

CHAPTER 90**WORK FIRST NEW JERSEY PROGRAM****Authority**

N.J.S.A. 30:1-12.

Source and Effective Date

R.2007 d.240, effective July 16, 2007.
See: 39 N.J.R. 832(a), 39 N.J.R. 3936(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 90, Work First New Jersey Program, expires on July 16, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 90, The Handbook for Home Services Program, was filed and became effective prior to September 1, 1969. Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980. See: 12 N.J.R. 192(a), 12 N.J.R. 323(a).

Chapter 90, Monthly Reporting Policy Manual, was adopted as R.1982 d.399, effective November 15, 1982. See: 14 N.J.R. 958(a), 14 N.J.R. 302(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, Monthly Reporting Policy Manual, was readopted as R.1987 d.454, effective November 16, 1987. See: 19 N.J.R. 1517(a), 19 N.J.R. 2193(a). Pursuant to Executive Order No. 66(1978), Chapter 90, Monthly Reporting Policy Manual, expired on October 14, 1992.

Chapter 90, Work First New Jersey Program, was adopted as R.1997 d.311, effective July 1, 1997 (to expire January 1, 1998). See: 29 N.J.R. 3287(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, Work First New Jersey Program, was readopted as R.1998 d.42, effective December 10, 1997. See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Subchapter 17, Early Employment Initiative (EEI), was adopted as R.1998 d.383, effective July 20, 1998. See: 30 N.J.R. 1489(a), 30 N.J.R. 3656(a) (operative August 1, 1998).

Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration, was adopted as R.1999 d.66, effective March 1, 1999. See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

Subchapter 19, Kinship Care Subsidy Program (KCSP), was adopted as R.2002 d.349, effective November 4, 2002. See: 33 N.J.R. 4191(a), 34 N.J.R. 3778(b).

Chapter 90, Work First New Jersey Program, was readopted as R.2003 d.226, effective May 5, 2003. As a part of R.2003 d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration, was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules, effective June 16, 2003. See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Chapter 90, Work First New Jersey Program, was readopted as R.2007 d.240, effective July 16, 2007. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:90-1.1 Purpose, philosophy and scope of the WFNJ program

(a) The Work First New Jersey (WFNJ) program has been established to transform the design and purpose of the welfare system in New Jersey. For the first time, one comprehensive program has been created by the Legislature and the Governor to uniformly both inspire and require all able-bodied families with dependent children, single adults and couples without dependent children to WORK rather than receive welfare. WFNJ builds and expands upon the foundation of the basic principles set forth in the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193. The Act established the Temporary Assistance for Needy Families (TANF) block grant program which ended the Aid to Families with Dependent Children program and established the WFNJ Program pursuant to the Work First New Jersey Act, Public Law 1997 c.13, c.14, c.37 and c.38.

(b) WFNJ, building upon the base of our former State and Federally funded Aid to Families with Dependent Children (AFDC) program and our State funded General Assistance (GA) program, creates one WFNJ program. However, due to certain necessary differences in the requirements and the responsibilities entailed in being a single adult, a couple without dependent children or a single adult or couple with dependent children, the WFNJ program recognizes two segments which, for ease of reference and clarity throughout this manual are referred to as either the WFNJ/TANF component, which encompasses families with children whether headed by a single adult or a couple, and the WFNJ/GA component, which encompasses single adults and couples without dependent children.

(c) The WFNJ Program is designed specifically to emphasize personal responsibility, instill dignity, promote self-sufficiency and pride through work and strongly reinforce all parents' responsibility for their child(ren) through strict enforcement of child support requirements. WFNJ clearly recognizes that both parents of a child(ren), whether or not they are the custodial caretakers of these children share fully and equally in the responsibility for the financial support of the child(ren), as well as all the positive developmental aspects which occur throughout childhood. All adults have primary responsibility for supporting both themselves and their families.

(d) Assistance benefits provided under WFNJ are time-limited and considered a temporary cash subsidy to bridge the gap while individuals seek and obtain self-sufficiency through bona fide unsubsidized employment. Applicants shall be informed that receipt of WFNJ assistance benefits is limited to a lifetime maximum of 60 cumulative months and that seeking and accepting employment are the primary requirements for receipt of continuing cash assistance.

(e) The applicant(s) and/or his or her designee shall be assisted by the WFNJ worker in completing the Application and Affidavit for WFNJ and the Agreement to Repay pursuant to N.J.S.A. 44:10-64. The applicant shall be given the WFNJ Participant Handbook, an information card concerning the "Fair Hearings in the Work First New Jersey Program (WFNJ)", and written notification of his or her rights and responsibilities under the WFNJ program.

(f) In line with protecting its most vulnerable citizens, it should be emphasized that the WFNJ Program has availed itself of the PRWORA option regarding protections for victims of Family Violence. PRWORA and WFNJ provide the flexibility to uniquely address the specific problems of victims of family violence, as well as victims of rape and incest (see N.J.A.C. 10:90-20 regarding family violence provisions).

(g) The purpose of this chapter is to establish the policies necessary for the orderly and equitable provision of WFNJ Program benefits to single adults, couples without dependent

children and families with dependent children on a Statewide basis. The policies and procedures are binding on the county or municipal agency charged with the responsibility for administering the WFNJ Program and are enforceable by the Department of Human Services (DHS), Division of Family Development (DFD). The DHS shall oversee the actions of the county or municipal agency as they relate to program administration and shall coordinate with other departments within the State of New Jersey in an effort to establish the necessary linkages to assist recipients of WFNJ to achieve social and economic self-sufficiency. Questions of interpretation shall be resolved by the Division of Family Development. If any rules herein contradict or conflict with rules or policies established at N.J.A.C. 10:81, 10:82 or 10:86 such material is superseded by this chapter.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (e) and (f).

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 560) adopted with comment, which found that disabled petitioner did not violate the spirit and intent of the Work First New Jersey program and Temporary Assistance for Needy Families as set forth in N.J.A.C. 10:90-1.1, by seeking to have her husband — a convicted sex offender — reside with her and their children; although placing her husband on the lease resulted in their eviction and may have violated the lease term specific to HUD properties, it was not in and of itself a substantial violation of the welfare regulations. *K.J. v. Atlantic County Dep't of Family & Community Development*, OAL Dkt. No. HPW 4417-07, 2007 N.J. AGEN LEXIS 935, Final Decision (August 14, 2007).

10:90-1.2 Opportunity and decision to apply

(a) Any person who believes he or she is eligible for WFNJ assistance must be given the opportunity to apply without delay. Applicants shall be informed about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the person. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

(b) The application process begins with the initial contact by a member of the assistance unit with the designated county or municipal agency and ends with a decision by that agency as to the eligibility of the assistance unit for WFNJ benefits. Both the applicant and the county or municipal agency have a responsibility to verify and document eligibility.

(c) Initial contact may be an inquiry, a referral or an application:

1. Inquiry means any request for information about assistance programs which is not a request for an application. A record is necessary only when the inquiry requires follow-up action.

2. Referral means a request from a public or private agency or individual for assistance on behalf of another individual/family. All referrals must be recorded with appropriate facts, and the disposition noted.

3. Application means a written request for public assistance by an individual, couple without children, natural or adoptive parent(s), parent-person(s), minor parent(s), or legal guardian acting on behalf of the individual/family.

(d) There are four types of applications: new application, reapplication, reopened application and transfer application (see N.J.A.C. 10:90-15 for definitions).

(e) The applicant(s) and/or his or her designee shall be assisted by the WFNJ worker in completing the Application and Affidavit for WFNJ and the Agreement to Repay pursuant to N.J.S.A. 44:10-64. The applicant shall be given the WFNJ Participant Handbook, an information card concerning the "Fair Hearings in the Work First New Jersey Program (WFNJ)", and written notification of his or her rights and responsibilities under the WFNJ program.

