§1409. Payment for care and treatment of residents

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Care and treatment" includes all goods and services provided, or caused to be provided, to a resident by the State. [PL 1983, c. 459, §7 (NEW).]

B. "Liable person" means a person liable for the care and treatment of a resident under subsection 3. [PL 1983, c. 459, §7 (NEW).]

B-1. "Resident," for purposes of this section and this section only, means any of the following:

(1) A person who is an inpatient; or

(2) A person who is an outpatient receiving services from any state institution, including outpatient clinic services. [PL 2011, c. 674, §1 (AMD).]

C. [PL 2005, c. 683, Pt. B, §29 (RP).]

D. [PL 2011, c. 674, §2 (RP).]
[PL 2011, c. 674, §§1, 2 (AMD).]

2. Charges. Charges under this section are governed as follows.

A. The commissioner shall establish by rule charges for the care and treatment of residents at any state institution. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 256, §3 (AMD).]

B. Charges made under this section are a debt of the resident, or any person legally liable for the resident's care and treatment under this section, and are recoverable in any court of competent jurisdiction in a civil action brought in the name of the State. [PL 1983, c. 459, §7 (NEW).]
[PL 2005, c. 256, §3 (AMD).]

3. Liable persons. Each resident, the resident's spouse and the resident's parent are jointly and severally liable for the care and treatment of the resident, whether the resident was committed or otherwise legally admitted, from the date of the resident's admission to a state institution, except that:

A. A parent is not liable for a child resident's care and treatment, unless the child resident was wholly or partially dependent for support upon the parent at the time of admission; and [PL 1983, c. 701, §6 (AMD).]

B. [PL 1983, c. 701, §6 (RP).]

C. The department may not charge any parent for the care and treatment of a child resident beyond the child's 18th birthday, or beyond 6 months from the date of the child's admission, whichever occurs later. [PL 1983, c. 459, §7 (NEW).]
[RR 2019, c. 2, Pt. B, §90 (COR).]

4. Financial statement forms. Financial statement forms are governed as follows.

A. The commissioner shall prescribe financial statement forms which shall be completed by:

(1) The resident;

(2) Any person liable for the resident's care and treatment under this section; or

(3) Any fiduciary acting on behalf of the resident or person liable for the resident. [PL 1983, c. 459, §7 (NEW).]

B. The form in each case shall be witnessed. [PL 1983, c. 459, §7 (NEW).]
[PL 1983, c. 459, §7 (NEW).]

5. Determination of ability to pay. After a resident is admitted into any state institution, the department shall:

A. Investigate to determine what property, real and personal, the resident has, and, in determining ability to pay, the department shall consider all income, debts, expenses, obligations and the number and condition of dependents; and [PL 1983, c. 459, §7 (NEW).]

B. Investigate to determine whether there exist any persons liable under subsection 3 for the payment of charges for the resident's care and treatment.

(1) The department shall ascertain the financial condition of the persons, if any, and shall determine whether each person is financially able to pay the charges.

(2) In determining the person's ability to pay, the department shall consider all income, debts, expenses, obligations and the number and condition of dependents. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

6. Obtaining information. The obtaining of information under this section is governed as follows.

A. Every agency and department of the State shall render all reasonable assistance to the department in obtaining all information necessary for the proper implementation of the purposes of this section. [PL 1983, c. 459, §7 (NEW).]

B. To carry out the purposes of this section, the commissioner may administer oaths, take testimony, subpoena and compel the attendance of witnesses, and subpoena and compel the production of books, papers, records and documents deemed material or pertinent in connection with the commissioner's duty of securing payments for care and treatment as provided in this section.

(1) Any person failing to obey a subpoena may, upon petition of the commissioner to any Justice of the Superior Court, be ordered by the justice to appear and show cause for that person's disobedience of the subpoena.

(2) The justice, after hearing, may order that the subpoena be obeyed or, if it is made to appear to the justice that the subpoena was for any reason inappropriately issued, may dismiss the petition. [RR 2019, c. 2, Pt. B, §91 (COR).]

C. Upon request of the commissioner, banking organizations, insurance companies, brokers or fiduciaries shall furnish to the commissioner full information concerning the earnings of, income of, funds deposited to the credit of or funds owing to any resident, or any person liable under subsection 3 for the resident.

(1) The information shall be provided in writing and shall be duly certified.

(2) The certified statement is admissible in evidence in any action or proceeding to compel payment for the care and treatment of the resident.

(3) The certified statement is prima facie evidence of the facts stated in the statement. [PL 1983, c. 459, §7 (NEW).]

[RR 2019, c. 2, Pt. B, §91 (COR).]

7. Inability to pay. When it is determined that any resident or liable person is unable to pay all or part of the charges for care and treatment, the commissioner may cancel, suspend or reduce charges in accordance with the resident's or liable person's ability to pay.

[PL 1983, c. 459, §7 (NEW).]

8. Postponement of billing. The commissioner may enter into an agreement with any resident or liable person to postpone billing for care and treatment for any period of time.

[PL 1983, c. 459, §7 (NEW).]

9. Benefit payments. The chief administrative officer of any state institution may receive as payee any benefits from social security, veterans' administration, railroad retirement or any other like benefits paid on behalf of any resident.

