Cuáles Son Sus Derechos Legales: La versión en español la encontrará al reverso

Looking Out For Your Legal Rights®

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Cuáles Son Sus Derechos Legales
La versión en español la encontrará al reverso.

Medicaid Eligibility and the New Modified Adjusted Gross Income (MAGI) Method of Calculating Income

What Is MAGI?

MAGI (Modified Adjusted Gross Income) is the new method for calculating your countable income for most Medicaid programs. Before MAGI, there were different rules in each state for calculating countable income to determine Medicaid eligibility. Following the passage of the Affordable Care Act (ACA), MAGI is the new, uniform calculation method that applies to most families. It is basically the same method used on a federal income tax return. It is also the same method that applies to other low-income health insurance programs like CHIP (Children's Health Insurance Program) and ACA Marketplace premium subsidies.

Following the passage of the Affordable Care Act, MAGI is the new, uniform calculation method that applies to most families.

Does MAGI apply to all people in determining Medicaid eligibility?

No. Some Medicaid programs still do not use the MAGI method, such as programs for people who are qualifying based on their age (65 and older) or disability. These programs continue to use the old NJ

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Medicaid rules for what types of income are counted and deducted.

How does MAGI work?

There are three steps to calculating your MAGI: (1) determining your household size; (2) adding your MAGI income; and (3) subtracting expenses that qualify as deductions (adjustments) from your MAGI income. Your MAGI is therefore equal to your household MAGI countable income minus MAGI countable deductions. If you file a tax return, it will often be the same as your Adjusted Gross Income, which is the last line on page one of your federal tax return.

Child support received, Supplemental Security Income (SSI), and workers compensation benefits are not countable as MAGI income.

What is your MAGI household size?

Your household size depends on whether you are considered a tax filer, a tax dependent, or a non-filer. If you are classified as a tax filer, your household size is yourself, your spouse if you file taxes jointly, and any dependents you claim—this is the number of exemptions you claim on line 6d of your federal tax return. Most people claimed as tax dependents on a tax return are classified as having the same household size as the tax filer, but there are a few exceptions. Household size for adults classified as non-filers in New Jersey include yourself and, if living with you, your spouse and children (under age 19 or under age 21 and full-time students).

What income is considered in calculating MAGI?

Your MAGI income basically includes any income from your household members that is taxable on a federal tax

Looking Out For Your Legal Rights®

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If you have any suggestions or comments about *Looking Out*, we would like to hear from you. Please send all correspondence to:

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publications@lsnj.org

This newsletter is for general information only. If you have a legal problem, you should see a lawyer.

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2016 MAGI Eligibility Levels for Adults (age 19 to 64)		
Household SIze	2016 138% FPL Annual	2016 138% FPL Monthly
1	$16,395	$1,367
2	$22,108	$1,843
3	$27,821	$2,319
4	$33,534	$2,795
5	$39,248	$3,271
6	$44,961	$3,747
7	$50,688	$4,224
8	$56,429	$4,703
+1	$ 5,741	$ 479

return. It is therefore important to know that there are certain types of income that are not taxable to you and therefore **not countable** as MAGI income. Examples include:

- Child support received
- Supplemental Security Income (SSI)
- Workers compensation benefits

While MAGI countable income is generally the same as taxable income, there are a few exceptions—the most common is Social Security retirement or disability (SSDI) benefits, which are counted. However, when children are included as part of your household, their income is only counted if they would be required to file their own tax return. Therefore, children's Social Security benefits are almost never counted as part of countable MAGI income because a child who receives them is almost never required to file a tax return.

What items are subtracted in calculating MAGI?

Anything that is deductible from income on the *first page* of a federal tax return is subtracted from your MAGI income to determine your total countable MAGI income. These expenses are often called adjustments to income. Examples include:

- Contribution to IRA or other retirement plan
- Student loan interest
- Tuition and fees

What are MAGI eligibility levels?

Once your MAGI is calculated, you can compare it to Medicaid eligibility for your household size to determine whether you are eligible. For adults, if your MAGI is at or below 138% of the Federal Poverty Level (FPL), as shown in the table above, and you meet the other eligibility requirements, then you qualify for Medicaid.

