

Looking Out For Your Legal Rights®

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Enrollment Period For Marketplace Health Insurance November 1–December 15

“OPEN ENROLLMENT” to buy private health insurance for 2018 through the Federal Marketplace (www.healthcare.gov) starts on November 1, 2017. In contrast to previous years when open enrollment lasted for at least 90 days, open enrollment will only last 45 days this year, or *until December 15, 2017*. If you already have a Marketplace policy, November 1–December 15 is also the time to re-enroll or change plans. All states like New Jersey that use the Federal Marketplace have this limited open enrollment period for 2018. Before enrolling for insurance through the Marketplace, however, you should check whether you and your family members are eligible for NJ FamilyCare. If you enroll in NJ FamilyCare, you will probably not have to pay a premium, deductible, or co-pay.

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Medicaid Eligibility for Adults

Household Size	Annual Income Limit for Adult Medicaid (138% FPL)	Monthly Income Limit for Adult Medicaid (138% FPL)
1	\$ 16,643	\$ 1,387
2	\$ 22,412	\$ 1,868
3	\$ 28,180	\$ 2,349
4	\$ 33,948	\$ 2,829

Eligibility for NJ FamilyCare

Under the Affordable Care Act (ACA), many new people became eligible for Medicaid (called NJ FamilyCare in New Jersey). New Jersey adults ages 19 to 65 are now eligible for Medicaid if their household income is at or below 138% of the Federal Poverty Level (FPL). See the table above for 2017 amounts.

NJ FamilyCare for children includes both Medicaid and the Children's Health Insurance Program (CHIP). Medicaid and CHIP have different income limits and different coverage plans, but both fall within the NJ FamilyCare program.

The Medicaid income limit for children is 147% FPL. Children eligible for Medicaid get Plan A. Children above that income limit up to 355% FPL are eligible for the Children's Health Insurance Program (CHIP). Depending on their income, children eligible for CHIP get Plan B, C, or D and might have to pay a higher portion of the cost. Children over 150% FPL have to pay small co-pays, and children over 200% FPL have to pay a small premium.

How do I apply for NJ FamilyCare?

If you think your income is low enough to qualify for NJ FamilyCare, apply online at www.njfamilycare.org or call

Looking Out For Your Legal Rights®

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

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Medicaid and CHIP Eligibility for Children

Household Size	Annual Income Limit for Child Medicaid	Annual Income Limit for CHIP Coverage
1	\$ 17,729	\$ 42,813
2	\$ 23,873	\$ 57,652
3	\$ 30,018	\$ 72,491
4	\$ 36,162	\$ 87,330

1-800-701-0710. In addition to NJ FamilyCare programs based on your income, there are also Medicaid programs within NJ FamilyCare for persons based on disability or age (over 65). You can apply in person for all Medicaid programs whether based on income, disability, or age by going to your county Board of Social Services. Find information here: <http://bit.ly/2yGpADu>.

You can sign up for NJ FamilyCare at any time—there is no limited enrollment period.

What if I'm not eligible for NJ FamilyCare?

For persons above the income limit for NJ FamilyCare, buying health insurance can be very expensive. For example, a 62-year-old single person in New Jersey would have to pay approximately

\$893 per month to get a plan with a \$900 deductible and \$15 co-pays for generic prescription drugs. Under the ACA, however, persons with low and moderate income can receive financial assistance, so that the same plan for a person with \$18,000 annual income would cost \$195 per month with a \$0 deductible and \$5 co-pays for generic prescription drugs. This premium may still be hard to afford, but it is much better than without assistance. Premium subsidies, referred to as *Advance Premium Tax Credits* (APTC), are available on a sliding scale based on income up to 400% FPL. You can also look for different Marketplace plans that have lower premiums, but higher deductibles and co-pays, and get help with a Cost Sharing Reduction (CSR) for Silver Plans. CSRs are available up to 250% FPL.

Annual Limit for APTC and CSR on the Marketplace

Household Size	Annual Limit for Premium Subsidies (APTC) on the Marketplace	Annual Limit for Cost Sharing Reductions (CSR) on the Marketplace
1	\$ 48,240	\$ 30,150
2	\$ 64,960	\$ 40,600
3	\$ 81,680	\$ 51,050
4	\$ 98,400	\$ 61,500

How is income calculated?