(f) Responsibilities of the county or municipal agency during the initial contact shall include, but not be limited to:

1. Explaining the programs/services and detailing the applicant's rights and responsibilities including immediate need, his or her mandatory cooperation with Child Support and Paternity (CSP) requirements, work requirements, family violence provisions, personal identification requirements, time limits, family cap provisions, requirements for affidavits regarding felony conviction, parole violation, drug conviction, and minor parent requirements;

2. Providing an orientation to the WFNJ program to each applicant for assistance to explain the need for each individual to comply with WFNJ work requirements as a condition of eligibility for WFNJ benefits, unless deferred. All WFNJ applicants unless they are 60 years old or over, a victim of family violence, a child-only case, or EEI eligible are required to register for work with the New Jersey One-Stop Career Center (NJOSCC);

- i. The work registration is completed via an electronic transfer of information to America's One-Stop Operating System (AOSOS) upon determination of eligibility for WFNJ. If the person is deemed employable through the completion of Part A of the Employability Plan Development Tool (EPDT), then the CWA/MWA shall make a referral to the NJOSCC using the AOSOS interagency referral system.

3. Informing the applicant how and where to apply and what verifications and documents are needed to complete the intake interview;

4. Advising the applicant that Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination in determining eligibility for public

assistance (see N.J.A.C. 10:90-1.7 regarding specific non-discrimination provisions) and furnishing him or her with a copy of the WFNJ Participant Handbook;

5. Determining whether the applicant does indeed wish to apply with full understanding of the need to verify essential eligibility factors and the requirement for a personal interview, which includes, as an initial step, a CSP interview;

- i. County CSP staff shall be co-located with WFNJ/TANF intake staff, to insure that the child support interview does not delay the application process;

6. Informing the applicant of the availability of the Food Stamp (FS) Program, specifying the requirements for qualification and, if appropriate, assisting the applicant in applying if he or she so chooses and assisting the applicant in obtaining verification documentation;

- i. When the applicant is applying for multiple benefits, for example, WFNJ, Medicaid and food stamps, the agency shall determine if the child support interview and work registration requirement can be completed on the day of initial contact with the agency. Where the child support interview and/or work requirement cannot be completed on the day of application, the applicant shall be afforded the opportunity to file the application, for food stamp purposes, that day. At a minimum, the applicant shall provide his or her name and signature, as well as the date of filing, on the application. The applicant shall also complete the questions on the PA-1J which are relevant in determining whether the household is entitled to food stamp expedited service. In addition, the applicant shall be provided with an appointment to return to the agency to comply with the CSP interview and/or the work registration requirement;

7. Advising a pregnant woman that she may make application for assistance for herself and the expected child up to 90 days before the expected birth date of her child, as well as providing information regarding prenatal benefits available under Medicaid and supplemental benefits available under the Woman, Infants and Children (WIC) program;

8. Taking the WFNJ application at the county level, on the same day when an individual appears at the office to request an application, if possible, or in hardship cases, when a home visit occurs, which includes an Agreement to Repay (form WFNJ-10D) as well as an application for Food Stamps and an application for Medicaid or medical benefits, as appropriate. If the agency determines that the application cannot be completed on the day of the request, the applicant shall be afforded the opportunity to file the application that day by providing his or her name and signature, as well as the date of filing, on the application. The applicant shall be provided with an appointment to complete the application process. The agency must ensure

that eligibility shall be retroactive to the date on which the individual signed the application.

i. For GA cases applying for Supplemental Security Income, in addition to form WFNJ-10D, the applicant shall also sign the WFNJ/GA-30 (Authorization for Reimbursement of Initial Supplemental Security Income (SSI) Payment or Initial SSI Post-eligibility Payment) and the WFNJ/GA-30A (Agreement to Repay Assistance From Initial SSI Payment) in accordance with N.J.A.C. 10:90-14.5(c);

9. Taking the WFNJ application at the municipal level, on the same day when an individual appears at the office to request an application, if possible, or in hardship cases, when a home visit occurs, which includes an Agreement to Repay (form WFNJ-10D) for cash assistance, emergency assistance and any monies that the Division of Medical Assistance and Health Services spends as a direct result of accident-related injuries. If the agency determines that the application cannot be completed on the day of request, the applicant shall be afforded the opportunity to file the application that day by providing his or her name and signature, as well as the date of filing, on the application. The applicant shall be provided with an appointment to complete the application process. The agency must ensure that eligibility shall be retroactive to the date the individual signed the application.

i. For GA cases applying for Supplemental Security Income, in addition to form WFNJ-10D, the applicant shall also sign the WFNJ/GA-30 and the WFNJ/GA-30A, in accordance with N.J.A.C. 10:90-14.5(c); and

10. Determining the employability and/or type of assistance the applicant is seeking.

i. To determine an applicant's employability, the agency shall help the applicant who appears to meet financial and non-financial eligibility requirements and who is considered an eligible candidate for WFNJ cash assistance, to complete Part A of the EPDT. The information obtained from Part A of the EPDT shall be used to develop the initial Individual Responsibility Plan (IRP) (see N.J.A.C. 10:90-4.8 for provisions regarding IRP plan completion).

ii. If a referral to the NJOSCC for "To-Work" services is appropriate, the CWA/MWA shall document the referral as a WFNJ eligibility requirement on the initial IRP. The IRP shall reflect that an appointment shall be scheduled with the NJOSCC to complete Part B of the EPDT upon determination of eligibility for WFNJ.

iii. Those individuals with barriers to employment identified by the EPDT, or who are deferred from the work requirement, shall have their social service needs met by the CWA/MWA, until such time as their barriers are removed and they are redetermined mandatory "To-Work" participants. When a referral is made to a barrier removal activity, the initial IRP shall indicate that the

individual's first activity is a referral to be assessed by the appropriate agency.

iv. The county or municipal agency, as appropriate, shall ensure the provision of necessary case management for all recipients. Case management means the provision of certain services to recipients, which shall include an assessment and development of an IRP for each adult recipient, minor parent, and 16- through 18-year old individual that is not attending school on a full-time basis. (See N.J.A.C. 10:90-4.7 and 4.9 for provisions regarding assessment and N.J.A.C. 10:90-4.8 for provisions regarding IRP plan completion.) The most intensive case management shall be directed to those facing the most serious barriers to employment.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (e), added information detailing written notification of rights and responsibilities under WFNJ; in (f)2 added "immediate need" and "domestic violence provisions" and added (f)3; recodified former (f)3 to (f)4 and added (f)4i, recodified former (f)4 to (f)5 and former (f)5 to (f)6; recodified former (f)6 to (f)7 and added (f)7i; recodified former (f)7 to (f)8 and added (f)8i, recodified former (f)8 to (f)9 and former (f)9 to (f)10; and added (f)11.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (e) and (f).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (f)3, inserted "for each adult recipient, parent minor, and 16 through 18 year old individual that is not attending school on a full time basis" following "responsibility plan (IRP)".

Amended by R.2008 d.324, effective November 3, 2008.

See: 40 N.J.R. 2188(a), 40 N.J.R. 6459(a).

In (c)3, substituted "minor parent(s)" for "parent-minor"; and rewrote (f).

10:90-1.3 Immediate need

(a) All applicants for WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determines that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made.

1. Immediate need means that the assistance unit lacks shelter or is at imminent risk of losing shelter, essential utilities, or has no food or insufficient food for unit members' immediate needs, or lacks minimal clothing to protect their health and safety. In those situations where no other appropriate services are available to meet the needs of the assistance unit, a cash assistance benefit shall be provided but shall not exceed the amount of the cash assistance payment level for the appropriate eligible assistance unit size for that period.

2. In situations where immediate need exists and other appropriate services are not immediately available to meet the needs of the assistance unit, or if the applicant expresses a need for emergency assistance, county/municipal

agencies shall ensure that the application be processed that day in order to provide a cash assistance benefit.