There are higher MAGI eligibility levels for pregnant women and children.

Note the following:

- Medicaid eligibility is generally based on *current monthly income*. However, if you have income that you can predict will change over the course of a year (for example, you work for a school system and are not paid in July and August), New Jersey Medicaid eligibility should be calculated based on your annual income.
- There are higher Medicaid MAGI eligibility levels for pregnant women and children. For more information about income levels for these groups, read *Applying for NJ Family Care* on our website at ***bit.ly/1qmvXEe***.
- Financial eligibility for these MAGI programs is based solely on income; your resources (assets) are not considered.
- If you are not eligible for Medicaid based on MAGI, you may still be eligible for other Medicaid programs based on disability or age. As mentioned above, these programs calculate financial eligibility on a basis different from MAGI. To learn more about these programs, visit the State of New Jersey website at ***bit.ly/1RRHLqY***. Or you may be eligible based on MAGI for private health insurance subsidies on the federal Marketplace (healthcare.gov).

Additional MAGI information:

For more information about how MAGI is calculated, visit one of the following websites:

- *What Counts as Income for Premium Tax Credits and Medicaid: Beyond the Basics* (from the Center on Budget and Policy Priorities) ***bit.ly/1qmwo1a***
- *Reporting Income and Household Size: How to Estimate Your Income for the Marketplace* (from HealthCare.gov) ***1.usa.gov/1N0sAHS***
- *Affordable Care Act Eligibility Information* (from New Jersey Medicaid Communication No.14-12) ***bit.ly/1WhC2he*** ❐

By Joshua Spielberg, Chief Counsel, Health Law, Legal Services of New Jersey

LSNJ YouTube Channel Features Legal Education Videos

Did you know that Legal Services of New Jersey has a YouTube Channel that features legal education videos and client stories? For videos about applying for SNAP (food stamps), filing for a restraining order, using an interpreter, and much more, check out our channel at ***bit.ly/1YfLeTK***.)

Appealing a "Substantiated Finding" from the Division of Child Protection and Permanency

WHEN THE DIVISION of Child Protection and Permanency (DCP&P, referred to as "the Division"—formerly the Division of Youth and Family or DYFS) investigates a case, they will issue one of four findings:

1. Substantiated
2. Established
3. Not established
4. Unfounded

An article in the March issue of *Looking Out* explained how to understand the results of your DCP&P investigation. This article explains how to appeal a finding of substantiated.

What is a substantiated finding?

If the Division finds that your case is substantiated, your child(ren) may be taken from your home and you may need to follow up with the Division for more services. Your information will be permanently recorded in the Child Abuse Registry and will appear in a "CARI" (Child Abuse Registry Information) check. Once your information is on the registry, it can never be removed. CARI is not public, but having your name on the registry can still have a serious impact on you. You may not be able to work in certain places, such as adoption agencies, child care facilities, and group homes. You may not be able to adopt a child or be a foster parent.

How will I know DCP&P's finding?

When DCP&P receives a referral of abuse or neglect, a DCP&P caseworker will investigate the referral within 24 hours. After an investigation, the Division will decide how to handle the case. Sixty days after DCP&P investigates you and your family, you will receive a letter telling you the outcome, or decision, of the investigation.

What if I don't agree with DCP&P's finding?

If you do not agree with the Division's substantiated finding, you can appeal the finding. If you are not already a defendant in a child abuse or neglect case in court, you should appeal the finding to the Office of Administrative Law. You can do this by contacting the office identified in the notice you receive from DCP&P within 20 days. There are several steps to the appeal process. During the process, you should try to talk with the Division and/or the District Attorney General (DAG) assigned to your case and tell them that you do not want your information on the Child Abuse Registry. In some cases, the Division and/or the DAG may be willing to change your substantiated finding to a finding of established or not established.

If your case has been substantiated and you do not agree with the Division's finding, you can appeal the finding. If you are not a defendant in a child abuse or neglect case in court, you should take the following steps to appeal.

