

**DIVISION CIRCULAR #3
(N.J.A.C. 10:46)**

DEPARTMENT OF HUMAN SERVICES

DIVISION OF DEVELOPMENTAL DISABILITIES

EFFECTIVE DATE: March 24, 2011

DATE ISSUED: April 27, 2011

(Rescinds Division Circular #3, "Determination of Eligibility," issued October 9, 2007)

I. TITLE: DETERMINATION OF ELIGIBILITY

II. PURPOSE: To establish guidelines and criteria for determination of eligibility for services to individuals with developmental disabilities.

III. SCOPE: This circular applies to all Division components.

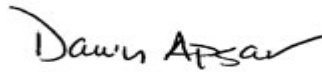
IV. POLICIES:

- An individual must be determined eligible for services before the Division can provide services.
- The determination of an applicant's eligibility for Division services shall be completed as expeditiously as possible.
- In order to receive waiver services (a Federal Medicaid program), the individual or representative payee is responsible to apply for all benefits for which the individual may be eligible and comply with the requirements of eligibility for which he or she is entitled, primarily the Medicaid DDD Community Care Waiver, Social Security and SSI.
- The individual is also responsible to maintain Medicaid eligibility by ensuring that he or she has no more than \$2,000 in cash assets.
- When an individual receives residential services from the Division, the individual is required to contribute to the cost of care and maintenance. The requirements and financial ability of the individual and that of his or her legally responsible relative to contribute to the cost of care and maintenance are set forth in N.J.A.C. 10:46D, "Contributions for Care and Maintenance Requirements," also known as Division Circular #3A.

- Individuals who have been determined ineligible for Division services may appeal the decision in accordance with the provisions of Division Circular #37, “Appeals Procedure” (N.J.A.C. 10:48 et seq.).

V. **GENERAL STANDARDS:**

NOTE: The remainder of this circular is the eligibility criteria as is appears at N.J.A.C. 10:46 et seq.



Dawn Apgar, Ph.D, LSW, ACSW

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CHAPTER 46

DETERMINATION OF ELIGIBILITY

SUBCHAPTER 1. GENERAL PROVISIONS

10:46-1.1 Purpose; authority

- (a) Pursuant to N.J.S.A. 30:1-12, 30:4-27.2, 30:4-25.2, Application for determination of eligibility, N.J.S.A. 30:4-25.9, 30:6D-1 et seq. (P.L. 1985, c.145) and 30:4-60 et seq. (P.L.1995, c.155), the Division of Developmental Disabilities, Department of Human Services (Division), intends this chapter to establish guidelines and criteria for determination of eligibility for services, to individuals with developmental disabilities. The applicant shall apply for all benefits for which he or she may be eligible. The Division shall not provide services when those services may be available through other sources. Before the Division offers services covered under the waiver the individual and/or representative payee is responsible to apply through the Division for the Medicaid DDD Community Care Waiver and comply with all the requirements of eligibility for these benefits. The individual is also responsible to maintain eligibility for those benefits by ensuring they have no more than \$2,000 in cash assets. All other eligibility criteria in this chapter remain the same.
- (b) When an individual receives residential services from the Division, they are required to contribute to the cost of care and maintenance. The requirements and financial ability of the individual and that of their legally responsible relatives to contribute to the cost of care and maintenance are set forth in N.J.A.C. 10:46D, Contributions for Care and Maintenance Requirements.
- (c) The availability of services shall be limited to the Division's funding in a given fiscal year.
- (d) When a person is determined eligible for services, he or she may receive those State-funded services that are available at that time.
- (e) The eligible person shall be notified by the Division of the availability of waiver services. At that time, the Division will provide the application for the Medicaid DDD Community Care Waiver.
- (f) Any person under the age of 18 who is determined by the Division to be eligible for ICF/MR services may be found eligible for the Medicaid DDD Community Care Waiver without deeming of the family's income. The eligible person shall be notified by the Division of the availability of waiver services. At that time, the Division will provide the application for the Medicaid DDD Community Care Waiver. The individual shall meet all other eligibility requirements.

- (g) To the extent practicable, written material shall be provided in the individual's primary language and in alternate formats as needed.