- i. In cases of immediate need, where the CSP interview and/or work registration requirement cannot be completed on the day of application, the application process is to continue with the applicant being provided an appointment to return to the agency to comply with the CSP interview and/or the work registration requirement.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added 2 and 2i.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), added the first sentence in the introductory paragraph and inserted "immediately" preceding "available" and "or if the applicant expresses a need for emergency assistance," following "assistance unit," in 2.

Amended by R.2008 d.324, effective November 3, 2008.

See: 40 N.J.R. 2188(a), 40 N.J.R. 6459(a).

In (a)1 and (a)2, substituted "a cash assistance benefit" for "cash assistance"; and in (a)1, substituted "is a imminent risk of losing" for "imminently lacks" and deleted "such monies" following "but".

10:90-1.4 Notice and information to client

(a) If immediate need is not apparent and a decision of approval or disapproval is not reached within 30 days of application, the county/municipal agency shall notify the applicant in writing of this fact and the reason for the delay (see N.J.A.C. 10:90-9). When a decision is reached, the applicant shall be notified in writing of this decision (approved or disapproved). If a county/municipal agency does not take action to approve or deny the application through no fault of the applicant then the agency shall act on the application in accordance with immediate need provisions at N.J.A.C. 10:90-1.3(a)1.

1. When the county/municipal agency has failed to take action to approve or deny the application through no fault of the applicant within 25 days of the date of application, the county/municipal agency shall send a notice to the client scheduling an interview within five days in order to determine if the applicant is in an immediate need situation and to make an appropriate determination as to the applicant's eligibility for WFNJ.

(b) In cases of family violence, rape or incest, corroboration shall not be sought from the perpetrator of the rape or incest or from the perpetrator of family violence so that any further risk of harm to the victim is not heightened in accordance with the intent of N.J.S.A. 2C:25-18 et seq.

(c) The client will also be advised in writing that if he or she is dissatisfied with any adverse action or inaction of the county/municipal agency, he or she may request a hearing. He or she shall be informed of the steps that are to be followed in making such a request (see N.J.A.C. 10:90-9).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (a)1.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), substituted "family" for "domestic" throughout.

10:90-1.5 Prompt disposition by the county or municipal agency

Persons shall be given the opportunity to comply with the eligibility requirements and apply for WFNJ benefits without delay. Staff of the county or municipal agency shall accept, process and recommend action on applications for assistance within 30 days. If the applicant is eligible, payment shall be issued as soon as eligibility is established. The county or municipal agency shall act promptly and timely on applications as long as the WFNJ participant is eligible for assistance and is complying with program requirements. Failure of the county or municipal agency to act promptly and timely shall not be a basis for denying or delaying the issuance of benefits. The county and municipal agency shall also act promptly and timely on redetermining eligibility, but failure of the county or municipal agency to act promptly and timely shall not be a basis for delay in granting assistance.

Case Notes

Initial Decision (2005 N.J. AGEN LEXIS 960) adopted with comment, which found that N.J.A.C. 10:90-1.5 did not support the agency's action in terminating a recipient's cash assistance and Medicaid benefits where she did not respond to the agency's information request within 30 days from the date of her application for redetermination/recertification; N.J.A.C. 10:90-1.5 requires the agency to act promptly and in a timely fashion on applications, whether those applications are initial or concern redeterminations, but does not place a 30-day time constraint on the applicant/recipient to respond to information requests. *Burlington County Welfare Bd. v. N.R.*, OAL Dkt. No. HPW 8334-05 and HPW 8335-05 (Consolidated), 2005 N.J. AGEN LEXIS 1473, Final Decision (November 22, 2005).

10:90-1.6 Primary source of information

(a) Applicants and recipients are in all instances the primary source of information about themselves and their families. It is the responsibility of the county or municipal agency to determine eligibility and, as necessary, to secure verification from secondary sources. The applicant will be informed that the county or municipal agency needs to document the facts regarding certain eligibility criteria and that this process will include contacting collateral sources as necessary.

1. Public records are preferred evidence and use of these sources shall be exhausted before other sources are used.

2. Sources of collateral evidence to establish eligibility may include, as appropriate, but are not limited to, the following:

- i. Birth, death and marriage certificates, records from religious institutions, immigration and naturalization papers, census records, school records, military service records, court records, employment records, records of public or private welfare agencies, voting records, medical records, personal records, and affidavits from knowledgeable persons. Whenever possible, the WFNJ worker shall assist the applicant in securing these documents, or shall verify such information through interagency contacts.

ii. The use of an affidavit is not sufficient to verify immigration status under WFNJ. Immigration status must be verified through the Federal Office of Homeland Security.

iii. In cases where paternity has not been established and an affidavit is the only available verification of a blood relationship, the applicant shall start adjudication proceedings within 30 days to maintain eligibility. In such cases, the use of an affidavit is sufficient to verify a blood relationship under WFNJ only until adjudication has occurred.

(b) Only evidence to corroborate facts essential to eligibility shall be sought. In determining the relative validity of the above sources of evidence in (a) above, the county or municipal agency shall bear in mind the type and source of document.

(c) While it is usually desirable to obtain evidence in written form, personal inspection of records by the agency personnel, where permission can be secured, is an acceptable practice and is often quicker and simpler.

(d) In situations concerning family violence, rape or incest, documentation shall be obtained from the person(s) who has factual knowledge of the relevant circumstances through the use of an affidavit. At no time shall documentation be sought from the perpetrator of the rape or incest or from the perpetrator of family violence in accordance with the intent of N.J.S.A. 2C:25-18 et seq.

(e) With respect to "enumeration at birth," for WFNJ/TANF clients, the county agency shall request proof of receipt of the Social Security number (SSN) after six months from the child's birth have lapsed or at time of the recipient's next redetermination, whichever occurs first.

(f) At the time of application, the WFNJ worker shall provide the applicant with a written list of the verification needed to determine eligibility. The WFNJ worker shall review this list with the applicant and shall inform the applicant that the worker will, whenever possible, assist the applicant in obtaining documentation. The WFNJ worker shall take appropriate action and/or provide appropriate direction to the applicant to assure that all relevant documentation is promptly obtained. The WFNJ worker shall assist the applicant in obtaining verification documentation, whenever necessary.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a) 2i, deleted "church" and inserted "from religious institutions"; and in (d) deleted "abusive partner or ex-partner of a victim" and inserted "perpetrator".

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a)2i, added a second sentence; in (d), substituted "family" for "domestic" throughout; and in (f), added the first two sentences.

Amended by R.2008 d.324, effective November 3, 2008.

See: 40 N.J.R. 2188(a), 40 N.J.R. 6459(a).

Added (a)2ii and (a)2iii.

10:90-1.7 Nondiscrimination

(a) There shall be no discrimination on grounds of race, creed, color, religion, ancestry, age, sex, national origin, marital, parental, familial or birth status, affectional or sexual orientation, liability for service in the Armed Forces of the United States, nationality or handicap/disability, in accordance with all discrimination laws, including, but not limited to, State and Federal provisions in (b) through (k) below, by the State or the county or municipal agency in the administration of any public assistance program.

(b) The New Jersey Legislature has declared that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin, ancestry, age, sex, affectional or sexual orientation, marital status, familial status, handicap, liability for service in the Armed Forces of the United States, or nationality are matters of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State; provided, however, that nothing in this expression of policy prevents the making of legitimate distinctions between citizens and aliens when required by Federal law or otherwise necessary to promote the national interest.

(c) All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, publicly assisted housing accommodation, and other real property without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, or sex, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right. Additionally, this also shall be construed to prohibit any unlawful discrimination against any person because such person is or has been at any time handicapped or any unlawful employment practice against such person, unless the nature and extent of the handicap reasonably precludes the performance of the particular employment.