To determine eligibility for Marketplace financial assistance, Medicaid, and CHIP, one method for counting income is used. It is called the *Modified Adjusted Gross Income* or “MAGI” methodology. With a few exceptions, it is the same method that is used to calculate *Adjusted Gross Income* (AGI) on a federal income tax return. Generally, only household income that is *taxable* is counted as income in determining eligibility for these programs. For example, SSI and child support are not counted as income because they are not taxable. You can also subtract amounts that you contribute to retirement plans like IRAs because they are deductible when determining AGI.

How do I apply for coverage through the Marketplace?

You can apply for a Marketplace plan online at www.healthcare.gov or by calling 1-800-318-2596. If you want in-person assistance, go to the Find Local Help section on the healthcare.gov website and enter your zip code or contact one of the agencies below for help.



You can apply for a Marketplace plan online at www.healthcare.gov or by calling 1-800-318-2596.

Center for Family Services

Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem Counties

<http://bit.ly/2iwdPt2>

1-877-9-ACCESS (1-877-922-2377)

Jewish Renaissance Medical Center

Union and Essex Counties

<http://bit.ly/2h58HZf>

(973) 564-1415 (Newark)

(732) 347-8095 (Perth Amboy)

The Family Resource Network, Inc.

www.frmnavigator.org

Hunterdon, Mercer, Morris, Ocean, and Somerset Counties

(800) 355-0271

The Food Bank of Monmouth and Ocean Counties

<http://bit.ly/2zAvqDw>

(732) 643-5888

In addition, New Jersey’s Federally Qualified Health Centers (FQHC) provide free enrollment assistance by certified application counselors. The list of those centers can be found at <http://bit.ly/2lbKViC>.

What if I miss the open enrollment period?

After the open enrollment period closes on December 15, 2017, the only way you will be able to qualify for a Marketplace plan for 2018 is if you qualify for a *Special Enrollment Period* (SEP). An SEP is triggered by a specific event and you usually have 60 days from the triggering event to apply for coverage through the Marketplace. The most common event triggering a SEP is loss of

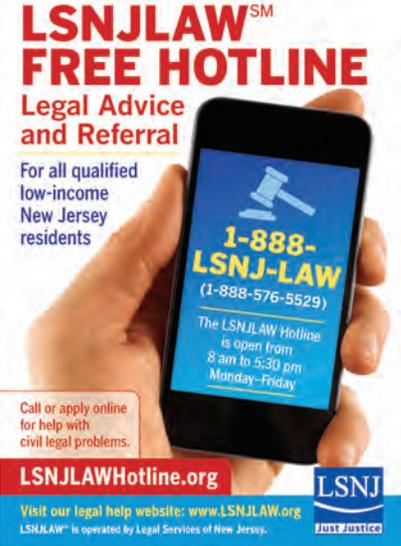
other health coverage. For example, if you have health insurance coverage through your job, but lose that coverage in January 2018, you could still enroll in a 2018 Marketplace plan even though open enrollment for 2018 has closed. This is because you would qualify for an SEP. This applies if you are laid off, quit your job, or have a reduction in hours that makes you no longer eligible for your plan at work. This also applies if you lose employer coverage through divorce, legal separation from, or death of your spouse. You also qualify for an SEP if your employer continuation coverage (such as COBRA) expires, if your student health plan expires, or if you lose coverage under your parent's plan because you turned 26 or 30. A person who is currently receiving NJ FamilyCare and is terminated because of an increase in income or some other change also qualifies for an SEP.

Other examples of events triggering SEPs are:

- If you are released from prison or jail
- If the contribution you have to pay for your health plan at work is increased above a certain level
- If you newly gain status as a citizen or lawfully present immigrant
- If you get married
- If you adopt a child
- If you move from another state to New Jersey.

