

**TITLE 5A. MILITARY AND VETERANS' AFFAIRS
CHAPTER 5. NEW JERSEY VETERANS' MEMORIAL HOMES**

N.J.A.C. 5A:5 (2014)

Title 5A, Chapter 5 -- Chapter Notes

NOTES:

CHAPTER AUTHORITY: N.J.S.A. 38A:3-2.2, 38A:3-2.b, 38A:3-6.4, 38A:3-6.5, 38A:3-6.6, 38A:3-6.8, 38A:3-6.9, and 38A:3-6.12; and P.L. 1988, c. 444.

CHAPTER SOURCE AND EFFECTIVE DATE: R.2014 d.022, effective December 23, 2013. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a).

CHAPTER EXPIRATION DATE: Chapter 5, New Jersey Veterans' Memorial Homes, expires on December 23, 2020.

CHAPTER HISTORICAL NOTE:

Chapter 5, New Jersey Veterans' Facilities, was adopted as R.1992 d.372, effective September 21, 1992. See: 24 N.J.R. 2499(b), 24 N.J.R. 3311(a). The expiration date of Chapter 5, New Jersey Veterans' Facilities, was extended by gubernatorial directive from September 21, 1997 to February 27, 1998. See: 29 N.J.R. 4287(b).

Pursuant to Executive Order No. 66(1978), Chapter 5, New Jersey Veterans' Facilities, was readopted as R.1998 d.3, effective November 26, 1997. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a).

Chapter 5, New Jersey Veterans' Facilities, was readopted as R.2003 d.244, effective May 23, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a).

Chapter 5, New Jersey Veterans' Facilities, was readopted as R.2008 d.298, effective September 11, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 5, New Jersey Veterans' Facilities, was scheduled to expire on September 11, 2015. See: 43 N.J.R. 1203(a).

Chapter 5, New Jersey Veterans' Facilities, was readopted as R.2014 d.022, effective December 23, 2013. As a part of R.2014 d.022, the chapter was renamed New Jersey Veterans' Memorial Homes; Subchapter 3, Pre-Admission Screening of Applicants, was renamed The Admission Process; and Subchapter 6, Resident Transfer Or Discharge, was renamed Resident Transfer, Discharge, Or Death, effective January 21, 2014. See: Source and Effective Date. See, also, section annotations.

SUBCHAPTER 1. GENERAL PROVISIONS

§ 5A:5-1.1 Purpose

The purpose of this chapter is to establish requirements for eligibility for admission, pre-admission screening, admission review and implementation, computation of the care maintenance fee for New Jersey veterans' facilities, and the basis for discharge or transfer from such facilities.

§ 5A:5-1.2 Definitions

The words and terms, as used in this chapter, shall have the following meanings. All other words shall be given their ordinary meaning unless the content of their use clearly indicates otherwise.

"Accountable assets" means all items that have a determined value and are owned solely by the applicant or spouse, or owned jointly with spouse, jointly with others, or jointly by the spouse and others, and must be spent down or liquidated and used toward payment of the resident's care and maintenance fee. IRAs and annuities are considered as accountable assets and will be treated as income.

"Admission" means the procedure for entering one of the New Jersey veterans' memorial facilities.

"Aid and attendance" means supplemental income provided by the U.S. Department of Veterans' Affairs for extended care services.

"Allied veterans" means those veterans of nations allied or associated in conflicts against an enemy of the United States during World War I or II. This is inclusive of members of the armed forces of Czechoslovakia or Poland. Allied veterans are required to have been a citizen of the United States for at least 10 years.

"Allowable deductions" means those approved items which will be subtracted from the gross income, including the personal needs allowance, when calculating care and maintenance fee.

"Asset determination" means an investigation and evaluation of the financial circumstances of a person applying for admission to a New Jersey veterans' memorial facility.

"Care and maintenance" means the actual cost of services for an individual in one of the New Jersey veterans' memorial facilities.

"Community spouse" means the married spouse of a veterans' memorial home resident who does not receive long-term care in a medical institution or nursing facility.

"Conservatorship" means the appointment of a person by the court to manage the financial affairs of a conservatee. A "conservatee" is one who has not been judicially declared incompetent, but who by reason of advanced age, illness, or physical infirmity, is unable to care for or manage his or her property or who has become unable to provide for himself or herself or others dependent upon him or her for support.

"Dependent" means a child of the Veteran Home Resident who is under the age of 21 or a child of any age who is blind or totally and permanently disabled. In the event that the child does not have a determination from the Social Security Administration of blindness or disability, the blindness or disability shall be evaluated by the Disability Review Section of the Division of Medical Assistance and Health Services in accordance with the provisions of N.J.A.C. 10:71-3.13.

"Discharge" means the permanent removal from a New Jersey veterans' memorial facility.

"Durable power of attorney" means a legal document that enables an individual to designate another person(s) to act on his or her behalf, in the event the individual becomes disabled or incapacitated. A health proxy, also known as a durable power of attorney for healthcare, can also be appointed for medical decisions. The durable power of attorney terminates upon the death of the originator.

"Eligible others" as defined and listed in order of priority below will be admitted to a New Jersey veterans' memorial home, as long as the census of non-veterans does not exceed 25 percent of the total population.

1. "Gold Star parent" means the mother or father of a person who was a resident of New Jersey at the time of service entry, and who died an honorable death in time of war or emergency while in the active military service of the United States, provided that the parent has been a resident of New Jersey for at least two years prior to the date of application.