(d) In general, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any public assistance program receiving Federal assistance. The Department of Human Services, Division of Family Development or any political subdivisions of the State, or an instrumentality of any state or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any state, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, shall not engage in specific discriminatory actions, directly or through contractual or other arrangements, as follows:

1. Deny an individual any service, financial aid, or other benefit provided under the program;

2. Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the same program;

3. Subject an individual to segregation or separate treatment in any manner related to his or her receipt of any service, financial aid, or other benefit under the program;

4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving the same service, financial aid or benefit under the program;

5. Treat an individual differently from others in determining whether he or she satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

6. Deny an individual an opportunity to participate in the program through the provision of services or otherwise, or afford him or her an opportunity to do so which is different from that afforded others under the program; or

7. Deny a person an opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(e) Additionally, the Department of Human Services, Division of Family Development or any other recipient to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, directly or through contractual or other arrangements, may not utilize criteria or methods of administration or determine a site location which

will have the effect of subjecting individuals to discrimination or have the effect of defeating or substantially impairing accomplishment of the objectives of the program. Where the primary objective of the program is to provide employment, a recipient may not directly or through contractual or other arrangements, subject an individual to discrimination in its employment practices, including recruitment, advertising, employment, layoff, or termination, upgrading, demotion or transfer, rates of pay or other forms of compensation, and use of facilities.

(f) The U.S. Department of Health and Human Services, Office for Civil Rights (OCR) provides in its official guidance on Limited English Proficiency (LEP), OCR Guidance, August 29, 2000, and April 12, 2002, that all recipients of Federal financial assistance, such as State and local agencies, private institutions or organizations, or any public or private individual in health or social services, must ensure that LEP persons are given meaningful opportunities to participate in their programs, services and benefits. Where such language differences prevent meaningful access on the basis of national origin, the law requires that recipient agencies provide oral and written language assistance at no cost to the LEP person. Meaningful access for an LEP person is established by ensuring that the relevant circumstances of the LEP person's situation can be effectively communicated to the service provider and the LEP person is able to understand the services and benefits available and is able to receive those services and benefits for which he or she is eligible in a timely manner. The Office for Civil Rights assesses compliance on a case by case basis, taking into consideration the size of the recipient agency, the size of the eligible LEP population it serves, the nature of the program or service, the objectives of the program, the total resources, the frequency with which languages are encountered and the frequency with which LEP persons come into contact with the program.

10:90-1.15 Voluntary quit

An adult applicant for WFNJ shall not be eligible for benefits when the applicant's eligibility is the result of a voluntary cessation of employment, without good cause, including situations in which an applicant has been discharged from employment due to an action or inaction on his or her part in violation of the employer's written rules or policies, or lawful job related instructions within 90 days prior to the date of application. The applicant shall be ineligible for assistance for a period of 90 days beginning with the date of quit. Other members of the adult applicant's assistance unit shall remain eligible to apply for benefits. The individual who voluntarily ceased employment shall be responsible for providing the necessary information so that a good cause determination can be made (see N.J.A.C. 10:90-4.14(b) for voluntary quit provisions for WFNJ recipients and N.J.A.C. 10:90-4.14(c) regarding good cause provisions).

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Amended by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Rewrote the section.

10:90-1.16 Assignment or transfer of property

A voluntary assignment or transfer of income or resources within one year prior to the time of application for benefits for the purpose of qualifying for WFNJ benefits shall render the applicant/recipient and the applicant/recipient's assistance unit members ineligible for benefits in accordance with N.J.A.C. 10:90-3.10(e).

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

10:90-2.1 General provisions

(a) This subchapter describes those Work First New Jersey (WFNJ) program eligibility factors, other than financial, which must be considered in making eligibility determinations.

(b) Eligibility for WFNJ is based upon certain criteria including, but not limited to, age, relationship, CSP cooperation, cooperation with work requirements, citizenship/eligible alien status, residence in the State, county and municipality and financial need.

1. In addition to the conditions of eligibility for WFNJ/TANF at N.J.A.C. 10:90-2.2, participation in the Early Employment Initiative (EEI) program is a condition of eligibility for those WFNJ/TANF applicant families which meet the EEI eligibility criteria for participation in accordance with the EEI provisions set forth at N.J.A.C. 10:90-17.

(c) Maximum allowable income eligibility and benefit payment levels for assistance units eligible for WFNJ benefits appear at N.J.A.C. 10:90-3.

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Amended by R.1998 d.383, effective July 20, 1998, (operative August 1, 1998).
 See: 30 N.J.R. 1489(a), 30 N.J.R. 2656(a).
 In (b), added a new 1.
 Amended by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 In (b)1, substituted "program" for "pilot project".

10:90-2.2 WFNJ TANF/GA eligibility requirements

(a) An applicant/recipient, as a condition of eligibility for WFNJ TANF/GA benefits, shall, subject to good cause exceptions, be required to do the following:

1. Cooperate with child support by identifying his or her child(ren), providing specific information regarding the noncustodial or custodial parent(s), such as, name, address, date of birth and Social Security number and take certain actions as requested by the appropriate child support agency to help establish paternity, or establish, modify or enforce a child support order (see N.J.A.C. 10:90-16.2(a) and 16.3(d));
2. Cooperate with work requirements, including interviewing for and accepting employment, if offered;
3. Make application within 30 days for any other assistance for which members of the assistance unit may be eligible when the agency refers the individual, and cooperate with all requirements to establish eligibility for other programs, which includes, but is not limited to, participating in the appeals process, as appropriate. In addition, the individual shall be informed that he or she shall inform the WFNJ agency of all eligibility decisions for other programs within 10 days of receiving notification of the decision. This requirement shall in no way prevent, or delay, an agency from accepting and processing an application for WFNJ assistance;
4. Be income and resource eligible, including the deeming of income and resources as appropriate;
5. Provide all necessary documentation (which shall include contact information);
6. Sign an Agreement to Repay benefits (pursuant to N.J.S.A. 44:10-64), if not already incorporated into the application, in the event of receipt of income or resources. (See N.J.A.C. 10:90-3.18 for treatment of lump sum income as well as N.J.A.C. 10:90-7.8 for settlement of suits and claims);
7. Satisfy any sanction or repayment obligation incurred pursuant to any Federal or State law governing public assistance;

8. Supply the county/municipal agency with the Social Security number of each member of the assistance unit or apply for a Social Security number for any such person who does not already have one. If an applicant refuses to provide or apply for the appropriate Social Security number(s), the county/municipal agency shall declare the entire assistance unit ineligible for WFNJ benefits.

i. Effective no later than July 1, 1998, the Federal Social Security number shall be used as the common identifier of individuals for any record, license, certificate or other document identifying a person by name which is used by an agency of State government in accordance with requirements of Federal law.

ii. The Federal Social Security number must be provided for all assistance unit members, except for an eligible alien who cannot be assigned a Social Security number due to his or her status;

9. Comply with personal identification requirements as a condition of receiving benefits, which shall employ the use of high technology processes for the detection of fraud.

i. Each adult WFNJ/TANF applicant/recipient and each WFNJ/GA applicant/recipient (except nursing facility applicants/recipients) shall, as a condition of receiving WFNJ benefits, be issued a photo-identification card by the county agency until implementation of the electronic benefit distribution system is begun in that county agency. Once a county begins to implement the electronic benefit distribution system, the county agency shall no longer be required to issue a photo-identification card to each adult recipient but may continue the issuance of photo-identification cards separate from the benefit cards.

ii. WFNJ/GA applicants/recipients (except nursing facility applicants/recipients) are required to participate in the high technology process at the time of application and at other times when the county/municipal agency deems it necessary to deter duplication of assistance; and

10. Participate in an intensive case management program after receiving 48 months of cash assistance if the recipient does not appear to be exempt from the 60-month time limit or if the recipient is "chronically unemployable" as defined at N.J.A.C. 10:90-2.4(a)4.

(b) An applicant/recipient who is a minor parent must, as a condition of eligibility, comply with all of (a) above and must also cooperate with the minor parent provisions at N.J.A.C. 10:90-2.17.

1. Failure of the minor parent to cooperate with the requirements listed at (a) above renders the minor parent and the minor parent's child ineligible for WFNJ/TANF cash assistance but does not render the entire assistance unit with whom the minor parent resides ineligible for WFNJ/TANF cash assistance.