*By Joshua Spielberg, Chief Counsel,
Legal Services of New Jersey*

Please note: This article is current as of October 2017. Since the November 2016 election, however, there have been several attempts by the current Congress, so far unsuccessful, to repeal and replace the ACA. There have also been certain actions taken by the current Executive branch that have the potential to undermine the ACA. Because of continuing new developments at the federal level, some of the information here may change. Please check our website, www.lsnjlaw.org, for updates to this article. □



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Visit our legal help website: www.LSNJLAW.org
LSNJLAWSM is operated by Legal Services of New Jersey.

LSNJLAWSM, Legal Services of New Jersey's Statewide, Toll-Free Legal Hotline

Read more about your legal rights on our website, www.lsnjlaw.org. If you have questions or need legal advice with a civil legal matter, contact LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). You may also apply online at <https://lsnjlawhotline.org>. Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. The Hotline provides free legal assistance to low-income New Jersey residents in civil legal issues. If you are not eligible for assistance from Legal Services, the hotline will refer you to other possible resources.

What to Do If You Don't Get a Restraining Order

What are Your Options if You Are Not Granted a Final Restraining Order?

IF YOU ARE a victim of domestic violence, you may be able to get protection from the abuser in the form of a temporary restraining order that can later become final. If you had a temporary restraining order (TRO), went to trial, and did not obtain a final restraining order (FRO), you have options: You can make a motion for reconsideration to the trial court, or you can appeal the case to the Appellate Division.

What is a motion for reconsideration?

A motion for reconsideration is when you ask the trial judge to change his or her mind about not granting the FRO because there was a mistake of fact or

law, or because the judge abused his or her discretion. In other words, based on the information you gave at trial, you think the judge made a mistake in not giving you an FRO and you want the court to fix that mistake and grant you an FRO.

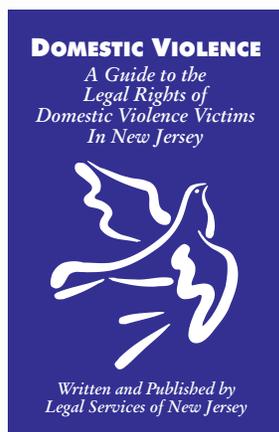
If you choose this option, you must file a motion for reconsideration within 20 calendar days of the day your TRO was dismissed. In your motion, you write to tell the court why you think the judge made a mistake of fact or of law, and that you think you should get the FRO after all. Note that you are not allowed to refer to new information that you wish you had presented at trial, unless it was not

October is Domestic Violence Awareness Month

OCTOBER IS Domestic Violence Awareness Month. If you know someone who is a victim of domestic violence, or if you need help for yourself, call the statewide domestic violence hotline at the New Jersey Coalition to End Domestic Violence, 1-800-572-SAFE (1-800-572-7233), for advice or a referral to a local program. Many victims of domestic violence feel isolated and alone, but there is expert help available. A phone call to the hotline can help victims become aware of options and services within their local communities.

Legal Services of New Jersey's Domestic Violence Representation Project (DVRP) provides legal representation, referral, and advice to low-income New Jerseyans who suffer abuse from a spouse or former spouse, present or former household member, or someone with whom they have been in a dating relationship or share a child, and cannot afford to pay for the services of a private lawyer. To find out if you are eligible for help, call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529) or 732-572-9100 if you are calling from outside of New Jersey. Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. You may also apply online at www.lsnjlawhotline.org.

Legal Services of New Jersey publishes a handbook, *Domestic Violence: A Guide to the Legal Rights of Domestic Violence Victims in New Jersey*, which is available on our website, www.lsnjlaw.org, in English, Spanish, Portuguese, and Korean. LSNJ also has a series of self-help videos about restraining orders available on YouTube. You may find them by going to www.youtube.com and searching for LSNJ and *restraining order*.



available at that time. Evidence you knew about, but chose not to present, will not be reviewed by the judge. It is not admissible through the motion. The court will send a copy of the motion for reconsideration to the defendant. The defendant will be allowed to write his or her response to your motion. When you go to court, you will not have a new trial. You will only be giving oral argument. This means that you will tell the judge why you think he or she made a mistake in applying the law or interpreting the facts of your case. Remember, you cannot present new evidence unless it was being hidden and/or unavailable at the time of your trial.