2. "Surviving spouse" means the widow or widower of a person who died an honorable death while in the active military service of the United States, or who was a disabled veteran at the time of death, provided that the surviving spouse was the person's spouse at the time of the person's service or was married to the person not less than 10 years prior to the date of application and has not married since the person's death, and provided that the surviving spouse has been a resident of New Jersey for at least two years prior to the date of application.

3. "Spouse" means the person legally married with a valid marriage license that is in accord with New Jersey law to an individual who has been other than dishonorably discharged from the active military of the United States, provided that the spouse is not less than 50 years of age, has been married to such person for a period of not less than 10 years, and meets the New Jersey residency requirement as described in paragraph 1 of the definition of "veteran" below.

"Extraordinary expense deduction" means a financial deduction as a major excessive expense to maintain the basic household, medical, or transportation needs.

"Facility resident" means an individual residing in a New Jersey veterans' memorial home.

"Gross income" means all income and/or revenue received by resident for a given period. Includes, but not limited to, funds received for labor or services, social security, pensions, aid and attendance, net rental income of property, and/or the proceeds of business or enterprises and investments not to include losses. Service connected disability compensation funds shall not be counted as gross income.

"Guardian" means a person who has been entrusted as the legal representative of one who has been adjudicated incapacitated by a court of law and requires a legal representative to act on their behalf for all matters.

"Guardianship" means the process by which an individual is appointed the legal representative of another person who has been adjudicated incapacitated by a court of law and requires a legal representative to act on their behalf for all matters.

"Irrevocable trust" means the funds set aside in a trust not to be recalled, revoked or annulled.

"Lien application" means a process initiated to obtain financial payment for all delinquent accounts for services received.

"Living will" means a legal document that provides instructions and directions regarding healthcare in the event that the individual subsequently lacks such decision-making capability.

"Maximum allowable asset" means that all sources of accountable assets shall not exceed \$ 24,000 for a single applicant or \$ 110,000 for a married applicant.

"Medicare" means a system of governmental insurance for providing medical and hospital care for the aged from Federal social security funds.

"Net income" means the total gross income received, minus allowable deductions.

"Non-accountable assets" means those items of determined value that are owned solely by the applicant or spouse. The following are considered non-accountable assets:

1. The primary residence and any appurtenance thereto, including proceeds from the sale of the residence. However, if the property is sold, any income earned from the investment of any or all of the proceeds will be counted as income.

2. All of the household effects therein; and

3. An automobile if there is a community spouse.

"Personal needs account" means an account maintained at the veterans' facility for deposit of the personal funds of the resident and which will be considered part of the accountable assets. This account shall be administered by the veterans' facility or treasurer of the State of New Jersey.

"Personal needs allowance" means a set amount received by a resident for individual use and spending. The personal needs allowance shall be as follows:

1. A resident whose source of monthly income exceeds \$ 100.00 will retain a minimum of \$ 100.00 for personal needs.

2. A resident whose source of monthly income does not exceed \$ 100.00 will retain all of their monthly income.

3. A resident who has no source of funds will be provided a monthly allowance for personal needs of \$ 50.00.

4. The welfare fee will be reduced to maintain the minimum of \$ 100.00 for the resident's personal needs.

"Physician Orders for Life Sustaining Treatment (POLST)" is a New Jersey law designed to provide a mechanism to further define preferences for healthcare concerning life-sustaining treatment of other interventions for progressive illnesses and/or end of life decisions.

"Representative Payor" means a designated person or institution responsible for the payment of the resident's financial obligations.

"Resident" means a legal inhabitant of the state where the primary domicile is located.

"Resident fee" means the monthly charges billed by the veterans' facility to the resident for their cost of care and maintenance.

"Service connected disability" means a disability sustained by veterans who were disabled by an injury or illness that was incurred or aggravated during active military service. These disabilities are considered service-connected. Disability is determined by the United States Department of Veterans' Affairs in accordance with 38 CFR 51.41.

"Spend down" means that which occurs when accountable assets exceed the maximum amount allowed and are liquidated and spent towards the actual care and maintenance cost. This process will continue as long as the accountable assets exceed the maximum amount allowed.

"Transfer" means the placement of a resident to a more suitable environment to meet individual needs.

"Veteran" means:

1. A person who has been other than dishonorably discharged from the active military service (90 days total active duty service, unless discharged early for service connected disability) of the United States and has been a resident of New Jersey for at least two years prior to the date of application;

2. A person who was a citizen of the State of New Jersey at the time of entrance into the active military service of the United States, and who is qualified for admission except for the required period of State residence. Preference shall be given to persons who have been residents of the State for a period of at least two years prior to application; or

3. A person who is not a citizen of the State of New Jersey and who is classified by the Federal Veterans Affairs Administration as Priority I, II, III, or catastrophic Priority IV.

"Veterans' memorial home" means any home, institution, hospital, or part thereof, the admission to which is under the jurisdiction of the Department of Military and Veterans' Affairs, being the facilities at Menlo Park, Paramus, Vineland, and such other veterans' facilities as may be developed.

"Welfare fund" means an account established at each facility pursuant to N.J.S.A. 38A:3-6.16 for the specific purpose of accepting monies that will be spent for and on behalf of residents' programs, special events and services. It is composed of interest, funds specifically donated, and from monies which have escheated to the welfare fund from the personal needs account of deceased residents leaving no will or next of kin. This fund will provide for and maintain a quality of life which might otherwise not be possible for the residents and shall be administered by the Adjutant General in accordance with the provisions of N.J.S.A. 38A:3-6.16.