(c) All adult applicants and recipients, minor parents and 16- through 18-year-old individuals not attending school on a full-time basis, as a condition of eligibility, shall complete the EPDT (Part A) and sign an individual responsibility plan (IRP), which shall be developed jointly with the county or municipal agency in accordance with the provisions at N.J.A.C. 10:90-1.2(f)10 and 4.8.

(d) Any WFNJ applicant/recipient who fails at any time to cooperate with any of the WFNJ program eligibility requirements without good cause shall render some or all assistance unit members ineligible for WFNJ benefits. (See N.J.A.C. 10:90-11.11 regarding intentional program violation disqualification penalties.)

1. An applicant/recipient who cooperates fully with the conditions of eligibility listed in (a) above, but who has a non-cooperating 16 through 18 year old dependent child as a member of the assistance unit, shall not become ineligible for WFNJ/TANF assistance, nor shall other members of the assistance unit become ineligible for WFNJ/TANF assistance. The non-cooperating 16 through 18 year old dependent child does, however, become ineligible for WFNJ/TANF assistance until such time as he or she complies.

(e) Any WFNJ recipient who fails at any time to participate in work activities without good cause shall lose cash assistance benefits in accordance with the sanction provisions at N.J.A.C. 10:90-4.13. The individual may re-apply for WFNJ benefits; however, the individual must satisfactorily complete any outstanding sanction obligations and demonstrate compliance with a work activity, in accordance with N.J.A.C. 10:90-4.11 and 4.18, in order to qualify for cash assistance.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (b)1 and (d)1.

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Rewrote (a)1.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), inserted "noncustodial or" preceding "custodial" in 1, rewrote 6, and deleted references to fingerprinting in 9; in (c) added references to the initial IRP; in (e), amended N.J.A.C. references.

Amended by R.2009 d.289, effective September 21, 2009.

See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In (a)2, inserted "including interviewing for and accepting employment, if offered"; rewrote (a)3 and (c); in (a)9ii, substituted "and" for a period at the end; added (a)10; in (b), substituted "minor parent" for "parent-minor" throughout; in the introductory paragraph of (b), deleted "cited" preceding "at"; in (b)1, substituted "minor parent's" for "parent-minor's"; in (c), updated the first N.J.A.C. reference; and in (e), updated the first N.J.A.C. reference.

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (a)1, deleted a comma following "birth" and "modify", deleted "2v" following "N.J.A.C. 10:90-16.2(a)", and substituted "Social Security" for "social security"; and in (a)5, inserted "(which shall include contact information)".

1. Non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

2. Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits and burial assistance, which are funded through SSI and administered by the WFNJ agency;

3. Illegal aliens;

4. Other aliens who are not eligible aliens as defined in N.J.A.C. 10:90-2.10;

5. A person absent from the home who is incarcerated in a Federal, State, county or local corrective facility or under the custody of correctional authorities;

6. A person who is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under Federal or State law;

i. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense . . . for which a sentence of imprisonment in excess of 6 months is authorized."

7. A person who has legal custody of a child(ren) but who is unable to prove a legal and/or blood relationship with such child(ren) (as defined at N.J.A.C. 10:90-2.7(a)1);

i. According to N.J.S.A. 9:3-38, legal custody is defined as the "general right to exercise continuing control over the person of a child derived from court order or otherwise."

8. A convicted drug felon, unless the eligibility criteria delineated at N.J.A.C. 10:90-18, the rules established for convicted drug felons, are met;

9. A person found, on or after August 22, 1996, to have willfully and knowingly fraudulently misrepresented his or her residence in order to simultaneously obtain means-tested, public assistance benefits in two or more states or jurisdictions. Such person shall be ineligible for benefits for a period of 10 years from the date of conviction in a Federal or State court;

10. A person who, after July 1, 1997 and provided that the person has received written notice informing them of the WFNJ disqualification penalties, intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits. Such person shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation;

11. A GA applicant or recipient who is eligible for or who is a recipient of WFNJ/TANF, or who has been found

ineligible for WFNJ/TANF due to voluntary refusal to comply with program requirements;

12. A GA applicant or recipient who is admitted or committed to an institution (see N.J.A.C. 10:90-9.1(d)3);

13. A foster parent(s) who is unable to prove a legal or blood relationship with the foster child (as defined at N.J.A.C. 10:90-2.7(a)1), when there are no other eligible children in the household;

14. A person who is seeking legal guardianship of an unrelated child;

i. Although ineligible for TANF benefits, when needed, the WFNJ agency shall provide contact information to these cases for assistance in obtaining guardianship.

15. A WFNJ/GA applicant over the age of 18 who resides with his or her parent(s) and/or is claimed as a dependent on his or her parent(s)' U.S. Individual Income Tax Return (1040 forms); and

16. A WFNJ/GA applicant over the age of 18 who resides with his or her adult child and/or is claimed as a dependent on his or her child's U.S. Individual Income Tax Return (1040 forms).

(b) When the county agency determines a family to be financially ineligible for WFNJ/TANF, such family shall not be eligible to receive WFNJ/GA benefits, unless there is a change in family status, such as the only minor child in the home becoming 18 years of age.

(c) WFNJ benefits shall not be payable for any month in which any individual applicant/recipient in the assistance unit is participating in a strike. The individual who is on strike is ineligible for benefits; however, other members of the assistance unit remain eligible for benefits.

1. The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted interruption of operations by employees.

2. The term "participating in a strike" means an actual refusal, in concert with others, to provide services to one's employers.

3. Examples of non-strikers who are eligible to participate in the program include, but are not limited to:

i. Employees whose workplace is closed by an employer in order to resist the demands of employees (for example, lockout);

ii. Employees unable to work as a result of striking employees (for example, truck drivers who are not working because striking pressmen prevent newspapers from being printed); or

- iii. Employees who are not part of the bargaining unit on strike who do not want to cross the picket line due to fear of personal injury.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (a)7 and 7i, recodified former 7 through 10 as 8 through 11; and added language to (a)8 regarding occurrence date of state law offense.

Amended by R.1999 d.177, effective June 7, 1999.

See: 31 N.J.R. 249(a), 31 N.J.R. 1507(a).

Inserted a new (b); and recodified former (b) as (c).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), rewrote 8.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Added (a)12.

Amended by R.2009 d.289, effective September 21, 2009.

See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In (a)2, inserted "and burial assistance, which are funded through SSI and administered by the WFNJ agency"; in the introductory paragraph of (a)7, inserted "(as defined at N.J.A.C. 10:90-2.7(a)1)"; in (a)8, substituted a comma for "may not establish eligibility for WFNJ cash assistance benefits" following "felon"; in (a)8, (a)9 and (a)12, substituted a semicolon for a period at the end; in (a)9, substituted ". Such person" for a comma following "jurisdictions"; in (a)10, inserted ". Such person" preceding "shall", and a semicolon at the end; rewrote (a)11; and added (a)13 and (a)14.

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (a)13, deleted "and" from the end; in (a)14i, substituted a semicolon for a period at the end; and added (a)15 and (a)16.

10:90-2.9 Definition of employable/unemployable persons in WFNJ/GA

(a) The definition of employable/unemployable persons for determination of payment level is as follows:

1. An employable person is any person applying for or receiving cash assistance who is able-bodied and does not meet any one of the criteria of deferred delineated in (a)2 below; and
2. An unemployable person is any person who meets any of the criteria listed below:
 - i. Persons who are 62 years of age or older;
 - ii. Persons receiving inpatient hospital care and treatment who were receiving an unemployable grant prior to entering the hospital. (Persons who were listed as employable shall retain such employable status until hospital discharge.);
 - iii. Persons who are residents in long term care facilities;
 - iv. Persons in the first 12 months of residential treatment in centers licensed by the New Jersey Department of Health and Senior Services for the treatment of drug abuse, when medical evidence exists that the residential treatment is necessary (see N.J.A.C. 10:90-2.8(a)7ii regarding drug abuse treatment for those convicted of possession or use of controlled substances).