See *How to Ask the Court to Change/Enforce an Order in Your Case, or Request Another Related Action in Your Case* on the New Jersey Courts website at <http://bit.ly/2xQuaee> to find information on how to file a motion for reconsideration. This includes all of the instructions you will need to file in family court.

How do I know if the judge made a mistake?

In order to determine whether or not a judge made a mistake of fact or law, or abused his or her discretion, see if the judge's decision fits into one of the following categories:

- ***Mistake of Fact:*** This is when a judge misunderstands one of the essential facts of the case. The fact that was misunderstood by the judge must be one that will make a difference in the judge's understanding or decision of the case. You must believe that if the judge realized what the fact was, he or she would not have ruled that way and that hearing the correct fact will

change the judge's mind. You can explain to the judge what the actual fact was in order to help the judge come to a different conclusion.

- ***Mistake of Law:*** A mistake of law is when the judge understands the facts of the case but comes to the wrong legal conclusion. The judge may have mistakenly applied the facts to the law.
- ***Abuse of Discretion:*** When a judge is said to have abused discretion, it means the judge has made an unreasonable decision in light of the facts and law he or she had to consider, or that the judge has made an arbitrary decision regardless of precedent and settled law.

At the oral argument, the judge will hear from each side. After considering what each side has to say, the judge will decide to grant you the FRO, deny your motion, or open the case for additional testimony.

What else should I know when I file a motion?

New Jersey Court Rule 4:49-2 Motion to Alter or Amend a Judgment or Order is a rule that states:

Except as otherwise provided by R. 1:13-1 (clerical errors) a



You are allowed to request a copy of the audio recording of your trial so that you can review it and prepare for your reconsideration hearing.

motion for rehearing or reconsideration seeking to alter or amend a judgment or order shall be served not later than 20 days after service of the judgment or order upon all parties by the party obtaining it. The motion shall state with specificity the basis on which it is made, including a statement of the matters or controlling decisions which counsel believes the court has overlooked or as to which it has erred.

You are allowed to request a copy of the audio recording of your trial so that you can review it and prepare for your reconsideration hearing. You can request the recording at the law library in the courthouse where the trial was held. It takes a few days before it is available for pickup. The cost for this recording is typically \$10.

If you choose this option, it is important to include in your certification the specific reason you are asking the judge to change his or her mind. Lay out the fact that you believe the judge got wrong or provide the law that the judge misapplied. If you believe that the judge abused his or her discretion, you will need to provide specific information about why you believe this and what you believe the appropriate decision would have been. It is not a strong case to ask the judge to change his or her mind be-

cause you believe you were right without evidence to support your legal argument for that belief.

Appealing a Case to the Appellate Division

An appeal is when you ask a new, higher court to review the trial court's decision to not grant you an FRO. If you believe the judge made a mistake by misinterpreting the facts, misapplying the law, or abusing his or her discretion, you can apply to the Appellate Division to review your case.

Within 45 calendar days of the trial judge's decision to deny you an FRO, you may file a notice of appeal. A notice of appeal is paperwork that tells the Appellate Division you are requesting an appeal of the decision made by the trial judge. Appeals are more work than motions for reconsideration and take a lot more time. First, you will have to file a notice of appeal, a case information statement, and a transcript request from your trial court case. The fee for the transcript request cannot generally be waived. This paperwork gets filed in Trenton and must also be sent to all of the other parties in your case. After you file the notice of appeal with the court, you wait to hear from the Appellate Division as to whether or not they will hear your appeal. If the court hears your appeal, you will receive a scheduling order that will tell you when your brief is due.

You will have to write an appellate brief to the court telling them the mistakes made by the trial court. An appellate brief is a formal document you will prepare for the court, asking them to reverse the lower court and grant you the FRO. You may cite cases, statutes, court rules, or any other authority that will help you prove that an FRO should have been granted to you. See *How to Appeal a Decision in the Superior Court* at <http://bit.ly/2gFQxwr> for further information on what must be included in your appellate brief. The defendant will also be given the same opportunity to file a brief.