"Working spouse" means the married spouse of an individual residing in a New Jersey veterans' memorial home who finds it necessary to continue employment to meet financial needs.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). Amended "Accountable assets", "Allowable deductions", "Care and maintenance", "Community Spouse", "Dependent", "Eligible others", "Needy veteran", "New resident", "Nonaccountable assets", "Personal needs account", "Personal needs allowance", "Veteran", and "Welfare fund"; added "Discharge", "Gross income", "Irrevocable trust", "Maximum allowable asset", "Medicare" and "Transfer"; and deleted "Income".

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). In "Accountable assets", added the last sentence; added "Allied veterans", "Extraordinary expense deduction", "Indigent", "Lien application", "National Guard/Reserve Component", "Respite Care Program" and "Working spouse"; in "Eligible others", rewrote 3i and added 3iii through 3iv.

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). In definition "Eligible others" substituted "20" for "five" and inserted "by the Director, Veterans Healthcare Services" in the introductory paragraph, inserted present 1, recodified 1 through 3 as 2 through 4, deleted "Spousal priority is as follows:" from the end of 4 and deleted 4i through 4iv; in definition "Maximum allowable asset", substituted "\$ 20,000" for "\$ 15,000" and "\$ 45,000" for "\$ 40,000"; added the last sentence in definition "National Guard/Reserve Component"; deleted definition "New resident"; substituted "healthcare and respite care services" for "long term and respite care services as defined in this chapter" in definition "Respite Care Program"; and in definition "Veteran", deleted "or" from end of 1, substituted "; or" for a period at end of 2 and inserted 3.

Recodified from N.J.A.C. 5A:5-2.1 and amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). In definition "Maximum allowable asset", substituted "\$ 80,000" for "\$ 45,000".

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Rewrote definitions "Accountable assets", "Community spouse", "Durable power of attorney", "Eligible others", and "Resident"; in definition "Extraordinary expense deduction", deleted "one time" preceding "major", and inserted a comma following "medical"; in definitions "Guardian" and "Guardianship", substituted "incapacitated" for "incompetent"; in definition "Maximum allowable asset", deleted "as defined above" following "assets", and substituted "\$ 24,000" for "\$ 20,000" and "\$ 110,000" for "\$ 80,000"; in definition "Transfer", deleted "within the Department of Military and Veterans Affairs" following "environment"; added definitions "Facility resident", "Living will", "Physician Orders for Life Sustaining Treatment (POLST)", and "Service connected disability"; deleted definitions "Indigent", "Medically needy applicants", "National Guard/Reserve Component", "Needy veteran", and "Respite Care Program"; and substituted definition "Non-accountable assets" for definition "Nonaccountable assets" and definition "Veterans' memorial home" for definition "Veterans' facility"; and rewrote definition "Non-accountable assets".

SUBCHAPTER 2. ELIGIBILITY CRITERIA

§ 5A:5-2.1 Admission eligibility

(a) Eligibility for admission to the New Jersey veterans' memorial homes is considered on financial and qualified medical needs. Veterans shall be given preference and non-veterans shall be admitted to veterans memorial homes, as long as the census of non-veterans does not exceed 25 percent of the total population. The following individuals, in order of priority, are eligible for admission consideration:

1. A New Jersey veteran that meets the New Jersey residency requirement as described in paragraph 1 of the definition of "veteran" in N.J.A.C. 5A:5-1.2.

2. A spouse of a New Jersey veteran who is eligible as a "spouse" or "surviving spouse" as described in paragraphs 2 and 3 of the definition of "eligible others" in N.J.A.C. 5A:5-1.2 and is a resident of this State.

3. Gold Star parents.

4. A veteran who is not a New Jersey resident.

(b) All accountable assets shall be spent down and liquidated and used to pay resident's actual care and maintenance until:

1. A single applicant's maximum allowable assets do not exceed \$ 24,000 from all sources of accountable assets;

2. A married couple's maximum allowable assets do not exceed \$ 110,000 from all sources of accountable assets.

(c) Admission eligibility is contingent upon a veterans' memorial home's ability to meet the applicant's individual health care needs, which will be reviewed and determined by the admission committees of each veterans' memorial home and bed availability. The applicant shall also sign an Admission Agreement that he or she will accept placement in the veterans' memorial home designated by the Adjutant General, that he or she understands all sources of income to include Social Security shall be considered when determining the care and maintenance fee, and that he or she will abide by the rules, regulations, and discipline of the veterans' memorial home to which admitted. The obligation of such an Admission Agreement shall remain in effect, as long as the resident remains on the census of one of the New Jersey veterans' memorial homes.

(d) The following shall be denied admission into a New Jersey veterans' memorial home:

1. Applicants who require treatment beyond the facilities' ability to meet the applicants' individual health care and psychological needs;

2. Applicants who are active substance abusers, exhibit active psychiatric problems, or exhibit behaviors that may pose a danger to self or others;

3. Applicants who refuse to sign the required Admission Agreement under (c) above;

4. Applicants who do not require 24-hour skilled nursing care;

5. Applicants who have been denied admission to another New Jersey veterans' memorial home;
and

6. A dependent child.

(e) An approved applicant shall be subject to reevaluation in the following circumstances:

1. Prior to admission;
2. A change in medical or psychological status; or
3. An omission or misrepresentation of significant medical or financial information.