STEP ONE:
Write a letter requesting an appeal

In order to appeal, you must write a letter to the Division within 20 calendar days of the date you received notice of

In order to appeal, you must write a letter to the Division within 20 calendar days of the date you received notice of the substantiated finding against you.

the substantiated finding against you. Your letter should state the following:

- You want to appeal the substantiated finding.
- You are requesting an administrative hearing before an Administrative Law Judge (ALJ) at the Office of Administrative Law (OAL).
- Your name, home address, phone number, DCP&P case ID number, and the DCP&P investigation number.

You may also attach a copy of the DCP&P notice to your letter requesting an appeal. Your letter does not have to be long. It may be a one-page letter where you are making a simple request for an appeal of the substantiation. Once the Division receives your letter, they will begin an internal review of your case.

The Division may rescind (undo) the substantiation without an appeal hearing. This means that your name will be removed from the Child Abuse Registry. Or, they may go forward with a hearing.

Remember, during the appeal process you should try to talk to the Division and the Deputy Attorney General (DAG) to see if they will change the finding in your case from substantiated to established, not established, or unfounded.

STEP TWO: The Division's response

After the Division receives your letter requesting an appeal of the substantiation, they will send you a letter. The Division's letter should:

- State that the matter has been referred to the OAL
- Give you important information about the OAL hearing, including:
  - How the hearing will be conducted
  - How to prepare for the hearing
  - The name and phone number of the DAG who will represent the Division at the hearing.

Read the Division letter carefully and save it for your records.

STEP THREE: First OAL letter to you about the schedule of your appeal

After you receive the Division's letter, you will receive a letter from the OAL. This letter will confirm that it has received your request for an appeal and provide a timeline for your appeal. Read this letter carefully and save it so that you can follow the appeal process.

STEP FOUR: Second OAL letter to you about the schedule of your appeal

After the first letter, you will receive a second letter from the Office of Administrative Law. The second letter will tell you:

- The date, time, and location of the pre-hearing conference. (This

conference may be either in person or over the phone.)
- The name of the Administrative Law Judge (ALJ) assigned to your case.

At the pre-hearing conference,
- The ALJ will introduce him- or herself to you.
- You will meet the DAG assigned to represent the Division.
- The ALJ will decide the timeline for discovery (exchange of information between you and the DAG about your case with the Division).
- The ALJ will set the date, time, and location for the plenary hearing (the hearing of your appeal). You will receive a formal Notice of Plenary Hearing in the mail that will state this information.

You must appear in person for the plenary hearing. If you are unable to attend the plenary hearing, you must notify the OAL and/or the ALJ in writing right away. You must have a very good reason for asking that the hearing be rescheduled, such as an illness or family emergency. You may have to document (show proof of) this emergency.

If you do not ask for a postponement and fail to come to the plenary hearing, the ALJ may rule against you and affirm the substantiated finding. Your name will remain on the Child Abuse Registry.

STEP FIVE: Discovery

During the time between the pre-hearing conference and the plenary hearing, discovery will take place. Discovery is when you and the Division exchange information. Ask the DAG for a copy of your Division case file so that you can review it as you prepare for the plenary hearing. Going through your Division case file will help you gather information that is important to your case and help you figure out what other documents and information you will need to support your position. The following are the main components of discovery:

- ***Deadline for discovery.*** All discovery requests must be completed five days before the plenary hearing date. Both you and the Division will have 15 days to provide the requested information after receiving the discovery request.
- ***Objection to discovery requests.*** If the Division or you do not want to provide the requested information, you have 10 days from receiving the discovery notice to object to the discovery request. All objections must be made by a telephone conference call to the ALJ. We suggest that you also put the objection into writing in a letter to the DAG and the ALJ.
- ***Compelling (forcing) responses to discovery requests***. If the Division or you want to compel (force) the other party to respond to a discovery request or object to a response you have received to your discovery request, you have 10 days from the notice due date or 10 days from the date you received the response without the information to request a telephone conference with the ALJ about the problem getting discovery.