After briefs are filed, oral argument may be scheduled. You may request to have oral argument, but you do not have to ask for oral argument if you do not want to. Either way, the judges will have read your appellate brief and, if you choose to do so, they will also listen to your argument before deciding your case.

Which option is best for you?

A motion for reconsideration will happen more quickly. The judge who decides your motion for reconsideration will be the same judge assigned to your restraining order hearing. If you think you can change the judge's mind, it may be worthwhile. The motion will generally be decided within four weeks, depending on how busy the court is at the time you file.

An appeal will take longer. You will be in front of a new panel of judges who did not hear your case firsthand but will review the transcript of what was said at the hearing. You will have to write an appellate brief, which is longer than a motion for reconsideration. If you think the

trial court judge made a mistake but you don't think you can meet the standard for reconsideration, an appeal may be best for you.

You do not need to choose between the two options—you can do both. You must keep the dates in mind. A motion for reconsideration must be filed within 20 calendar days with the same court that heard your original case. If you lose on your motion for reconsideration, you can appeal that decision. When appealing the motion for reconsideration, you go through the same process as you would with appealing the original trial court decision. The appeal must be filed at the Appellate Division within 45 calendar days of when the judge dismissed your motion for reconsideration. You also still have the option to appeal the initial loss of your trial if you were unsuccessful at the motion for reconsideration. This appeal must be filed within 25 days of the dismissal of your motion for reconsideration (or later if you filed your motion for reconsideration in less than the 20 days required).

It is important to remember that no matter what option you choose, the



The judge who decides your motion for reconsideration will be the same judge assigned to your restraining order hearing.

It is important to remember that no matter what option you choose, the defendant will be made aware of the motion or appeal you file.

defendant will be made aware of the motion or appeal you file. The defendant will be served with notice of your motion or appeal and have a chance to respond. The defendant will also be informed of any future court dates regarding the possibility of whether you can get an FRO. The defendant will then have the opportunity to go to court and respond to what you say.

Safety Planning

Here are some things to keep in mind if you do not get an FRO:

- If you do not feel safe returning to a home you shared with the abuser, you may want to reach out to your county domestic violence agency for a shelter referral. It is also a good idea to keep your cell phone charged and

your gas tank full. Let someone know of your whereabouts. See *Guide to Services for Victims of Domestic Violence* on www.lsnjlaw.org.

- Although you were not able to get an FRO against the defendant, you can try to get one in the future if a new act of domestic violence occurs. If a new act occurs, you can apply for another temporary restraining order. You may be able to get an FRO against the defendant in the future if you need it. *You should still call the police if you feel in danger.* You can always reach out to a domestic violence agency or Legal Services of New Jersey for any questions you may have. Call LSNJLAWSM, Legal Services of New Jersey's statewide, toll-free legal hotline, at 1-888-LSNJ-LAW (1-888-576-5529). □

By the staff of Legal Services of New Jersey's Domestic Violence Representation Project

LEGAL SERVICES OF NEW JERSEY

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www.LSNJLAW.org

GET LEGAL HELP

Contact Our Statewide Legal Hotline, LSNJLAWSM

1-888-LSNJ-LAW (1-888-576-5529)

www.LSNJLAWHOTLINE.org



Expungement for Victims of Human Trafficking and Identity Theft

HUMAN TRAFFICKING is a modern-day form of slavery. It involves the action of illegally transporting people from one or area to another for the purposes of forced labor or sexual exploitation. Millions of men, women, and children are forced or coerced into slavery each year and are often required to commit crimes as victims. Special laws exist in New Jersey to help victims of human trafficking clear their criminal record after they have been freed or escaped.

What does the law Human Trafficking 2C:44-1.1 say?

Human Trafficking 2C:44-1.1 provides the following:

If you were convicted of prostitution and related offenses or loitering for the purposes of engaging in prostitution or a similar local ordinance you may file an application with the Superior Court pursuant to R.3:21-11 to have the conviction vacated, when the person's participation in the offense was the result of having been a victim of human trafficking. An individual may also seek an expungement order in the same application.

There is no waiting period for expunging your record as a victim of human trafficking.