(f) Significant changes in the information required under (e)2 or 3 above may result in denial of admission by the admissions committee as per N.J.A.C. 5A:5-4.1.

(g) Criteria for admitting applicants who are incapable of making decisions for themselves are as follows:

1. Any applicant who is adjudicated legally incompetent is required to have a legal guardian.

i. A copy of the guardianship document shall be submitted with the application prior to admission being scheduled.

2. Any applicant who has a conservatorship shall submit a copy of the document prior to admission being scheduled.

3. Any applicant who has a durable power of attorney for both medical and financial matters shall submit a copy of the document for guardianship criteria to be waived. The document shall be notarized, witnessed and signed by the applicant while competent.

4. In the absence of a durable advance directive or other legal documents, or the next of kin, the facility and its personnel shall act to preserve life when a resident is incapable of making decisions for themselves.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). Inserted new (a)3 and recodified (a)3 and 4 as (a)4 and 5; in (a)4, rewrote list of "Needy eligible others"; in (a)5 added list of "Eligible others"; deleted (e)1, recodified (e)2 and 3 as (e)1 and 2, and inserted new (e)3, inserted new (g)4.

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). In (e), added a new 2 and recodified former 2 and 3 as 3 and 4.

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). In (a), substituted "15" for "five" in the introductory paragraph, deleted former (a)2, recodified former (a)3 as (a)2 and inserted current (a)3 through (a)6, inserted "New Jersey" in (a)2; recodified former (a)4 and (a)5 as (a)7 and (a)8, rewrote (a)7 and (a)8 and inserted (a)9; substituted "\$ 20,000" for "\$ 15,000" in (c)1; and "\$ 45,000" for "\$ 40,000" in (c)2; and substituted "who are incapable of making decisions for themselves" for "with special needs" in the introductory paragraph of (g) and inserted "a" and "or next of kin," in (g)4.

Recodified from N.J.A.C. 5A:5-2.2 and amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). In (c)2, substituted "\$ 80,000" for "\$ 45,000". Former N.J.A.C. 5A:5-2.1, Definitions, recodified to 5A:5-1.2.

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Rewrote the section.

SUBCHAPTER 2. ELIGIBILITY CRITERIA

§ 5A:5-2.2 (Reserved)

HISTORY:

Recodified to N.J.A.C. 5A:5-2.1 by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). Section was "Admission eligibility".

SUBCHAPTER 3. THE ADMISSION PROCESS

§ 5A:5-3.1 Application requirement

(a) Applicants shall be eligible for admission consideration upon completion of the documentation and information reviews as follows:

1. To establish basic eligibility of all applicants, the following documentation and information reviews are required:

- i. A completed application for admission;
 - ii. Service history:
 - (1) Proof of an other than dishonorable discharge; and
 - iii. Social history:
 - (1) A birth certificate;
 - (2) Marital status verification; and
 - (3) Verification of residency;
 - iv. Medical status:
 - (1) An application for Health Benefits (VA 10-10EZ);
 - (2) Medicare Part A, B, and D or other creditable prescription coverage;
 - (3) Other health insurances, including supplemental;
 - (4) The coverages under (a)1iv(1) and (2) above must be in effect at the time of admission if eligible and must remain in effect, as long as the individual is a resident of one of the New Jersey veterans' memorial homes. Eligible residents who do not maintain Medicare Part A and B and other supplemental health insurance shall not be allowed any medical fee deductions against their care and maintenance fee and shall be responsible for all related fees, as long as they select not to maintain medical insurance;
 - (5) A Medical History Release Form as determined by the U.S. Veterans' Administration;
- and
- (6) A Medical Certification VA 10-10SH;

v. Financial disclosure:

- (1) Assets will be reviewed and considered in determining financial responsibility;
- (2) All financial transactions and transfer of resources, which have occurred within 36 months preceding the date of application, will be reviewed and considered as accountable assets;
- (3) The value of all assets will be determined as of the date of application and revalued on the date of admission;
- (4) Income from all sources shall be disclosed. Income shall be verified by submitting the most recent copy of the Federal and State income tax reports and other such documents as may be required;
- (5) A copy of the applicant's long-term care insurance plan shall be provided during the admission process, if applicable; and
- (6) A review shall be conducted of all irrevocable trusts;

vi. Verification of admission eligibility as defined in N.J.A.C. 5A:5-2.1; and

vii. Other:

- (1) Verification of the responsible party for funeral arrangements and responsibility.
 - (A) Prepaid burial fund allowance not to exceed a face value of \$ 12,000;
 - (2) Submission of advance directives for health care, if desired by the applicant, such as:
 - (A) A proxy directive (durable power of attorney for healthcare);
 - (B) An instructive directive (for example, a living will);
 - (C) A combined directive (durable power of attorney for health and fiscal matters);
 - (D) A Physician Order for Life Sustaining Treatment (POLST); and
 - (E) Appointment of a representational payor, if desired by the applicant.
- (b) Applicants shall be admitted to the New Jersey veterans' memorial home upon completion of the following:
1. Approval of the admission committee (N.J.A.C. 5A:5-4);
 2. A signed Admission Agreement;
 3. VA forms (as determined by the U.S. Veterans' Administration);
 4. A Medical History Release Form (VA 10-10SH); and
 5. The social services packet with facility release forms.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). Inserted new (a)1iii(1)(C) and (a)1iv (6); in (a)1vi(1)(A) substituted "prepaid burial fund allowance" for "burial insurance" and "\$ 7,500" for "\$ 10,000"; and inserted new (a)1vi(2)(E) and (F).