Keep in mind that the time line described above is only a general guideline for discovery and that the ALJ may order a different set of due dates. If the ALJ sets a schedule, you must make sure to follow the scheduling order for discovery signed by the ALJ.

STEP SIX: Preparing for the plenary hearing

- ☑ ***Prepare documents.*** While you are requesting and receiving discovery materials, you should also start to prepare for the plenary hearing. Do this by gathering all important letters, notes, records, and any other documents related to your appeal. For example, you may want to get a letter from your child's pediatrician that shows that you brought your child to all of his or her appointments. If you will lose your job because of the finding, include a letter from your employer stating this.
- ☑ ***Carefully review all of your documents.*** Organize them so that you can have them ready for the plenary hearing. Remember that this will be your chance to present evidence that can help you win your appeal. Keep copies of all documents that you wish to submit, one set for the ALJ and one set for the DAG. Make sure to keep a set of all the documents for yourself.
- ☑ ***Prepare witnesses.*** You should also start to identify any witnesses you want to bring to the plenary hearing to testify in support of your position. Contact them well in advance of the hearing date to make sure that they are able to come and that they will come voluntarily. Prepare each witness for the testimony that they will give at the hearing. Make sure that the testimony is related to your appeal of the substantiation. For example, your employer could introduce a letter stating that you would lose your job because of the finding, or your pediatrician could introduce a letter explaining that you have always taken your child to all of his or her doctor's appointments.
- ☑ ***Prepare your argument.*** It is a good idea to make a list for yourself of all the points you wish to make before the ALJ about why the substantiation should be reversed. Do this so that you do not forget to mention something that is important to your case. This is especially important if you are representing yourself at the hearing. Remember, this is your chance to tell the judge why he or she should reverse the substantiation and remove your name from the Child Abuse Registry.

At the hearing, you will have a chance to tell the judge why you believe the substantiation should be reversed.

STEP SEVEN: Attend the plenary hearing before the OAL judge

You, an OAL judge, and a DAG will be at the plenary hearing. You may have an attorney represent you at the plenary hearing at your own cost, but you do not

If you object to the final decision, you have a right to appeal to the Appellate Division of the Superior Court of New Jersey by filing a Notice to Appeal within 45 days of the date of the final decision.

have an automatic right to an appointed attorney. You have a right to represent yourself. You also have the right to bring a non-lawyer to represent you at the hearing, and you may bring a relative or friend to advise you, and any witnesses who will testify on your behalf.

At the hearing, the ALJ will give both you and the Division the chance to present your case. You will have a chance to

- Tell the judge why you believe the substantiation should be reversed.
- Submit documents in support of your position.
- Call witnesses to give testimony on your behalf.

The Division will do the same. Before making a decision, the ALJ will listen to witnesses and arguments for each side, ask questions, and review documents.

During the plenary hearing, be polite and respectful to the ALJ and the DAG. Listen carefully to any questions the ALJ may ask about the appeal, and answer them thoughtfully.

Make sure the ALJ has enough information to decide the appeal in your favor

Remember, the ALJ will decide the appeal based only on the record made before him or her at the hearing, so it is very important to cover all relevant information about your appeal at the plenary hearing and make sure that the ALJ has enough information to decide the appeal in your favor.

STEP EIGHT: Receive the initial decision, submit comments, and appeal the final decision

After the hearing, the ALJ will write a report called an *initial decision*. The ALJ will mail a copy of this initial decision to you and the DAG. This decision should include everything that was said at the plenary hearing. It should state the ALJ's findings about the facts presented by each party and the laws and policies that apply. It should include a recommendation of how the appeal should be decided and instructions on how you may send comments about the decision.

☑ ***Submit comments on the ALJ's initial decision.*** After receiving the initial decision, you and the DAG both have 13 calendar days to submit comments on the report to the Administrative Hearing Coordinator. Comments may include objections to what was said or done at the hearing. Comments may also include objections to the finding the ALJ made in his or her report. If you plan to submit a comment, you must clearly state in writing why the judge's initial decision should be changed, accepted, or modified, and submit supporting documentation for your position.