A. The chief administrative officer shall apply the benefits toward the care and treatment of the resident in accordance with charges made by the department. [PL 1983, c. 459, §7 (NEW).]

B. Any surplus from the payments shall be held in a personal account at the hospital in the name of the resident and shall be available for the resident's personal needs. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

10. Claims against estates. The State has a claim against the estate of any resident, and the estate of any liable person, for any amount due to the State at the date of death of the resident or the liable person, including any claim arising under an agreement entered into under this section, enforceable in the Probate Court.

A. The state's claim has priority over all unsecured claims against the estate, except:

(1) Administrative expenses, including probate fees and taxes;

(2) Expenses of the last sickness; and

(3) Funeral expenses, not exceeding $400, exclusive of the honorarium of the clergy and cemetery expenses. [PL 1983, c. 459, §7 (NEW).]

B. The Attorney General shall collect any claim which the State may have against the estate. [PL 1983, c. 459, §7 (NEW).]

C. The State may not enforce a claim against any real estate while it is occupied as a home by the surviving spouse of the resident or liable person and while the surviving spouse remains unmarried. [PL 1983, c. 459, §7 (NEW).]

[PL 1983, c. 459, §7 (NEW).]

11. Reimbursement of providers. Notwithstanding any other law, if part of the care and treatment of a resident under this section is provided by a party other than the State, the commissioner shall pay to the other party, from the fee collected by the department for the care and treatment of the resident, the portion of those costs borne by the other party in the same ratio as the fee collected to the total charge made, except that:

A. This subsection may not be construed as a limitation on compensation for providers of resident care and treatment; [PL 2011, c. 674, §3 (AMD).]

B. This subsection may not be construed as a limitation on contractual arrangements between the providers and the State; and [PL 2011, c. 674, §4 (AMD).]

C. For a resident receiving services, including medical care, goods, prescription drugs and other medications, outside a state institution, the commissioner may pay the provider of those services an amount no greater than the reimbursement rate applicable to that provider and that service under the Medicare fee schedule. [PL 2011, c. 674, §5 (NEW).]

[PL 2011, c. 674, §§3-5 (AMD).]

12. Prohibited acts. A person is guilty of contempt if that person fails to obey a subpoena when ordered to do so by a Justice of the Superior Court under subsection 6, upon application by the commissioner to the Superior Court for an order of contempt.

[RR 2019, c. 2, Pt. B, §92 (COR).]

13. Special revenue account; Riverview Psychiatric Center. The commissioner shall establish a special revenue account for the Riverview Psychiatric Center and shall deposit into it payments or income received from residents of the Riverview Psychiatric Center, the Medicaid program or other

3rd-party payors. The commissioner shall use the funds on deposit for expenses of the Riverview Psychiatric Center.
[PL 2011, c. 674, §6 (AMD).]

14. Special revenue account; Dorothea Dix Psychiatric Center. The commissioner shall establish a special revenue account for the Dorothea Dix Psychiatric Center and shall deposit into it payments or income received from residents of the Dorothea Dix Psychiatric Center, the Medicaid program or other 3rd-party payors. The commissioner shall use the funds on deposit for expenses of the Dorothea Dix Psychiatric Center.
[PL 1991, c. 528, Pt. Q, §6 (NEW); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. Q, §6 (NEW); PL 2005, c. 236, §3 (REV).]

15. General Fund accounts; disproportionate share hospital match. The commissioner shall establish General Fund accounts to provide the General Fund match for eligible disproportionate share hospital components in the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes. Available unencumbered balances at the end of each fiscal year in the Personal Services line category of the accounts may be transferred to the All Other line category by financial order upon the recommendation of the State Budget Officer and approval of the Governor.
[PL 2011, c. 1, Pt. S, §2 (AMD).]

16. Store established. The commissioner may establish a store within the Riverview Psychiatric Center for the retail sale of sundries and gift items.
[PL 2003, c. 673, Pt. I, §1 (NEW).]

17. Riverview Psychiatric Center Store account. The commissioner may establish a nonlapsing Other Special Revenue Funds account for a store located in the Riverview Psychiatric Center pursuant to the authority under subsection 16 and shall deposit into it payments or income received from customers of the store. The commissioner shall use the funds on deposit for expenses of the store.
[PL 2003, c. 673, Pt. I, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1983, c. 580, §5 (AMD). PL 1983, c. 701, §6 (AMD). PL 1991, c. 528, §Q6 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §Q6 (AMD). PL 1991, c. 780, §DD1 (AMD). PL 1993, c. 508, §J1 (AMD). PL 2003, c. 673, §I1 (AMD). PL 2005, c. 236, §3 (REV). PL 2005, c. 256, §§1-5 (AMD). PL 2005, c. 457, §NN4 (AMD). PL 2005, c. 457, §NN8 (AFF). PL 2005, c. 683, §§B29,30 (AMD). PL 2009, c. 571, Pt. SSS, §1 (AMD). PL 2011, c. 1, Pt. S, §2 (AMD). PL 2011, c. 674, §§1-6 (AMD). RR 2019, c. 2, Pt. B, §§90-92 (COR).

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