The 12 month period starts anew for each commencement of treatment, previous incomplete or unsuccessful courses of treatment notwithstanding;

v. Persons normally eligible to receive RSDI (Title II benefits), SSI or Railroad Retirement benefits on the basis of disability, but due to administrative delays in that respective program, payments are being withheld;

vi. Persons who have been determined to be legally blind by the New Jersey Commission for the Blind and Visually Impaired;

vii. Persons in the third trimester of pregnancy when an examining physician certifies to both the pregnancy and its term;

viii. Pregnant persons when an examining physician certifies that employment poses a threat to the mother or the fetus;

ix. A caretaker relative of a disabled dependent who must provide full-time care for the disabled dependent (see N.J.A.C. 10:90-2.4(a)2ii). No more than one person in an eligible unit may be considered unemployable for this reason without written authorization from the DFD; and/or

x. Persons determined to be incapacitated by the agency that administers the WFNJ/GA program are unemployable when such determination of incapacity is supported by the following circumstances:

(1) Form WFNJ/MED-1 shall be fully completed by an examining physician that the individual is unable to comply with WFNJ/GA requirements. Such certification shall include, at a minimum, the date of examination, diagnosis, length of incapacity, functional limitations, prescribed treatment, an indication of whether or not reevaluation will be necessary and the examining physician's signature.

(A) Individuals who are deferred from the work requirement because of a physical or mental condition, which prevent them from being able to work full-time may participate part-time in a WFNJ work activity or employment if their physical or mental impairment allows, and the examining practitioner certifies on the WFNJ/MED-1 that the individual's physical or mental condition will allow participation. If a deferred individual chooses to participate in a work activity or employment and then finds that his or her condition precludes continuing participation, he or she shall not be subject to a WFNJ sanction. Part-time participants shall be given access to the same services and supports as non-deferred recipients, such as access to training slots, transportation and child care supports.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a)2ix, added reference to N.J.A.C. 10:90-2.4(a)2ii.

Special amendment, R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).

See: 32 N.J.R. 3615(a).

In (a)1, deleted a former second sentence.

Amended by R.2001 d.42, effective December 27, 2000.

See: 32 N.J.R. 3615(a), 33 N.J.R. 564(a).

In (a)1, deleted second sentence.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a)1, inserted "cash" following "receiving".

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a)2x(1), rewrote the first sentence.

Amended by R.2009 d.289, effective September 21, 2009.

See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In (a)1, substituted "; and" for a period at the end; in (a)2i, deleted "over" preceding "60"; and inserted "or older"; in the introductory paragraph of (a)2x, substituted "that" for "which", and deleted "any of" preceding "the following"; in the introductory paragraph of (a)2x(1), substituted "examination" for "examining", and deleted a comma following "necessary"; and added (a)2x(1)(A).

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (a)2i, substituted "62" for "60".

10:90-2.10 WFNJ TANF/GA citizenship/eligibility requirements

(a) Only those persons who are United States citizens, or eligible aliens shall be eligible for WFNJ TANF/GA benefits. In addition, for WFNJ/GA eligibility purposes only, those persons permanently residing in the United States under color of law as of August 21, 1996 are considered eligible for WFNJ/GA benefits.

1. Eligible alien means an alien as defined in the provisions of section 431 of Title IV of Federal Public law 104-193 pursuant to section 101 of the Immigration and Nationality Act (INA) (42 U.S.C. §§ 601 and 602).

(b) The following individuals are considered to be eligible aliens:

1. An alien present in the United States prior to August 22, 1996, and who is:

- i. A lawful permanent resident;
- ii. A refugee, pursuant to section 207 of the Immigration and Nationality Act;
- iii. An asylee pursuant to section 208 of the Immigration and Nationality Act;
- iv. An alien who has had deportation withheld pursuant to section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. §§ 1101 et seq.);
- v. An alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act;
- vi. An alien granted conditional entry pursuant to section 203(a)(7) of the immigration laws in effect before April 1, 1980;

vii. An alien who is honorably discharged or on active duty in the United States armed forces and his or her spouse and the unmarried dependent children of the alien or spouse;

viii. An alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

ix. An alien admitted to the United States as an Amerasian immigrant as described in Section 402(a)(2)(A)(i)(V) of the Refugee Education Assistance Act of 1980;

x. An alien who obtained one of the statuses in (b)1i through ix above after August 22, 1996 if the alien was continuously present in the United States from the latest date of entry prior to August 22, 1996, until he or she obtained qualified alien status. In general, any single absence from the United States of more than 30 days, or a total of aggregated absences of more than 90 days shall be considered to interrupt continuous presence; or

xi. An alien who is a victim of human trafficking; and

2. An alien entering the United States on or after August 22, 1996 and who is an alien described in (b)1ii, iii, iv, vii, viii or ix above.

i. An alien described in (b)1i, v or vi above is not eligible until five years after entry into the United States.

3. Certain eligible aliens, regardless of their date of entry into the United States, as provided in Section 431 of Title IV of Federal P.L. 104-193 pursuant to Section 101 of the INA who resided in the United States and are victims of domestic violence, subject to certain conditions as described below:

i. The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent acquiesced to such battery or cruelty; or

ii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent acquiesced to and the alien did not actively participate in such battery or cruelty; and

iii. In addition to the provisions described in (b)4i or ii above, if the individual responsible for the battery or cruelty continues to reside in the same household or family assistance unit as the individual who was subjected to such battery or cruelty, then the alien shall be ineligible for benefits.

iv. Federal law stipulates that the Attorney General of the United States shall issue guidance in the Attorney General's sole and unreviewable discretion concerning:

(1) The meaning of the terms "battery" and "extreme cruelty"; and

(2) The standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State or local program.

v. Until such time as specific guidance is issued by the Attorney General in accordance with (b)4iv above, the alien's statement, taken in the form of an affidavit, shall be accepted as documentation that the alien or the alien's child is subject to battery or extreme cruelty and the alien and the child(ren) shall be eligible for assistance.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (b)lviii; and added a new (b)3 and recodified existing (b)3 as (b)4.

Administrative correction.

See: 30 N.J.R. 4239(a).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (b).

Amended by R.2009 d.289, effective September 21, 2009.

See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In (b)liv, substituted "241(b)(3)" for "243(h)" and "§§1101" for "§§ 101"; in (b)lix, substituted "Refugee" for "Refuge"; and deleted "or" from the end; in (b)lx, substituted "or" for "and" at the end; and added (b)lxi.

10:90-2.11 WFNJ TANF/GA residency requirements

(a) WFNJ/TANF residency requirements are as follows:

1. The law requires that an applicant for or recipient of WFNJ/TANF assistance shall reside in New Jersey. Any person who responds affirmatively to the question on the application "Do you plan to continue living in New Jersey?" fulfills this requirement. The requirement is also satisfied when the person resides in the State having entered with a job commitment or is seeking employment even if he or she is currently unemployed.

(b) WFNJ/GA residency requirements are as follows:

1. A resident of a municipality is a person who maintains a permanent customary home in the municipality, or a person who is in the municipality with intention to remain. No time intervals are relevant so long as the home is not established for a temporary purpose such as for a visit or vacation. A resident may live in his or her own home, a rented home or apartment, the home of a friend or relative, in a residential health care facility or boarding home, homeless shelter or in a long-term care facility. However, a resident over the age of 18 who resides in his or her parent(s)' home and is claimed as a dependent on his or her

parent(s)' U.S. Individual Income Tax Return (1040 forms) is not eligible for GA.