10:46-1.2 Scope

The provisions of this chapter shall apply to all individuals making application to the Division for services under N.J.S.A. 30:4-165.1 et seq.

10:46-1.3 Definitions

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

“Application” means the form available at Division offices (see N.J.A.C. 10:46-3.2). The term includes any supporting documentation necessary to the making of an informal determination with regard to applicant eligibility, including medical information. Supporting documentation may include but is not limited to educational, psychiatric, psychological, vocational, rehabilitation or social service records.

“Appropriate program of training” means that program of training which at a minimum includes orientation and instruction in identification of developmental disabilities, use of evaluation tools and interaction techniques.

“Assistant Commissioner” means the Assistant Commissioner of the Division of Developmental Disabilities.

“Assistive devices” means supports provided to aid in moving and positioning an individual while personal care is given, or which aid in communication.

"Benefits" means all current and future sources of cash and health assistance from Federal, State or private entities including, but not limited to, Social Security, SSI, Medicare, Medicaid DDD Community Care Waiver, State and Federal funds and any third party support pursuant to State, rule order or by contract.

“Case Management” means the linking and coordination of services across family agency and professional lines to develop and attain goals and objectives embodied in the Individual Habilitation Plan. It involves monitoring and advocating for the individual's needs with individual and family participation.

“Challenge Grant” refers to a program in which the Division provides funds to an agency, which may be used in combination with other resources available to the individual, which will meet the individual's needs sufficiently to allow the individual to be removed from the waiting list.

“Child” means an individual under 18 years of age.

“Commissioner” means the Commissioner of the State Department of Human Services.

“Counseling” means advice or guidance provided by a person knowledgeable about services to individuals with developmental disabilities.

“Developmental disability” means a severe, chronic disability of an individual which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity that is:
 - i. Self-care;
 - ii. Receptive and expressive language;
 - iii. Learning;
 - iv. Mobility;
 - v. Self-direction;
 - vi. Capacity for independent living; and
 - vii. Economic self-sufficiency.
5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated; and
6. Developmental disability includes but is not limited to severe disabilities attributable to intellectual disability, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.

“Division” means the Division of Developmental Disabilities.

“Educational and related services” means those services and programs and/or therapies that are provided to a pupil in association with a free appropriate education.

“Family support” means those services described under N.J.A.C. 10:46A.

“Guardianship services” means those services and programs provided by the Department for the purpose of implementing its responsibility toward the individual with developmental disabilities for whom it is performing the services of guardianship of the person.

“Home adaptation” means renovations to the home within resources available to the Division to accommodate a person’s physical or sensory disability.

“Intake team” means at least two staff, one of whom is the intake worker and one who is a psychologist, who are responsible to determine the eligibility criteria contained in N.J.A.C. 10:46 have been met.

“Medical information” means reports that have been provided by licensed practitioners which demonstrate the existence of a developmental disability as well as the individual’s current physical condition and significant medical history.

“Mental illness” means a current substantial disturbance of thought, mood, perception or orientation which significantly impairs judgment, behavior or capacity to recognize reality but does not include simple alcohol intoxication, transitory reaction to drug ingestion, organic brain syndrome or developmental disability (PL 1987, c116).

“Mental impairment” means impairment in cognitive, neurological, sensory or cerebral functioning resulting from other than mental illness.

“Personal care” means assistance in essential daily activities such as bathing, dressing, transferring, toileting, feeding, grooming and hygiene.

“Physical impairment” means an impairment in motor functioning resulting from other than mental illness.

“Primary residence” means the individual’s living arrangement as follows: if he or she lives independently; if the individual resides with his or her family; or the residence of his or her family that is the home of record for official purposes (that is, voter registration, income tax, census, etc). Second homes or privately made residential placements cannot be considered to be a primary residence.

“Regional Administrator” means the staff member with administrative authority over community operations within several counties who oversee intake teams.

“Rehabilitation technology” means services which provide a systematic application of engineering methodology or scientific principles to meet the needs of, and address the barriers confronted by, individuals in areas that include education, employment, transportation, independent living, and recreation.