☑ ***Agency head issues a final decision.*** The agency head will review the initial decision and all the comments it received from you and the DAG. After reviewing the initial decision and the comments, the agency head will issue

a *final decision*. The final decision is sent to both you and the DAG.

☑ ***Appealing the final decision.*** If you object to the final decision, you have a right to appeal to the Appellate Division of the Superior Court of New Jersey by filing a Notice to Appeal within 45 days of the date of the final decision.

What if I want to appeal a finding of established or not established?

If your case is established or not established, your information will not go on the Child Abuse registry. However, the Division will keep the case information in its files and it cannot be expunged (erased). This information can prevent you from becoming a foster parent, and if you have several established cases on record, the Division may eventually decide your case is substantiated and put your information on the Child Abuse Registry.

The law does not provide a direct way to appeal an established or not established finding. Unlike a substantiated finding, you may not appeal directly to the Office of Administrative Law. However, you may have the right to appeal to the Appellate Division of the Superior Court of New Jersey. If you would like advice or assistance on appealing established or not established findings, please contact Legal Services of New Jersey's Family Representation Project by calling LSNJLAW℠, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). Hotline hours are Monday through Friday between 8:00 a.m. and 5:30 p.m. You may also apply online at ***www.lsnjlawhotline.org***. ❐

By Mary B. Picarella, LSNJ Legal Intern, Supervised by Jey Rajaraman, Chief Counsel, LSNJ Family Representation Project

SNAP Time Limits and Work Rules for Able Bodied Adults Without Dependents

THE NJ SNAP (food stamp) program has work requirements and time limits that apply to some adults who get SNAP (food stamps.) These rules have been waived for several years. But starting in 2016, these rules are back in New Jersey. The three-month limit started on January 1 in Hunterdon, Morris, Somerset, and Sussex counties, and February 1 in Bergen, Monmouth, and Warren counties. The ABAWD rules start later in 2016 in the rest of New Jersey.

If you are losing SNAP benefits because of the ABAWD rules, don't give up! You can still be eligible for more SNAP benefits if you work or participate in work activities—or if you are exempt from the ABAWD rules.

Who is an ABAWD?

ABAWD stands for Able Bodied Adults Without Dependents. An ABAWD is an adult between 18 and 49 years old who is not disabled, not pregnant, and not living in a household with minor children. If you are an ABAWD, you can only get three months of SNAP (food stamps) in a 36-month period unless you meet an exception or follow work rules.

What are the work rules?

You must be:

- Working or doing volunteer work for 20 hours a week/80 hours a month OR
- Doing SNAP employment and training or be in a workfare program.

Do the work requirements apply to me?

The work rule and three-month time limit DO NOT apply if you:

- are under age 18 or age 50 and older
- can't work 20 hours or more a week because of a physical or mental problem
- are caring for a child in your SNAP household (you do not have to be the child's parent)
- are receiving Supplemental Security Income (SSI) or Social Security Disability (SSDI)
- get Unemployment Benefits
- are pregnant
- take care of an ill or disabled person in your household
- are enrolled at least half-time in school
- are in a drug or alcohol rehab program
- applied for SSI and your application is pending
- deferred from the WFNJ/GA work program.

If your benefits stop and you think that it's a mistake, you can ask for a fair hearing (see below).

What if I disagree with the decision to cut my SNAP benefits?

If you lose SNAP because of the work rules, or because they say that you have used up your three months, but you do not agree, appeal right away. If you appeal within 15 days of the date of the notice, you can get SNAP during the appeal.

How do I get a fair hearing?

☑ ***Call the State Fair Hearings Hotline at* 1-800-792-9773**.

☑ Put it in writing. (If you go to the agency office to ask for a hearing, you should still put your request in writing, keep a copy for yourself, and get a receipt. That way, you will have proof that you asked for the hearing.)

☑ ***Call the welfare office.*** Speak with your SNAP caseworker or with the Fair Hearing Liaison and tell them that you want a hearing. Make sure you get the name of the person you speak to, and write it down. Ask them to send you a letter confirming that you asked for the hearing.