Who can get help through Human Trafficking 2C:44-1.1?

The law says that you must make a request for expungement within a "rea-

sonable time" after ceasing to be a victim or having sought victim services. Allowances are made if you have reasonable concerns for the safety of family members or other victims that may be affected by your request.

You must be able to convince a judge that you were a victim of human trafficking at the time of the offense and that the violation was a result of your status as a victim. The court may consider any or all of the following:

- Evidence of trafficking from federal, state, or local authorities
- Court records that support your claim of being a victim of a trafficker charged with human trafficking
- Records of immigration approval notices or law enforcement certifications that are available to victims of human trafficking
- Testimony or statements from a trained professional staff member of a victim services organization, an attorney, clergy, health care or other professional who has helped you access services related to you status as a victim of human trafficking.

How do I start my application for expungement?

There is no fee for this type of expungement and you do not need to file a traditional expungement petition. You may not even have to go to a hearing. You should speak with a lawyer if possible for guidance on making this application. You may contact Legal Services of New Jersey's statewide, toll-free legal hotline at 1-888-LSNJ-LAW

Special laws exist in New Jersey to help victims of human trafficking clear their criminal record after they have been freed or escaped.

(1-888-576-5529). You may also apply for help online at www.lsnjlawhotline.org.

Identity Theft

Identity theft happens when someone uses information about you without your permission. They can use your information to steal money from your bank account or get a credit card in your name. They might also commit a crime using your name, which could go on your permanent criminal record.

What does the law Identity Theft 2C:52-32.1 say?

Identity Theft 2C:52-32.1 states: If you reasonably believe you are the victim of identity theft based on the commission of an offense under 2C:21-2.1 (false government documents), 2C:21-17 (impersonation, theft of identity) or 2C:21-17.2 (use of personal identifying information of another) or 2C:21-17.3 (trafficking in personal identifying information pertaining to another person) you may petition the court for a judicial determination of factual innocence.

Who can get help through Identity Theft 2C:52-32.1?

You may be eligible for expungement through this law if any of the following apply:

- The perpetrator of the identity theft was arrested for, cited for, or con-

victed of a crime or offense or violation of law using your identity.

- A complaint for a crime, offense, or violation has been filed against the perpetrator in your name.
- Your identity has been mistakenly associated with a record of conviction.

Evidence can include the following:

- Declarations
- Affidavits
- Police reports
- Other material establishing that there is “no reasonable cause” to believe the victim committed the crime, offense, or violation.

If a charge is pending, the prosecutor can make the application for a determination of factual innocence on your behalf.

How do I start my application for expungement?

There is no fee for this type of expungement and you do not need to file a traditional expungement petition. You may not even have to go to a hearing. You should speak with a lawyer if possible for guidance on making this application. You may contact Legal Services of New Jersey’s statewide, toll-free legal hotline at 1-888-LSNJ-LAW (1-888-576-5529). You may also apply for help online at www.lsnjlawhotline.org. □

*By Akil S. Roper, Chief Counsel, Reentry,
Legal Services of New Jersey*

Cuáles Son Sus Derechos Legales

Octubre 2017

Publicado por Los Servicios Legales de Nueva Jersey

**Protecciones para los inquilinos víctimas de violencia doméstica:
La ley de NJ para una vivienda segura**

Octubre es el mes para enterarnos de lo que es la violencia doméstica, en inglés *Domestic Violence Awareness Month*.

Protecciones para los inquilinos víctimas de violencia doméstica: La ley de NJ para una vivienda segura

LA LEY DE Nueva Jersey para una vivienda segura, *The New Jersey Safe Housing Act*, es una ley que les permite a los inquilinos que son víctimas de violencia doméstica y a sus hijos romper un contrato de arrendamiento antes de tiempo. Esta ley se estableció para asegurar que estos inquilinos victimados tengan una vivienda segura y a largo plazo. La cita, que se refiere al número de la ley, es N.J.S.A 46:8-9.4. (La cita indica el tomo donde se encuentra esta ley).