“Resident” means a person who is a domiciliary of New Jersey for other than temporary purpose and who has expressed an intention to have his or her primary residence in the State.

"Residential Placement" means that the individual's living arrangement is funded, fully or partially, by the Division in an appropriately licensed program including, but not limited to, community residences as defined in N.J.A.C. 10:44A, private licensed facilities for

persons with developmental disabilities, as defined in N.J.A.C. 10:47 and appropriately licensed out-of-State facilities under contract with the Division.

“Respite services” means a short-term arrangement to provide relief to the primary caregiver(s) from continuous care of the person.

“Self-determination” means a service delivery system which allows an individual with developmental disabilities, in conjunction with his or her legal guardian, if any, family and selected friends to identify appropriate services and supports and determine how an individual budget, as well as personal, family and community resources, can be used to develop a support plan which may include living arrangements such as shared living, supported living and other individualized housing and allow the individual to be an integral part of their community.

“Supported employment” means paid employment for person with developmental disabilities who, because of his or her disability, need ongoing support to perform in a work setting. Supported employment is conducted in work sites in which people without a disability are employed.

“Supported living” means a form of community residence as defined at N.J.A.C. 10:44A-1.3 in which the individual is responsible to pay for his or her room and board.

“Support services” means services provided to developmentally disabled individuals and their families that are generally of short term duration, or are a specific type of care, treatment, training, assistance or device that will help the individual avoid the need for more intensive care which would require coordination of a sequence of generic or specialized services.

“Team” means two or more Division employees and/or professionals holding appropriate certification and/or licensure in their respective fields who review recommendations regarding eligibility. The professions represented on the team may vary according to the presenting need for services. At least one member of the team shall have at least one year of experience in working with the developmentally disabled and have the following qualifications:

- a. A doctor of medicine or osteopathy.
- b. A registered nurse.
- c. A professional program staff person who is licensed, certified or registered, as applicable. If the professional program staff do not fall under the jurisdiction of State licensure, certification or registration requirements, he/she shall meet the following qualification:
 - i. To be designated as an occupational therapist, an individual shall be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body.

- ii. To be eligible as an occupational therapy assistant, an individual shall be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or other comparable body.
- iii. To be eligible as a physical therapist, the individual shall be eligible for certification as a physical therapist by the American Physical Therapy Association or other comparable body.
- iv. To be eligible as a physical therapist assistant, an individual shall be eligible for registration by the American Physical Therapy Association or be a graduate of a two year college level program approved by the American Physical Therapy Association or other comparable body.
- v. To be designated as a psychologist, an individual shall have at least a master's degree in psychology from an accredited school.
- vi. To be designated as a social worker, an individual must:
 - A. hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or
 - B. hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body.
- vii. To be designated as a speech language pathologist or audiologist, an individual shall:
 - A. be eligible for a certificate of clinical competence in Speech Language Pathology or Audiology granted by the American Speech Language Hearing Association or other comparable body; or
 - B. meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification.
- viii. To be designated as a professional recreation staff, an individual shall have a bachelor's degree in recreation or in a specialty area such as art, dance, music or physical education.
- ix. To be designated as a professional dietitian, an individual shall be eligible for registration by the American Dietetics Association.

- x. To be designated as a human services professional, an individual must have at least a bachelor's degree in a human services field (including but not limited to: sociology, special education, rehabilitation, counseling and psychology).

“Waiver services” means those services not usually provided under the Medicaid program as long as those services are required to keep a person from being institutionalized. Under Federal law, Home and Community-Based Services waivers (HCBS), also known as 1915(c) waivers for the section of the Social Security Act, allow states the flexibility to develop and implement alternatives to placing Medicaid eligible individuals in hospitals, nursing facilities and Intermediate Care Facilities for the Mentally Retarded (ICF/MR). In New Jersey the HCBS waiver for people with developmental disabilities is called the Community Care Waiver. The Community Care Waiver allows the Division of Developmental Disabilities to provide services to an individual who, but for the provision of community services, would require the level of care in an Intermediate Care Facility for the Mentally Retarded/Developmentally Disabled (ICF/MR-DD). This ICF/MR-DD level of care is generally defined to mean that the individual is substantially functionally limited in three of six major life areas – also known as Activities of Daily Living (ADL) – one of which must be self-care. New Jersey has also chosen to use the higher income standard of institutionalized individuals for those who also receive services in the community, under the Community Care Waiver. This higher income standard of 300 percent of the Federal Benefit Rate for SSI allows individuals in the community with that income to receive waiver services. An individual must maintain their resources (assets) within the Medicaid eligibility limits, as of December 15, 2003, \$2,000 for an individual. Waiver services may include any of the following or any other services covered under the application of the Community Care Waiver to the Federal government:

1. Case management;
2. Individual Supports;
3. Habilitation;
4. Respite Care;
5. Integrated therapeutic network; and
6. Environmental/Vehicle Accessibility Adaptations.

SUBCHAPTER 2. ELIGIBILITY CRITERIA

10:46-2.1 General eligibility

- (a) An individual must be determined eligible for services under this chapter before the Division can provide services. In order to receive waiver services (a Federal Medicaid program), the individual and/or representative payee is responsible to make application for all benefits and comply with the requirements to continue eligibility for all benefits for which they are entitled, primarily the Medicaid DDD Community Care Waiver, Social Security and SSI. The individual is also

- responsible to maintain Medicaid eligibility by ensuring he or she has no more than \$2,000 in cash assets.
- (b) The individual is required to apply for these benefits, primarily the Medicaid DDD Community Care Waiver, Social Security and SSI and comply with all the requirements of those programs, for which he or she may be eligible. If the individual is denied benefits and can take no action to become eligible for those benefits, he or she shall provide documentation of the denial to the Division, which shall be part of the client record. Eligibility for waiver services shall not be denied under these instances, if the other eligibility criteria are met.
 - (c) Individuals must keep assets below \$2,000 in order to remain eligible for waiver services. If eligibility is lost because assets are over \$2000, the individual or representative payee will be notified that they have 30 days to comply with the asset requirement, in order to continue in a waiver program. If the individual or representative payee does not comply, they will receive notification that they will no longer be eligible for waiver services if they do not reduce their assets below \$2,000 within an additional 60 days. Loss of eligibility for the Medicaid DDD Community Care Waiver will mean the individual will be eligible for only those State-funded services that are available at that time. If at anytime during this period, the individual reestablishes eligibility by lowering their assets, the individual will be able to remain in the waiver service.
 - (d) When an individual receives residential services from the Division, they are also required to contribute to the cost of care and maintenance. The requirements and financial ability of the individual and that of their legally responsible relatives to contribute to the cost of care and maintenance are set forth in N.J.A.C. 10:46D, Contributions for Care and Maintenance Requirements.
 - (e) With regard to a child, the substantial functional limitation(s) shall be evaluated according to expectations based upon the child's chronological age.
 - (f) With regard to an individual who has entitlements to a free public education pursuant to N.J.S.A. 18A:1-1, et seq., who is otherwise eligible, the expenses of educational and related services shall not be borne by the Division.
 - (g) If a determination has been made by a local district board of education or a court of competent jurisdiction that an individual's educational needs can only be appropriately served in a living situation other than the individual's home, then the expenses of that residential placement shall not be borne by the Division.
 - (h) For applicants who present documentation of an intellectual disability, the criteria for establishing the presence of mental retardation shall be an IQ score of less than 70, demonstrated as follows:

1. The person has an IQ score of 60 to 69; and
 - i. There is an impairment in adaptive behavior; and/or
 - ii. There is a chronic medical problem; and/or
 - iii. There is an impairment in behavioral, sensory or motor function and in the ability to perform basic skills; or
2. The person has an IQ score of 59 or below.