How long do I have to ask for a fair hearing?

If you want to stop the welfare office from changing your SNAP benefits while you wait for a hearing, you must ask for a hearing within **15 days** of the day you get notice of a change in your case. When you ask for the hearing, make sure that you say that you want your benefits to continue. (If you lose your appeal, you will have to pay the extra benefits back. Usually, the SNAP office will recoup this out of future benefits you may receive each month until this is paid back.)

For SNAP (food stamps), you have **90 days** from the date of the Division of Social Services' decision to ask for a "fair hearing." (But you still must ask for the

hearing within 15 days of the agency decision if you want your benefits to continue coming unchanged while you wait for a hearing.)

If you need help with your SNAP benefits, you can call LSNJLAW℠, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529) for legal advice, information, and referral. You may also apply for help online at ***www.lsnjlawhotline.org***. ❒

By Maura Sanders, Legal Services of New Jersey Chief Counsel, Entitlement. Legal Services of New Jersey's work on SNAP issues is funded in part by the Walmart Foundation via the Food Research and Action Center.

HOUSING LAW:
Landlord's Refusal to Rent to Section 8 Recipients is Illegal

NEW JERSEY LAW makes it illegal for a landlord to refuse to rent to a person who has a Section 8 voucher or another type of housing assistance. The legal cite to this law is N.J.S.A. 10:5-12(g). This law applies to tenants who obtain Section 8 while already tenants in a house or apartment, and to tenants who are seeking to rent from a landlord for the first time. A landlord cannot refuse to accept rental assistance from a tenant and then turn around and sue to evict that tenant for nonpayment of rent. CITE: *Franklin Tower One, L.L.C. v. N.M.*, 157 N.J. 602 (1999).

If you have a Section 8 voucher or another subsidy and a landlord refuses to rent to you, you should immediately contact an attorney or the New Jersey Division on Civil Rights. (New Jersey law also makes it illegal to refuse to rent to a person who will pay rent with other sources of income, such as welfare, alimony, or child support. CITE: N.J.S.A. 10:5-12[g].)

The New Jersey Division on Civil Rights has four local offices, listed below. Call the local office nearest you.

South Shore Regional Office
1325 Boardwalk, 1st floor
Tennessee Ave & Boardwalk
Atlantic City, NJ 08401
609-441-3100

Southern Regional Office
5 Executive Campus
Suite 107
Cherry Hill, NJ 08034
856-486-4080

Northern Regional Office
31 Clinton Street
3rd Floor
P.O. Box 46001
Newark, NJ 07102
973-648-2700

Central Regional Office
140 East Front Street
6th Floor
P.O. Box 090
Trenton, NJ 08625-0090
609-292-4605

For more information on discrimination in housing, see ***bit.ly/20By7w5***. ❒

Looking Out For Your Legal Rights: flip over for English edition

Cuáles Son Sus Derechos Legales

Abril 2016 **Publicado por Los Servicios Legales de Nueva Jersey**

En Nueva Jersey, cuatro nuevos delitos han sido añadidos a la ley contra la violencia doméstica. Entérese de cómo estos se pueden utilizar en la obtención de una orden de restricción por violencia doméstica.

Looking Out For Your Legal Rights

Flip issue over for the English edition of *Looking Out for Your Legal Rights.*

LA LEY ESTATAL CONTRA LA VIOLENCIA DOMÉSTICA HACE MÁS PROTECCIONES DISPONIBLES

LA LEY DE NUEVA JERSEY protege contra la violencia doméstica al hacer posible que un víctima obtenga una orden de restricción. La ley que trata en específico con las órdenes de restricción es la Ley para la Prevención de la Violencia Doméstica. Las personas que tienen ciertos tipos de relaciones pueden obtener una orden de restricción si se ha cometido un delito en su contra. Para obtener información detallada sobre cómo solicitar una orden temporal de restricción, visite ***bit.ly/1RCLma4***. Hasta el 10 de

continúa en la página 2

continúa de la página 1

agosto de 2015, había catorce delitos que podían considerarse como violencia doméstica. Esos delitos son:

- El homicidio.
- La agresión.
- La agresión sexual.
- El contacto sexual ilícito.
- El secuestro.
- La retención ilícita.
- La privación ilegal de la libertad.
- Las amenazas terroristas.
- El hostigamiento.
- El acecho.
- La entrada ilícita.
- El allanamiento de morada.
- La lujuria.
- Los daños a la propiedad ajena.

