreement, Electronic Data Interchange (EDI), internal controls, local authority, National Automated Clearing House Association (NACHA) file, standard electronic funds transfer technologies; the terms advance payment, contracting unit, and permitted use would be deleted. The remaining definitions contained in N.J.A.C. 5:30-9A.2 are proposed for amendment to be consistent with