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). In (a), substituted "VA 10-10EZ" for "VA 10-10" in the introductory paragraph of 1iii(1) and for "VA 10-10m" in 1iii(2), and rewrote 1iv(6).

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Deleted the last sentence of (a)1iii(1)(C), which required a written request to be submitted to the Chief Executive Officer within 30 days after initial admission, deleted "; (A) This Requirement" from (a)1iii(3) and substituted "36" for "18" in (a)1iv(3).

Amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). In the introductory paragraph of (a)1iii(1), substituted a colon for a semicolon at the end; in (a)1iii(1)(A), deleted "and" from the end; in (a)1iii(1)(B), inserted "and" at the end; in (a)1iii(1)(C), inserted a comma following "effect", deleted the last sentence and substituted a semicolon for a period at the end; in (a)1iii(2), inserted a semicolon at the end; in (a)1iv(5), deleted "and" from the end; added new (a)1iv(6); recodified former (a)1iv6 as (a)1iv(7); in the introductory paragraph of (a)1vi(1), substituted a period for a semicolon at the end; in (a)1vi(1)(A), substituted "\$ 12,000" for "\$ 7,500"; and in (a)1vi(3), substituted "; and" for a period at the end.

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Section was "Sequence of screening activities". Rewrote the section.

SUBCHAPTER 4. ADMISSION REVIEW AND IMPLEMENTATION

§ 5A:5-4.1 Admission review policy

(a) It is the policy of the New Jersey veterans' memorial homes to have an admission committee at each home review all completed and tentatively approved applications for appropriateness of placement. A tentatively approved application is one which has produced all required documents and meets admission and financial eligibility requirements. The following areas will be considered in all applications for admission and may be grounds for rejection:

1. Medical and psychosocial needs;
2. Present medical condition;
3. Evaluation of medical acuity levels;
4. Treatments/care required to meet the applicant's individual health care and psychological needs that are beyond the scope of the veterans' memorial home to provide;
5. Applicants who are active substance abusers and/or exhibit active psychiatric problems and/or exhibit behavioral actions that may pose a threat to self or others;
6. Applicants who refuse to sign the required Admission Agreement;
7. Applicants who do not require 24-hour skilled nursing care; and
8. Applicants who have been denied admission to another New Jersey veterans' memorial home.

(b) Within the guidance delineated in this section, the admissions committees of the veteran memorial homes shall determine the eligibility for entrance to their respective veteran home.

(c) If the committee rejects an applicant, the veterans' memorial home will provide written notice of denial and the reason for denial within 14 days to the applicant or representative. The notice of denial issued the applicant shall reference the manner in which, and to whom, the denial may be appealed by written request to The Adjutant General or designee within 30 days of the written notice of denial by the veterans' memorial home. The appeal letter shall be submitted by the applicant, family member, legal

power of attorney, or legal guardian only. The decision on the appeal will be considered the final agency action. The adverse decision appeal process is as follows:

1. In situations of medical need where the Admission Committee requires additional information, follow up evaluation or participation in various counseling programs, consideration will be given for placement on the waiting list, following completion and receipt of documentation requested and requirements of the Admission Committee.

2. When the admission committee requirements have been met, the applicants(s) awaiting guardianship or a final determination of an appeal process shall remain on the waiting list in the sequence effective the date the application was originally received, and in accordance with (f) below.

(d) The decision appeal process is as follows:

1. In situations where the admissions committee requires additional information, follow-up evaluation, or participation in various counseling programs, consideration will be given for placement on the waiting list, following completion and receipt of documentation requested and requirements of the admission committee.

2. When the admission committee requirements have been met, the applicant(s) awaiting a final determination of an appeal process shall remain on the waiting list in the sequence effective the date the application was originally received, and in accordance with (f) below.

(e) Approved applicants will be placed on the approved waiting list.

(f) The waiting list process is as follows:

1. All completed applications with the required documentation will be timed and dated when received.

2. Once the applicant is approved for admission, his or her name will be placed on the bottom of the approved waiting list. An applicant, who is awaiting guardianship, or has an appeal pending for a notice of denial, will remain on the waiting list in sequence pending guardianship appointment or final determination of the appeal.

3. There will be no consideration for bypassing approved applicants on the waiting list, except when bed availability is based on gender, veteran preference, and treatment needs (that is, specialty units, infectious diseases, etc.) or the applicant is a spouse of a residing resident.

4. If an approved applicant refuses admission at the time offered, the applicant will be placed at the bottom of the waiting list. This is called an approved deferred admission.

5. The waiting list is a confidential document; numerical assignment will be provided when requested.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). In (a), deleted (a)2 and recodified (a)3 through 7 as (a)2 through 6; in (b), inserted language detailing limitations period for appeal of denied admission.

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). In (a), rewrote 5; rewrote (b); in (c), rewrote 1 and 2 and deleted the second sentence in 4.

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Deleted the designation for (b)1, recodified former (b)1i through (b)1iii as (b)1 through (b)3 and inserted "Admission Committee's" in the last sentence of current (b)2.

Amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). Added new (b); recodified former (b) and (c) as (c) and (d); and in (d)3, inserted "or the applicant is a spouse of a residing resident".