A partir del 10 de agosto de 2015, cuatro delitos más se consideran como violencia doméstica. Estos son:

- La coacción ilícita.
- El robo.
- El desacato de una orden por violencia doméstica.
- Cualquier otro delito que implique el riesgo de lesiones personales graves o la muerte.

En este artículo describiremos los nuevos delitos y explicaremos cómo estos se pueden utilizar en la obtención de una orden de restricción por violencia doméstica. También se mencionará un nuevo caso de daños a la propiedad ajena.

La coacción ilícita

La coacción quiere decir que alguien ilícitamente intenta hacer que usted haga algo, o intenta impedirle a hacer algo por medio de una amenaza que va a:

- Lesionarle a usted o a alguien más.
- Cometer un delito.
- Acusar a otra persona de haber cometido un delito.
- Exponer un secreto que podría dañar su reputación o su crédito.
- Declarar o no declarar ante el tribunal, o
- Hacer algo para causar daño a su salud, seguridad, carrera, o relaciones personales.

La coacción ilícita es algo más que

Cuáles Son Sus Derechos Legales

Con respecto a *Looking Out*

Looking Out for Your Legal Rights® es publicada 10 veces al año por los Servicios Legales de Nueva Jersey. Si usted es un cliente de los Servicios Legales, puede obtener una copia en la oficina de Servicios Legales de su localidad. También puede leer *Looking Out* en nuestro sitio *Web* ***www.lsnj.org/espanol***.

Suscripciones

La suscripción cuesta $20 dólares por año.

Números atrasados

Puede ver números atrasados en ***www.lsnj.org/espanol***.

Cambio de dirección

Si se muda, envíenos su nueva dirección y una copia de la etiqueta pegada al último ejemplar de *Looking Out*.

Comentarios

Si tiene alguna sugerencia o comentario con respecto a *Looking Out*, nos gustaría oírlo. Envíe toda correspondencia a:

Editor, *Looking Out*
Legal Services of New Jersey
P.O Box 1357
Edison, NJ 08818-1357
publicaciones@lsnj.org

Este boletín de noticias es sólo una información general. Si tiene un problema jurídico, usted debería ver a un abogado.

Una parte del costo de esta publicación se cubrió con la ayuda proporcionada por el fondo IOLTA del colegio de abogados de Nueva Jersey.

una amenaza. La amenaza se tiene que haber hecho con el fin de obligarle a hacer algo o no hacer algo.

Por ejemplo, el agresor le dice

- "Si testifica en mi contra, le voy a decir a su jefe un secreto suyo".
- "Si no tiene relaciones sexuales conmigo, voy a llamar a los servicios para el menor y les voy a decir que usted maltrata a sus hijos".

El robo

El robo ocurre cuando alguien le quita algo suyo, mientras que al mismo tiempo le lastima, le amenaza con hacerle daño, utiliza la fuerza, o comete o amenaza con cometer cualquier otro delito.

Por ejemplo:

- El agresor le tuerce la mano por detrás de la espalda con el fin de robarle el teléfono y dejarselo para él/ella, o
- El agresor le pone un cuchillo en el cuello y se lleva su billetera.

El desacato de una orden de restricción por violencia doméstica

Si usted ya tiene una orden de restricción, temporal o final y el agresor se pone en contacto con usted por teléfono, le envía mensajes de texto, por correo electrónico, etc., o llega a su casa o empleo, eso es una violación de la orden de restricción. Las violaciones deben dar como resultado la detención del acusado.