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El boletín de educación jurídica para los habitantes de Nueva Jersey

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Los inquilinos tienen que brindarle una notificación escrita al arrendador

Conforme a la ley, el inquilino tiene que enviar una notificación por escrito para poner un fin anticipado al contrato. Este se vencerá 30 días después de que el arrendador reciba dicha notificación, por lo cual se le exige pagar el alquiler hasta el 30avo día. La notificación tiene que indicar lo siguiente:

- Que si el inquilino/víctima o el menor se queda viviendo en este lugar, correrá el peligro de que otra persona le cause algún daño físico. Para efectos de esta ley, se incluye en la definición de lo que es la violencia doméstica, el peligro que puede correr cualquier persona menor de edad. El menor no tiene que ser hijo del agresor y de la víctima. Para obtener una descripción completa de los delitos que se consideran como violencia doméstica, consulte *19 delitos catalogados como violencia doméstica* en el sitio www.lsnjlaw.org/sp.
- (El inquilino no puede terminar el contrato si la amenaza es general). Por ejemplo, el requisito se cumple si el agresor sabe dónde vive la víctima y si hubo un incidente de violencia

doméstica anterior (aun si esto no ha sucedido en el lugar que se esté alquilando).

Junto con la notificación, tiene que enviar otras pruebas de esta amenaza

La víctima/inquilino debe enviar pruebas adicionales de la amenaza junto con la carta para terminar el contrato de arrendamiento. Por medio de estas, tiene que mostrar las razones por las cuales está bajo peligro de que alguien le cause un grave daño corporal. Los siguientes documentos son ejemplos de pruebas admisibles:

- Una copia certificada (oficial) de la orden final de restricción (no la temporal) según la ley para prevenir la violencia doméstica en Nueva Jersey, la cual protege a la víctima/inquilino del agresor que se menciona en la carta.
- Una copia certificada de una orden final de restricción que le otorgó otra jurisdicción (estado o país) según la ley que aplique sobre la violencia doméstica, la cual protege a la víctima/inquilino de la misma persona que se menciona en la carta.
- Un informe de una agencia del orden público (como un informe policiaco)

Cuáles Son Sus Derechos Legales

Con respecto a *Looking Out*

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Suscripciones

La suscripción cuesta \$20 dólares por año.

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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.

Si termina el contrato de arrendamiento y se muda, la ley para una vivienda segura indica que el arrendador tendrá que devolverle el depósito no más de 15 días después de la mudanza.

que documente el acto o certifique (informe oficialmente) que la víctima/inquilino o menor es víctima de violencia doméstica.

- Notas o informes de un médico o enfermera u otro proveedor de servicios médicos de un hospital, sala de urgencias o una oficina médica particular, en la que se describa las lesiones que resultaron de este acto.
- Una certificación escrita (declaración oficial) de un perito en el área de la violencia doméstica o director de una agencia (oficial) de asistencia en casos de violencia doméstica que indique que el inquilino o el menor es una víctima.
- Otro documento o certificación de un trabajador social autorizado para indicar si el inquilino o el menor es víctima de violencia doméstica.

Los documentos que el inquilino envíe al arrendador junto con la notificación escrita son de mucha importancia. Tenga en cuenta que:

- Toda orden de restricción que envíe tiene que ser la definitiva, (FRO por sus siglas en inglés). La provisional, (TRO por sus siglas en inglés) por sí misma no es suficiente, pero le podría ser de ayuda si la envía con otros documentos admisibles.
- Las personas que le escriban informes o cartas deberán indicar sus credenciales para presentar dicho informe y enviar adjunto una copia de su hoja de vida.
- El informe o carta debe explicar qué se utilizó como fundamento para determinar que la persona es víctima de violencia doméstica. Por ejemplo, debe indicar si

hubo reuniones en persona o cualquier otro documento que se haya visto.

Se recomienda que el inquilino esté en contacto con la agencia de violencia doméstica del condado. Para obtener una lista de estas agencias, vea *Recursos en caso de violencia doméstica* en el sitio www.lsnjlaw.org/sp.

¿Cuándo terminará el contrato de arrendamiento?

Treinta días después de que el propietario reciba la notificación y los otros documentos, el contrato terminará y la víctima/inquilino puede dejar de pagar alquiler. Deberá pagar el alquiler hasta el día 30.