10:46-2.2 Residency

(a) It shall be the responsibility of the individual applying for eligibility, or his or her legal guardian, to establish residency in the State of New Jersey. Residency shall be determined in the following manner:

1. A competent individual applying for eligibility shall be a resident of the State if he or she lives in the State as his or her primary residence.
2. For minors, who are under 18 years of age, the place where the parents or legal guardian live shall determine the residence of the minor.
3. For adults, who are 18 years and older, incapacitated and have a general guardianship, the incapacitated individual's residence will be that of the legal guardian unless the conditions listed in (a) 3i below have been met. This paragraph also applies to persons placed as minors upon reaching 18 years of age.
 - i. For incapacitated individuals applying for services whose legal guardian lives outside New Jersey, the guardian shall document that the incapacitated individual has established residency by establishing:
 - (1) That the incapacitated individual lives in New Jersey;
 - (2) That the incapacitated individual did not relocate to New Jersey for the purpose of obtaining services from the State of New Jersey;
 - (3) Through good faith, that the incapacitated individual applying for services intends to live in New Jersey. Objective factors that provide evidence of good faith include:

- A. The length and likely duration of the incapacitated individual's residence in New Jersey (that is, the individual has resided in New Jersey for more than two years and he or she expresses no plans to move from New Jersey);
 - B. The incapacitated individual's financial or other connections to the locale (that is, the individual is employed locally, has local bank accounts, attends religious services); and
 - C. The incapacitated individual's subjective attachment to his or her living arrangements (that is, friends in the area, use of community recreational facilities).
- (b) If the incapacitated individual is admitted to services and the guardian moves out-of-state, the incapacitated individual may remain in Division services. Additionally, the legal guardian is free to request a discharge from services or an interstate transfer.
- (c) If any individual has been placed in the State of New Jersey and that placement is funded totally or partially by a public or private agency in another state, that individual shall not be considered a resident of New Jersey.
- (d) For individuals applying for services whose legal guardian is in the U.S. military service, residency may be established when the guardian declares his or her home of record to be New Jersey.
- (e) For individuals applying for services who are not U.S. citizens, the following must be satisfied to establish residency:
 - 1. The individual must be a permanent alien resident, or his or her legal guardian must be a U.S. citizen or a permanent alien resident; and
 - 2. The individual or his or her legal guardian must be a resident of New Jersey.

10:46-2.3 Presumptive Eligibility

- (a) If the applicant appears to be eligible for services and manifests an emergency need for services from the Division, then such a person may be declared presumptively eligible by the Regional Administrator. The determination of presumptive eligibility shall be made within 5 days of the initial contact for services. The eligibility determination process shall be completed subsequent to

the admission to service. If the person is found ineligible and has been receiving services under presumptive eligibility, immediate referral shall be made to the appropriate agency or agencies for services. That individual or his/her legal guardian shall be notified, in writing, that services will cease in 30 days.

- (b) If the individual appeals the decision of ineligibility in accordance with N.J.A.C. 10:48, the individual may continue to receive services until a Final Decision is rendered by the Assistant Commissioner.

10:46-2.4 Services

- (a) Services for individuals with developmental disabilities means specialized services or specialized adaptations of generic services provided by a public or private agency, organization or institution and directed toward the alleviation of a developmental disability or toward the social, personal, physical or economic habilitation or rehabilitation of an individual with a developmental disability and includes case management, diagnosis, evaluation, treatment, personal care, domiciliary care, special living arrangements, training, vocational training, recreation, counseling of the individual with the disability and his family, information and referral services and transportation services.
- (b) Respite service shall not be considered placement for the purposes of N.J.A.C. 10:46B.
- (c) All information required under N.J.A.C. 10:46-3.3 shall be required if the applicant disagrees with the initial recommendation for support services or subsequent to the provision of support services, more intensive services are desired.
- (d) Assistive devices may be made available to individuals who live independently, in the home of a relative or in a home licensed under N.J.A.C. 10:44B, as follows:
 - 1. The assistive device is not available through an alternate funding source; and
 - 2. Assistive devices shall remain the property of the Division.
- (e) Home adaptation shall not be provided to individuals determined presumptively eligible. Home adaptation may be provided once the individual is found eligible for services.
- (f) Respite services may be provided in the home or through a home licensed under N.J.A.C. 10:44A or 10:44B.