Si usted tiene una orden temporal, una violación le permitirá llamar a la policía para que el agresor sea detenido y también ir al tribunal para modificar (agregar información a) la orden de restricción, al incluir el desacato de una orden por violencia doméstica como un delito adicional para que el juez considere durante el juicio para la orden final de restricción. Para obtener más asesoría sobre cómo modificar su orden temporal de restricción, visite ***bit.ly/1qp5he6***. Por ejemplo, usted tiene una orden temporal de restricción y

- El agresor le envía mensajes de texto y le pregunta que cómo le está yendo. No sólo puede llamar a la policía y hacer detener al agresor por violar la orden de restricción, sino que también puede regresar al tribunal de familia y añadir a su orden temporal el delito adicional de desacato—lo cual es algo que el juez considerará durante el juicio para la orden final de restricción.
- El agresor se aparece en su trabajo. De nuevo, usted puede llamar a la policía y hacer detener al agresor por quebrantamiento y después puede regresar al tribunal de fa-

HAY MUCHAS SITUACIONES QUE podrían incluirse en uno de los nuevos delitos comprendidos en la Ley para la Prevención de la Violencia Doméstica y muchos tipos de casos que aún no han sido juzgados o fallados por los jueces.

milia y agregar este incidente a su orden como desacato de una orden de restricción por violencia doméstica.

Cualquier otro delito que implique un riesgo de muerte o lesiones físicas graves

Si alguien ha cometido, en su contra, un delito que implique un riesgo de muerte o de lesiones físicas graves, esto se podría catalogar como violencia doméstica.

Por ejemplo:

- El agresor le prende fuego a su casa mientras usted está dentro, o
- Usted tiene 60 años de edad o es discapacitada. Su hija adulta, la cuidadora principal encargada de atenderla, la abandona o injustificadamente no le da los medicamentos necesarios, y esto le pone a usted en un riesgo de sufrir un daño grave.

Hay muchas situaciones que podrían incluirse en uno de los nuevos delitos comprendidos en la Ley para la Prevención de la Violencia Doméstica y muchos tipos de casos que aún no han sido juzgados o fallados por los jueces. Si usted cree que es víctima de violencia doméstica, póngase en contacto con un abogado, la policía o el tribunal de familia en el condado donde vive.

Los daños a la propiedad ajena

Daños a la propiedad ajena ya estaba incluido en la lista de los 14 delitos catalogados como violencia doméstica, pero un caso reciente ha dado como resultado que se le brinde una atención especial al asunto. Los daños a la propiedad ajena ocurren cuando una persona daña la "ropiedad de otro". Hasta ahora, algunos jueces indicaban que si los bienes dañados pertenecían parcialmente al infractor, no se consideraría que hubiera ocurrido un daño a la propiedad ajena. Un nuevo caso (*N.T.B. v. D.D.B.*) ha dejado claro que el juez debe considerar dicha acción como daños a la propiedad ajena. En este caso, el juez indica que el daño a la propiedad ajena ocurre cuando una persona daña la propiedad de otra, incluso si el infractor también es dueño de los bienes. El juez afirmó que, debido a que una casa comprada durante el matrimonio es propiedad compartida por ambos cónyuges, los daños o destrucción de parte de la casa a manos de uno de los cónyuges se constituye como "daños a la propiedad de otro". Un juez puede fácilmente dar el fallo que una de las partes llevó a cabo dicha acción incluso si ambas partes son los propietarios de las pertenencias dañadas.

Si tiene preguntas o necesita ayuda jurídica, llame a LSNJLAW℠, la línea directa gratuita de asistencia jurídica de los Servicios Legales de Nueva Jersey para todo el estado, marcando el l-888-LSNJ-LAW (1-888-576-5529), de lunes a viernes, desde las 8 de la mañana hasta las 5:30 de la tarde. También puede solicitar por medio de la Internet ***www.lsnjlawhotline.org***. Alguien se pondrá en contacto con usted en un plazo de dos días hábiles. ❐

Este artículo fue traducido del inglés por Al Moreno, coordinador del servicio lingüístico en LSNJ.