2. Nonresidents/transients are persons in a municipality who may not intend to remain in that municipality and who are not residents of long-term care facilities who shall, if otherwise eligible, be granted assistance until arrangements can be made to return them to their customary place of residence.

i. For any person in a municipality who is away from the municipality of his or her customary home and wishes to return but cannot, because of lack of funds, the agency shall grant sufficient funds to allow the individual to travel to his or her own municipality or to the nearest place at which it has been confirmed that the individual's needs may be met. Travel costs shall be estimated or ascertained, as appropriate, according to the least expensive method of travel which is appropriate. The travel grant shall be sufficient to allow payment for the fare and such food, clothing, or shelter as may be essential during the trip.

(1) When circumstances prevent an accurate determination as to whether an applicant would be otherwise eligible to receive WFNJ/GA, the agency will evaluate the application according to the best information available.

(2) Assistance for travel purposes in any amount over \$100.00 shall be granted only with prior approval from the DFD. Such approval shall be contingent upon the presence of the following positive indicators: the individual has actually resided where he or she wishes to go; there is a place for the individual to reside upon return; and someone will be responsible for the individual upon his or her return. Furthermore, the individual must not have established a pattern of requesting travel assistance annually or more frequently.

3. College students are individuals age 18 or over who are attending school or college. They may be found eligible for WFNJ/GA only when all of the following conditions are present:

i. He or she is a resident of the municipality in which application is made, and such municipality is his or her acknowledged home on a year-round basis;

(1) An individual coming from another state for the purpose of attending school or college is not eligible for WFNJ/GA during the period he or she is attending school;

ii. He or she is eligible in accordance with the eligibility provisions of the WFNJ/GA program;

iii. He or she shall comply with the WFNJ work requirements and must be willing to seek and accept employment, if offered, while attending college;

iv. He or she is employed for a minimum of 20 hours per week and receiving earnings at least equal to the Federal minimum wage;

(1) Participation in a Federal- or State-financed work study program shall be considered acceptable employment during the regular school year when:

(A) The student is approved for work study at the time of the WFNJ/GA application is completed;

(B) The work study has been approved for the school term; and

(C) The student anticipates working the entire school term;

v. He or she is not living at home with his or her parent(s);

vi. He or she cannot be claimed as a dependent by his or her parent(s) for income tax purposes; and

vii. He or she is not residing out-of-State in order to attend school.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b)2i(2), added second and third sentences.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), deleted 1i.

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (b)1, inserted the last sentence; in (b)3iii, inserted "and must be willing to seek and accept employment, if offered, while attending college", and deleted "and" from the end; added new (b)3iv through (b)3vi; recodified former (b)3iv as (b)3vii; and in (b)3vii, substituted "He or she is not" for "A college student shall not be eligible for WFNJ/GA while".

10:90-2.12 County/municipal residence for identification

(a) Residence in a county or municipality is not an eligibility requirement. A county or municipality of residence is necessary to identify which county/municipal agency is legally responsible for receipt, registration and processing an application and for issuance of payment, but shall not preclude or limit the opportunity for any person residing in New Jersey to apply for and receive assistance without delay.

(b) Wherever a family is living shall be considered that family's county or municipal residence. When a recipient family, or any member thereof, goes to another county, municipality or state for the purpose of a temporary visit, that county, municipality or state shall not become their residence unless it is a permanent transfer and provisions at N.J.A.C. 10:90-2.13 apply.

(c) A permanent residence is not an eligibility requirement. If an applicant expresses an intent to reside in the county or municipality, by providing verification of residence or by affirmatively stating his or her intent to reside in the

jurisdiction, for purposes of WFNJ eligibility, the applicant shall be deemed to be a resident of such county and/or municipality.

(d) A public or private institution of custodial, curative or penal character shall not be considered an individual's customary residence, including those situations listed below:

1. When a WFNJ/TANF client is placed in a substance abuse residential treatment facility out-of-county and the child(ren) remains in the county of origin, then the parent(s) shall be considered on a temporary absence, in accordance with the provisions of N.J.A.C. 10:90-2.15(c), and the parent's eligibility for WFNJ/TANF shall not be affected.

2. If both parent(s) and child(ren) are placed in the facility, the case shall remain under the supervision of the county of origin.

3. If the WFNJ/TANF family is separated, with the parent(s) and one or more of the children placed in the facility and the other children remaining in the county of origin, then case responsibility shall remain in the county of origin.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Added a new (c); recodified former (c) as (d) and rewrote new (d).

10:90-2.13 Temporary absence from the State (WFNJ TANF/GA)

(a) The county/municipal agency may, with the approval of the DFD, continue assistance payments to recipients who leave the State under specified conditions, such as, but not limited to, the need to provide temporary care to a sick or elderly relative when no one else is available to provide the care, or the recipient's presence is required in order to settle an estate. A recipient must notify the county/municipality when leaving the State for more than seven days. A recipient assistance unit may leave the State for up to a one month period with no resultant effect upon eligibility or payment. Special circumstances may allow for an extension of benefits beyond the one month time frame but such an extension must be approved by the DFD. Special circumstances include, but are not limited to, serious illness or accident while the recipient is out of the State, and a period of recuperation is required prior to returning to the State.

(b) Upon establishment of the fact that the recipient assistance unit still considers its permanent residence to be New Jersey and that it plans to return thereto, continuation of assistance shall be granted for the following reason(s):

1. Ill health;
2. Inability to travel of one or more members;
3. Mental or physical welfare; or

4. Family responsibility (for example, settling affairs of deceased).

(c) Assistance shall not be continued for a recipient assistance unit which leaves New Jersey when there has been no information provided to the county/municipal agency establishing that the absence is purely temporary.

(d) Whenever a recipient assistance unit wishes to leave New Jersey either to establish a permanent place of abode or for a temporary visit, he or she shall be advised of the effects of this plan on their eligibility for continued assistance, and on the amount of assistance, if any, for which he or she may continue to be eligible during a temporary absence.

(e) The county/municipal agency shall maintain an up-to-date record of all cases of recipients approved to receive assistance while out of the State.

(f) Recipients who are receiving assistance out-of-State shall be afforded the same full advance notice including information about their right to a fair hearing in accordance with present policy regarding termination, reduction or suspension applicable in WFNJ. A copy of any such notice shall be sent to any out-of-State agency with which there has been communication regarding the case.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), added language regarding conditions warranting continued assistance payments and added last sentence.

10:90-2.14 Responsibility of a parent to report temporary absence of a child from the home

(a) Eligibility for WFNJ/TANF may exist during the absence of a child from the home under the circumstances described in N.J.A.C. 10:90-2.15 and 2.16.

1. A parent or needy caretaker relative who fails to notify the county agency of the absence of the minor child from the home by the end of the five day period that begins with the date that it becomes clear to the parent or caretaker relative that the minor child will be absent for more than 180 consecutive days shall be ineligible for benefits for a period of three months.

i. The period of 90 days ineligibility for benefits shall begin on the first day of the month following the month in which the county agency becomes aware of the recipient's failure to notify the agency of the child's absence.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-2.15 Child, parent or WFNJ/GA individual in an institution

(a) When a child who would be otherwise eligible for WFNJ is out of the home due to voluntary/involuntary placement in an institution, he or she shall be recognized as a

member of the assistance unit so long as it is anticipated that he or she will return home within one year from the date of the placement. State only funds shall be used after the minor child has been absent from the home for more than 180 consecutive days.

1. A child whose placement is specified for a period longer than one year shall not be eligible during the entire period of placement.

2. Placement for an unspecified or indeterminate period shall be construed to be for less than one year. Should such period extend beyond one year, the child shall be deleted from the eligible unit at the end of the year.

3. In the case of a new application, eligibility of an institutionalized child shall be based upon the specified length of the placement starting from the date the placement began.

(b) The term "parent" as used in (c) below includes natural/adoptive parents, parent-persons, and legal guardians (see N.J.A.C. 10:90-2.7(a)3).

(c) Rules concerning a parent in an institution are:

1. Under WFNJ, when a parent is absent for diagnostic treatment or care and, even though hospitalized, is able to retain responsibility for supervising a plan for adequate care and control of his or her child(ren), eligibility shall continue so long as necessary to complete recovery but not to exceed 90 days.

i. When it appears that the absence will continue for more than 90 days, the case shall be reevaluated.