SUBCHAPTER 3. APPLICATION

10:46-3.1 Who May Apply

- (a) Application for services under this chapter may be made by the following individuals:
 - 1. An adult on his or her own behalf;
 - 2. The parents or legal guardian of a minor;
 - 3. An agency public, or private, on behalf of a minor of whom it has care and custody.
 - 4. A court having jurisdiction over a minor;
 - 5. The legal guardian of an adjudicated incapacitated adult; or
 - 6. A court of competent jurisdiction on behalf of an adult individual who appears to be developmentally disabled.
- (b) For applicants who apply for Family Support, the requirements of N.J.A.C. 10:46A shall apply.

10:46-3.2 Where to Apply for DDD Eligibility

- (a) Application shall be made to a regional office of the Division. The initial contact may be made to an intake worker by telephone, in writing, or by appearing in person.
- (b) If the intake worker determines that the request is for the services of the Division, he or she shall send or give the individual an application.
- (c) If the intake worker determines that the request is for services not offered by the Division, the intake worker shall offer to refer the individual to an appropriate agency. If the individual wishes to pursue the services of the Division, the intake worker shall send an application and information concerning services.
- (d) Applications shall be made to a regional office of the Division. Forms and instructions may be obtained by writing to or calling the appropriate regional office serving the county where the individual lives below:

Northern Regional Office

(serving Morris, Sussex and Warren Counties)

1-B Laurel Drive
Flanders, NJ 07836
(973) 927-2600
Fax: (973) 927-2689

(serving Bergen, Hudson and Passaic Counties)

100 Hamilton Plaza, 7th Floor
Paterson, NJ 07505
(973) 977-4004
Fax: (973) 279-5069

Upper Central Regional Office

(serving Somerset and Union Counties)

110 E. 5th Street
Plainfield, NJ 07060
(908) 226-7800
Fax: (908) 412-7900

(serving Essex County)

153 Halsey St., 2nd Floor
PO Box 47013
Newark, NJ 07101
(973) 693-5080
Fax: (973) 648-3999

Lower Central Regional Office

(serving Mercer, Middlesex and Hunterdon Counties)

11A Quakerbridge Rd.
PO Box 706
Trenton, NJ 08625-0706
Mailing Address:
PO Box 726
Trenton, NJ 08625
(609) 588-2727
Fax: (609) 584-1402

(serving Monmouth and Ocean Counties)

Juniper Plaza, Suite 1-11
3499 Rt. 9 North
Freehold, NJ 07728
(732) 863-4500
Fax: (732) 863-4406

Southern Regional Office

(serving Burlington and Camden Counties)

2 Echelon Plaza
221 Laurel Road
Suite 210
Voorhees, NJ 08043
(856) 770-5900
Fax: (856) 770-5935

(serving Cumberland, Salem, Atlantic and Cape May Counties)

5218 Atlantic Avenue, Suite 205
Mays Landing, NJ 08330
(609) 476-5200
Fax: (609) 909-0656

- (e) If the individual for whom eligibility is sought does not live in New Jersey at the time of the application, the applicant shall indicate if they presently receive

services from a state agency in the state where the individual resides. To apply for services from the State of New Jersey under the Interstate Compact on Mental Health (N.J.S.A. 30:7B-1 et. seq.), the request shall be sent to the Regional Assistant Director, c/o Division of Developmental Disabilities, PO Box 726, Trenton, NJ 08625. The request shall be forwarded to the appropriate regional office for a determination of eligibility. All information required in N.J.A.C. 10:46-3 shall be provided. All notice requirements contained in N.J.A.C. 10:46-4.2 shall be followed

10:46-3.3 How to Apply

- (a) Application shall be made on forms supplied by the Division.
- (b) Minimum information submitted shall include, but not be limited to:
 - 1. Social data, such as name, address, telephone number, social security number, and present living arrangement;
 - 2. Medical information;
 - 3. Present program or employment type;
 - 4. Name, address and telephone number of the individual, if someone other than the person on whose behalf application is being made;
 - 5. Presenting request, such as the specific services(s) that may be desired if known by the individual; and
 - 6. Information for the individual's financial information sheet including basic information such as social security number and the amount and type of benefits received, and those documents as required in N.J.A.C. 10:46D, Contributions for Care.
- (c) Accommodations shall be made available by the Division for applicants who cannot complete the application by him or her self. Applications may be taken in sites other than the regional office. Applications may be taken at any site which will facilitate the determination of eligibility.
- (d) It is the responsibility of the applicant to cooperate with the Division in obtaining required records by signing consent to release of information forms and identifying individuals or agencies known by the applicant to be in possession of the needed records.
- (e) An application shall be deemed complete when there is sufficient information to make a determination of eligibility.