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Rewrote the section.

SUBCHAPTER 5. CARE MAINTENANCE FEE COMPUTATION

§ 5A:5-5.1 General requirements for computing skilled nursing monthly resident fee

(a) The requirement for establishing a computation for the monthly fee is to ensure that individuals requesting admission to a State of New Jersey veterans' memorial facility pay a portion of the care and maintenance fee based on their monthly income and ability to pay, but not to exceed the established rate as set forth annually by The Adjutant General.

1. The recommended daily rate is to be forwarded to the Director, Division of Budget and Accounting, Department of Treasury for publication no later than November 10 of each year.

(b) At the time of admission and annually thereafter, based on a determined date, the computation of the monthly resident fee is calculated with the resident or representative payor. The calculation is determined by review of Federal and State income tax returns and all financial statements, income, inclusive of IRAs and annuities as accountable assets, as well as any other financial transactions. This asset review will be required by May 15 with a return date no later than June 30 of each year. As of September 21, 1992, the resident fee will be based on 80 percent of the net income for all residents admitted thereafter. Those individuals residing in the veterans' memorial homes prior to September 21, 1992, will have the resident fee based on 60 percent of the net income.

(c) Residents who sell their house or acquire additional financial assets following admission to the New Jersey veteran's memorial home are required to report these transactions during their annual asset review described in (b) above.

(d) The welfare fund is an account established at each veterans' memorial home pursuant to N.J.S.A. 38A:3-6.16. It is composed of funds specifically donated to the veterans' memorial home welfare fund, or monies, which have escheated to the welfare fund from the personal needs account of deceased residents, leaving no will or next of kin. This trust fund is to be utilized for the benefit and general welfare of the resident population of the institution as a whole. This fund shall provide for, and maintain, a quality of life that might otherwise not be possible for the residents and shall be administered by the Adjutant General in accordance with the provisions of N.J.S.A. 38A:3-6.16. Residents will be required to pay a monthly welfare fee of \$ 20.00 or 12 percent of the balance of their monthly income, whichever is less, excluding all allowable deductions and the care maintenance fee payment. These monies will be deposited in the veterans' memorial home's welfare fund.

(e) Payment for the resident care and maintenance fee is due the first of each month.

(f) At the time of admission, a resident will be assessed care and maintenance fees charges for that month prorated according to the date of admission.

(g) At the time of discharge, prepaid care and maintenance fees shall be rebated based upon proration of days.

(h) Yearly care and maintenance increases will be in accordance with established yearly Social Security rate increases.

(i) An Admissions Agreement must be signed by the resident, resident POA or legally appointed guardian delineating fiscal payment responsibilities to the veteran home of choice prior to admission.

(j) Care and maintenance fee accounts that become delinquent are referred to the Department of the Treasury for lien application proceedings as defined in the Department of the Treasury Policy and Procedure for Delinquent Accounts.

(k) Service connected disability status shall be considered as part of the annual maintenance fee computations.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). Inserted new (a) explaining computation of monthly resident fee, recodified (a) through (f) as (b) through (g); in (d), defined how a welfare fund may be established and utilized; in (g), substituted " prepaid care and maintenance fees shall be rebated based upon proration of days" for "there will be no reimbursement to the resident of the resident's estate for prepaid care and maintenance fees".

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). In (a), added 1; in (b), rewrote the second sentence and added the third sentence; added a new (d) and recodified former (d) through (g) as (e) through (h); added (i) and (j).

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Section was "General requirements for computing monthly resident fee". Substituted "report these transactions during their annual asset review described in (b) above" for "retain 50 percent of the asset received for payment toward their care and maintenance fee" in (d).

Amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). Added new (j); and recodified former (j) as (k).

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Rewrote the section.

§ 5A:5-5.2 Formula for computing single resident's skilled nursing monthly resident fee based on an 80/20 percentage

(a) The monthly resident fee for a single 80/20 resident is based on the total gross income, minus allowable deductions. This figure is the net income. Eighty percent of the net income will be the resident fee charged. An additional \$ 20.00 or 12 percent of the balance of their monthly income, whichever is less will be deposited in the welfare fund of the facility. The remainder of the net income will be deposited in the resident's personal needs account.

(b) The allowable deductions for a single resident are as follows:

1. The personal needs allowance;
2. Health insurance premiums;
3. Prepaid burial fund account: Fund allowances shall not exceed a face value of \$ 12,000;
4. Court order encumbrances; and

5. Other expenses or other financial issues as may be individually approved by the Deputy Commissioner of the Department of Military and Veterans' Affairs or designee.

(c) Any interest or payment received from a trust transfer will be treated as income. Furthermore, in situations where a trust or transfer of assets has occurred within 36 months of submitting an admission application, the value of the trust and/or assets will be deemed an accountable asset for the balance of the 36-month period.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). In (b)3, deleted language referring to life insurance in lieu of prepaid burial accounts, inserted new (b)4 and recodified (b)4 as (b)5; and inserted new (c) explaining treatment of interest and payments received from a trust transfer.

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Section was "Formula for computing single resident's monthly resident fee based on an 80/20 percentage".

Amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). In (b)3, substituted "\$ 12,000" for "\$ 7,500"; and in (c), substituted "36" for "18" preceding "months" and "36-" for "18" preceding "month".