Si hay otros inquilinos inscritos en el contrato de arrendamiento, también se terminará para ellos. Los otros inquilinos pueden firmar un nuevo contrato de arrendamiento si así lo desea el arrendador. No se debe sacar de la casa a los otros inquilinos, a menos que el propietario tenga una buena causa según las leyes que rigen el arrendamiento.

¿Qué sucederá con mi depósito de garantía?

Si termina el contrato de arrendamiento y se muda, la ley para una vivienda segura indica que el arrendador tendrá que devolverle el depósito no más de 15 días después de la mudanza. Según la ley, el arrendador se puede quedar con parte del depósito si hubo daños en el apartamento o si debe el alquiler. El arrendador debe enviar una notificación al último domicilio conocido, indicándole el lugar donde puede ir a conseguir su depósito de garantía. Si el propietario se queda con

parte del depósito, también tiene que enviarle una notificación con las razones. Si no está de acuerdo con las razones por las cuales este se quedó con el depósito, puede demandar al propietario en el tribunal de menores cuantías y cobrar el doble de la cantidad que no le devolvió y los costos para conseguir que un abogado le ayude. (La cita que indica esta ley es N.J.S.A. 46:8-21.1.)

¿Qué sucederá si vivo en una vivienda pública?

Si vive en una vivienda pública o algún otro edificio subvencionado o está en el programa de asistencia con el alquiler, en inglés *Housing Choice Voucher* (también se conoce como la Sección 8), puede que tenga otras opciones para poner fin a un contrato de arrendamiento.

- **Notificar debidamente.** Lo primero que debe hacer es ver el contrato y lo que dice acerca de los avisos que necesita brindar a las Autoridades de Viviendas o al arrendador si quiere liberarse del contrato de arrendamiento. También hay una ley federal, llamada la Ley en contra de la violencia hacia la mujer, *Violence Against Women Act*, que le puede servir si usted vive en una vivienda pública, subsidiada o si recibe los cupones. (La cita de esta ley es PL 109-162).
- **Pedir a las autoridades de viviendas que le ayuden.** Las autoridades de vivienda pueden desalojar al agresor y permitir que se quede usted. Si corre el peligro de que el agresor le haga daño, pueden ayudarle a mudarse a otro lugar. Si recibe los cupones para la vivienda, puede terminar el contrato por medio de la ley de Nueva Jersey para una vivienda segura y mudarse a otra casa o apartamento. Las autoridades de viviendas que se encargan de darle la asistencia con el alquiler le ayudarán con este proceso.

Si usted vive en una vivienda pública, subvencionada o con cupones, una de las cosas más importantes que usted necesita presentar son pruebas de que usted es víctima de violencia doméstica. Estas son las mismas que se necesita bajo la ley de Nueva Jersey para una vivienda segura. (Las pruebas se describen al principio de este artículo).

Tendrán que mantener confidencial la información personal

Para poder lograr que se termine el contrato bajo esta ley, tendrá que divulgar información muy personal sobre su situación. De acuerdo a la ley de Nueva Jersey para una vivienda segura, el arrendador y/o secretario del municipio tienen que mantener la información confidencial. Se les prohíbe que divulguen la información con respecto a la violencia doméstica. También se prohíbe que el arrendador ponga dicha información en una base de datos compartida, como por ejemplo con una compañía de investigación acerca de los inquilinos o agencia que expide informes acerca de los inquilinos. Sin embargo, la ley sí permite que el arrendador pueda utilizar esta información en el futuro, si es que se entra en un proceso jurídico de inquilinato.

La ley de Nueva Jersey para una vivienda segura es de gran beneficio para las víctimas de violencia doméstica que deseen salirse de una situación peligrosa. Si usted es víctima y desea que le asistan con un asunto de violencia doméstica, llame a LSNJLAWSM, la línea directa gratuita de asistencia jurídica de los Servicios Legales de Nueva Jersey para todo el estado, marcando el 1-888-LSNJ-LAW (1-888-576-5529). También puede solicitar por medio de la Internet. □

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