10:46-3.4 Reapplication

- (a) An individual who has been found ineligible by the Division may apply for services again at any time if:
 - 1. The individual is under the age of 22 and he or she has obtained a new evaluation(s) which supports that the eligibility criteria are met; or
 - 2. The individual is over the age of 22 and he or she has obtained a new evaluation(s) supports that the eligibility criteria are met.
- (b) The individual shall provide a copy of that evaluation(s) for review by the Division. The Division shall review the evaluation and notify the individual within 30 working days whether a new application for services will be accepted.
- (c) As used in this section, “evaluation” means a formal assessment using standardized measures by a professional, such as a physician, psychologist or other individual who can appropriately evaluate the individual’s condition to determine whether the individual has a developmental disability.

SUBCHAPTER 4. DETERMINATION PROCESS

10:46-4.1 Determination

- (a) A Division intake worker shall begin a case file upon receipt of an application for determination of eligibility for services.
- (b) The intake worker shall assist in completion of the application upon request of the applicant.
- (c) Upon receipt of an application including all necessary documentation, the intake team shall make a decision, in writing, based upon specific findings regarding eligibility pursuant to N.J.A.C. 10:46.
- (d) The intake team may make a decision concerning eligibility. If there is a question of eligibility, the intake team may:
 - 1. Conduct a face to face interview within 30 days if additional information is needed; or
 - 2. Request peer consultation in reaching a final decision.
- (e) The decision of the intake team(s) shall be communicated, in writing, within 10 working days and shall be based upon specific findings.

10:46-4.2 Notice requirements

- (a) Division staff shall notify the applicant, in writing, of the status of the eligibility determination no more than 60 days from receipt of an application for determination of eligibility for services.
- (b) If the eligibility decision cannot be made within 60 days from receipt of an application for determination of eligibility for services, the applicant shall be advised, in writing, as to the specific reasons why a determination cannot be made, and shall be informed of the status of the applicant at least every 30 days. The written notice shall include the name and telephone number of a Division staff member for the person to contact regarding services.
- (c) If the applicant is determined eligible, Division staff shall notify the applicant, in writing, within 10 working days of the determination and such notice shall include information regarding the service(s) deemed most suitable by the intake worker or the intake team.
 - 1. If the most appropriate services as determined by the intake worker or the intake team is not immediately available, the Division shall provide an alternate service.
 - 2. The Division shall also place the eligible individual's name on a waiting list for day or residential services in accordance with N.J.A.C. 10:46C.
- (d) If the individual is determined ineligible, the Division shall notify the individual, in writing, within 10 working days of the determination. Such notification shall include specific criteria that were not met by the individual, and shall also include information regarding the individual's right to appeal the determination pursuant to N.J.A.C. 10:48. The individual shall bear the burden of proof and the burden of persuasion.

SUBCHAPTER 5. OFFERS BY THE DIVISION

10:46-5.1 Offer of placement

When an individual receives residential services from the Division, as well as applying for benefits, they are also required to contribute to the cost of care and maintenance. The requirements and financial ability of the individual and that of their legally responsible relatives to contribute to the cost of care and maintenance are outlined in N.J.A.C. 10:46D, Contributions for Care.

SUBCHAPTER 6 APPEALS PROCESS

10:46-6.1 Appeals

- (a) If the individual is determined by the Division not to meet the criteria for eligibility, the Division shall notify the individual in writing within 10 working days of the determination.
 - 1. The notice shall include specific criteria which were not met by the individual.
 - 2. The notice shall include information regarding the individual's right to appeal the determination of ineligibility pursuant to N.J.A.C. 10:48. Such appeals shall be deemed to be contested matters.