§ 5A:5-5.3 Formula for computing a married resident's skilled nursing monthly resident fee based on an 80/20 percentage

(a) The monthly resident fee for a married resident is based on the total personal income of the resident, minus allowable deductions. This figure is the net income. Eighty percent of the net income will be the resident fee charged. An additional \$ 20.00 or 12 percent of the balance of their monthly income, whichever is less, will be deposited in the welfare fund of the veterans' memorial home.

(b) The community spouse must divulge all sources of the monthly income in order to file for consideration of allowable deductions.

1. If a working spouse has an income greater than the total of the monthly allowable deductions, then the calculations for the married resident will be as for a single resident.

2. Failure to make a full and complete disclosure will constitute a breach of the veterans' memorial home's regulations and may be grounds for removal as provided in N.J.S.A. 38A:3-6.9.

(c) In the event that each individual of the marriage is a resident, the resident fee for each will be calculated as for single resident and no married deductions will be allowed.

(d) If, at a later date, assets that were not reported upon admission are discovered, they will be added to the net income and worth of the resident, computed retroactively to the date of admission. This may necessitate a recalibration of the resident maintenance fee schedule.

(e) Service connected disability status shall be considered as part of the annual maintenance fee computations.

(f) The allowable deductions for a married resident are as follows:

1. Personal needs allowance;
2. Health and prescription insurance premiums;
3. Court order encumbrances;

4. Rent/primary residence first mortgage or home equity loan: The mortgage/home equity loan must have been in effect 36 months prior to the date of application. Verification of mortgage/home equity loan payment schedule is required. The actual cost of property taxes and insurance for the primary residence will be deducted equally over the 12-month period. Verification shall be required;

5. Second mortgages on the primary residence will not be considered as deductions for computation of the resident maintenance fee, if obtained within 36 months of the submission of an application for admittance. Similarly, second and/or third homes will not be considered as deductions for the computation of the resident maintenance fee;

6. Food deductions shall be \$ 400.00 for the community spouse and \$ 185.00 per additional dependent per month;

7. Heat/electric deduction shall be based on preceding year usage and cost. The deduction will be divided equally over the 12-month period;

8. Water/sewage deduction shall be the actual annual cost. The deduction will be divided equally over the 12-month period;

9. Automobile/transportation deduction shall be \$ 350.00 per month, utilized for car maintenance, not for car purchase payments;

10. Clothing deduction shall be \$ 75.00 per month per dependent;

11. Telephone/television/internet service deduction shall be \$ 125.00 per month;

12. Trash disposal deduction shall be the actual annual cost. The deduction will be divided equally over the 12-month period;

13. Home maintenance deduction shall be \$ 100.00 per month;

14. Prepaid burial fund accounts: Fund allowances shall not exceed a face value of \$ 12,000. This deduction can be considered for both the applicant and spouse with verification of payment schedule. If a prepaid burial fund account is not in effect, then a maximum burial account not to exceed a face value of \$ 12,000 is to be purchased upon admission and shall be considered an allowable deduction to be divided equally over 24 months;

15. Guardianship/advance directives: The actual cost of legal fees up to a maximum of \$ 2,400 may be deducted. This deduction will be divided into 24 monthly installments, which will only be permitted as long as the resident resides in the veterans' memorial home. This deduction will only be approved for a guardianship hearing/advance directive protocol, which was processed no later than one year prior to the date of application. Verification of cost and date of action shall be required; and

16. Other extraordinary expenses or other financial issues as may be individually approved by the Director of Veterans' Healthcare Services.

(g) No deduction beyond the approved listing shall be permitted until all accountable assets, to include the personal needs account, are depleted.

(h) Any interest or payment received from a trust transfer will be treated as income. Furthermore, in situations where a trust or transfer of assets has occurred within 36 months of submitting an admission application, the value of the trust and/or assets will be deemed an accountable asset for the balance of the 36-month period.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). Inserted new (d)3 and recodified (d)3 through (d)14 as (d)4 through (d)15; in (d)5, 8, 12, and 13 amended the amount of deductions for services; in (d)13, deleted language referring to life insurance in lieu of prepaid burial accounts and added language concerning mandatory purchase of burial insurance; and inserted (g) regarding interest as income.

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). Added a new (c) and recodified former (c) as (d); recodified former (d) as (e), added 2i and rewrote 8; recodified former (e) and (f) as (f) and (g).

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Section was "Formula for computing a married resident's monthly resident fee based on an 80/20 percentage". Substituted "The actual cost of" for "Maximum allowable of \$ 150.00 per month as requirement for" in (e)2i, in (e)4, inserted "or home equity loan" and inserted "/home equity loan" two times and substituted "18" for "30" in (e)5, substituted "\$ 270.00" for "\$ 225.00" and "\$ 185.00" for "\$ 155.00", substituted "\$ 240.00" for "\$ 200.00" in (e)8 and "\$ 60.00" for "\$ 50.00" in (e)9, in (e)10, inserted "/television service" and substituted "\$ 40.00" for "(\$ 25.00)" and substituted "\$ 90.00" for "\$ 75.00" in (e)12.

Amended by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). Deleted (e)2i; in (e)4, substituted "36" for "18"; in (e)5, substituted "\$ 400.00" for "\$ 270.00"; in (e)6 and (e)7, substituted "12-month" for "12 month"; in (e)8, substituted "\$ 350.00" for "240.00"; in (e)10, substituted "\$ 100.00" for "\$ 40.00"; in (e)13, substituted "\$ 12,000" for "\$ 7,500" twice; in (e)15, substituted "Director of Veterans' Healthcare Services" for "Deputy Commissioner of the Department of Military and Veterans' Affairs or designee"; and in (g), substituted "36" for "18" preceding "months" and "36-" for "18" preceding "month".

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Rewrote the section.

§ 5A:5-5.4 Financial responsibilities for veterans' memorial home resident

(a) An eligible applicant who desires admission and whose assets are in excess of the maximum allowable assets may be admitted on a bed available basis. They will be billed for and required to pay the cost of care and maintenance as determined by the Adjutant General until their resources meet the maximum allowable assets.

(b) When an account exceeds the maximum allowable assets, the resident will be billed and required to pay the cost of care and maintenance until the maximum allowable asset limit is reached.

(c) The resident or the person who has control of the resident's financial accounts, income, and assets will be responsible for all financial obligations for the services not provided by the veterans' memorial home. This includes, but is not limited to:

1. Transportation;
2. Medical appointments;
3. Hospitalization;
4. Specialized services/programs/treatments;
5. Adaptive equipment;
6. Diagnostic services;

7. Other outside services as requested by the resident;
8. Deductible fees not covered by medical insurances;
9. Payment for pharmaceuticals to reimburse Medicaid as required;
10. Telephone;
11. Television;
12. Outside personal laundry services;
13. Outside physician services;
14. Any non-payment of debts incurred by the resident, including healthcare costs; and
15. Personal purchases.

(d) The facility will not accept responsibility for any nonpayment of debts incurred by a resident including health care costs.

(e) All personal property of the resident is the responsibility of the resident or guardian. The facility assumes no responsibility and will not reimburse a resident for loss or damage of personal items.

(f) Any resident who is transferred to an outside facility for any period of time is required to continue to pay the care and maintenance fee in order that placement in the facility be guaranteed.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). In (d), inserted new (d)9, requiring Medicaid reimbursement for pharmaceutical payments; and inserted new (g) explaining responsibility for payment in the event of a transfer to an outside facility.

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Section was "Financial responsibilities for veterans' facility resident". Deleted (b) and recodified (c) through (g) as (b) through (f).

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Section was "Financial responsibilities for veterans' skilled nursing facility". Rewrote the introductory paragraph of (c); in (c)8, deleted "and" from the end; in (c)9, substituted a semicolon for a period at the end; and added (c)10 through (c)15.

§ 5A:5-5.5 (Reserved)

HISTORY:

New Rule, R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b).

Repealed by R.2008 d.298, effective October 6, 2008. See: 40 N.J.R. 3782(a), 40 N.J.R. 5580(a). Section was "General requirements for computing veterans' assisted living monthly resident fee".

SUBCHAPTER 6. RESIDENT TRANSFER, DISCHARGE, OR DEATH

§ 5A:5-6.1 Transfer, discharge, or death of a resident

(a) Any resident may be removed from a veterans' memorial home on being restored to an ability to promote his or her own support and welfare in the community, for immorality, for fraud or willful misrepresentation, or refusal to abide by the rules, regulations, and discipline of the veterans' memorial home, as well as:

1. In an emergency, with notification of the resident's physician, next of kin or guardian;
2. For medical reasons or to protect the resident's welfare or the welfare of others;
3. For nonpayment of fees, in situations not prohibited by law. All endeavors will be implemented and utilized inclusive of lien application; or
4. Violation of Federal, State, or local laws, rules, or regulations.

(b) An approved transfer from one New Jersey veterans memorial facility to another shall not occur unless all financial obligations have been met. The resident or representative payor shall remain responsible for charges and financial obligations accrued up to and including the date of transfer.

(c) No further charges or financial obligations shall be accrued beginning with the day immediately following the date of discharge. The resident or representative payor shall remain responsible for financial obligations accrued up to and including the date of discharge.

(d) Pre-paid care and maintenance fees shall be rebated to the resident/representative based upon the pro-rating of days and reconciliation of insurance claims after discharge or death.

(e) A resident who has been discharged or who voluntarily discharges him- or herself and wishes to return to a veterans' memorial home must submit a complete application for admission packet to be considered for readmission. The process will be in accordance with N.J.A.C. 5A:5-3 and 4.

(f) Upon the death of a resident, the veterans' memorial home will follow the procedures as given in the Division of Veterans' Healthcare Policy and Procedure manual, Business Office section, subsections 44-02-010, 44-02-011, and 44-02-013.

HISTORY:

Amended by R.1998 d.3, effective January 5, 1998. See: 29 N.J.R. 4215(b), 30 N.J.R. 63(a). Inserted new (b) and (c) explaining financial obligations in the event of a transfer to another veterans memorial facility.

Amended by R.2003 d.244, effective June 16, 2003. See: 35 N.J.R. 62(a), 35 N.J.R. 2641(a). In (a), added 3i.

Amended by R.2006 d.209, effective June 5, 2006. See: 38 N.J.R. 1271(a), 38 N.J.R. 2418(b). Substituted a period for a colon at the end of the first sentence of (a)3 and deleted the (a)3i designation.

Amended by R.2014 d.022, effective January 21, 2014. See: 45 N.J.R. 2065(a), 46 N.J.R. 204(a). Section was "Transfer or discharge of a resident". In (a), substituted "memorial home" for "facility" twice, deleted "or" preceding and following "for immorality,", and inserted a comma following "regulations"; rewrote (a)4; and added (d) through (f).