(d) When a WFNJ/GA assistance unit member is hospitalized for more than 30 days, cash assistance and TRA benefits shall be continued for up to 60 additional days for the purpose of retaining shelter to which the person can return.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b), added "natural/adoptive" and "legal guardians"; and added new (d).

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (d), substituted "TRA" for "EA".

10:90-2.16 Absence for reasons other than institutionalization

(a) Temporary absence of a child which has not lasted more than 30 consecutive days does not affect eligibility. When the absence of a child lasts longer than 30 days, or it appears that an absence will last longer than 30 days, the county agency shall review the situation and take appropriate action.

1. If it is found that the parent, parent person, or legal guardian lacks or will lack both physical custody and responsibility for day-to-day care of the child and the

situation is likely to continue for more than 90 days, the child is no longer eligible for assistance. In situations in which the whereabouts of the child is unknown, or the parent, parent-person, or legal guardian is precluded from contact, or the time period is otherwise indefinite, the child is no longer eligible for assistance.

2. If it is found there is reasonable expectation that the child will return to the home within 90 days, the child remains eligible.

3. The child remains eligible during the time that the above review is in process, but not longer than 90 days.

4. In unusual situations involving particular hardship, the county agency may consult with the DFD regarding the continuing eligibility of the child.

5. A child is considered temporarily absent from the home and regarded as an eligible member of the assistance unit if he or she is receiving vocational training at a residential Job Corps Center which permits him or her to return home for weekends.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), substituted "to adolescent parents and from sponsors to eligible aliens" for "and sponsors" at the end; in (b)1, deleted "equal to or" following "income" in the last sentence; in (c), deleted "is equal to or" following "income", and inserted "equals or" following "income"; and in (d), added 2.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (c); deleted (d).

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

In (a), substituted "minor" for "adolescent".

10:90-3.2 Determining initial financial eligibility for WFNJ/TANF assistance units with dependent children

(a) For the initial financial eligibility test, that is, in order to determine initial financial eligibility for assistance units applying for WFNJ/TANF as a new applicant, reapplicant or reopened case, all countable income available to the assistance unit shall be considered and compared to the initial maximum allowable income levels for the appropriate eligible assistance unit size in Schedule I at N.J.A.C. 10:90-3.3. If the assistance unit has income equal to or less than the initial maximum allowable income level for the appropriate unit size, then WFNJ/TANF initial financial eligibility exists.

(b) WFNJ/TANF initial maximum allowable financial income eligibility levels are based on 150 percent of the maximum benefit payment levels (provided within the limit of funds appropriated by the Legislature) for the appropriate assistance unit size in Schedule II at N.J.A.C. 10:90-3.3.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), added "For the initial financial eligibility test, that is" at the beginning.

10:90-3.3 WFNJ/TANF-initial allowable maximum income and maximum benefit payment levels (Schedules I and II)

(a) Schedule I below identifies the WFNJ/TANF initial maximum allowable income eligibility levels for the appropriate assistance unit size that shall be used for new applicant, reapplicant and reopened cases to determine initial financial eligibility for families with dependent children.

(b) Schedule II below identifies the WFNJ/TANF maximum allowable benefit payment levels for the appropriate assistance unit size that shall be used for families with dependent children. As long as the assistance unit's countable income is less than the applicable benefit level, WFNJ/TANF financial eligibility exists. When the total countable income equals or exceeds the applicable benefit level, the assistance unit is no longer eligible for WFNJ/TANF benefits except for cases with earned income that are subject to six-month reporting requirements. Such cases need not report changes in earned income until such time as the assistance unit's total income exceeds 130 percent of the Federal Poverty Level

(FPL). However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

WFNJ/TANF Schedules I and II

WFNJ/TANF Initial Maximum Allowable Income Levels and Maximum Benefit Payment Levels

Families with Dependent Children

Schedule I		Schedule II
Initial Maximum Allowable Income Levels	Number in Assistance Unit	Maximum Benefit Payment Levels
\$243	1	\$162
483	2	322
636	3	424
732	4	488
828	5	552
924	6	616
1,015	7	677
1,092	8	728
Add \$75 for each additional person	More than 8	Add \$50 for each additional person

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b), deleted "equal to or" following "income is" in the first sentence, and inserted "equals or" following "income" in the second sentence.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (b).

10:90-3.4 Determining initial financial eligibility for employable WFNJ/GA assistance units

(a) For the initial financial eligibility test, that is, in order to determine initial financial eligibility for assistance units composed of employable single adults or couples without dependent children, who are applying for WFNJ/GA as a new applicant, reapplicant or reopened case, all countable income available to the assistance unit shall be considered and compared to the initial maximum allowable income levels for the appropriate eligible assistance unit size in Schedule III at N.J.A.C. 10:90-3.5. If the assistance unit has income equal to or less than the initial maximum allowable income level for the appropriate unit size, then WFNJ/GA initial financial eligibility exists.

(b) WFNJ/GA initial maximum allowable financial income eligibility levels are based on 150 percent of the maximum benefit payment levels (provided within the limit of funds appropriated by the Legislature) for the appropriate assistance unit size in Schedule IV at N.J.A.C. 10:90-3.5.

1. When an eligible WFNJ/GA assistance unit is composed of a couple without dependent children and at least one individual is employable, Schedule III shall be used to determine initial financial eligibility.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), added "For the initial eligibility test, that is," at the beginning.

10:90-3.5 WFNJ/GA employable, initial allowable maximum income and maximum benefit payment levels (Schedules III and IV)

(a) Schedule III below identifies the WFNJ/GA initial maximum allowable income eligibility levels for the appropriate assistance unit size that shall be used for new applicant, reapplicant and reopened cases to determine initial financial eligibility for employable single adults and couples without dependent children.

(b) Schedule IV below identifies the WFNJ/GA maximum allowable benefit payment levels for the appropriate assistance unit size that shall be used for employable single adults and couples without dependent children. As long as the assistance unit's countable income is less than the applicable benefit level, WFNJ/GA financial eligibility exists. When the countable income equals or exceeds the applicable benefit level, the assistance unit is no longer eligible for WFNJ/GA benefits except for cases with earned income that are subject to six-month reporting requirements. Such cases need not report changes in earned income until such time as the assistance unit's total income exceeds 130 percent of the Federal Poverty Level (FPL). However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

WFNJ/GA Employable Assistance Units Schedules III and IV

WFNJ/GA Initial Maximum Allowance Income Levels and Maximum Benefit Payment Levels for Employable Single Adults and Couples without Dependent Children

Schedule III		Schedule IV
WFNJ/GA Employable Maximum Allowable Income Levels	Number in Assistance Unit	WFNJ/GA Employable Maximum Benefit Payment Levels
\$210	1	\$140
290	2	193
366	3	244
420	4	280
480	5	320
540	6	360
597	7	398
656	8	437
Add \$48 for each additional person	More than 8	Add \$32 for each additional person

Administrative correction.

See: 29 N.J.R. 3729(a).

In (b), in table, amended income level for 1 in assistance unit.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b), deleted "equal to or" following "income is" in the first sentence, inserted "equals or" following "income" in the second sentence, and in the table, changed headings and decreased income level added for additional persons.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (b).

10:90-3.6 Eligibility/maximum benefit payment levels for WFNJ/GA unemployable single adults and couples without dependent children (Schedule V)

(a) There is no separate initial income eligibility test for WFNJ/GA unemployable single adults and couples without dependent children. Instead, for unemployable assistance units who apply as a new applicant, reapplicant or reopened case, the total countable income of the WFNJ/GA shall be compared to the unemployable maximum benefit payment level in Schedule V below. If the assistance unit has income less than the maximum benefit payment level for the appropriate unit size, then initial financial eligibility exists; and, financial eligibility shall continue to exist as long as the total countable income is less than the applicable benefit payment level. When the income equals or exceeds the benefit payment level, the assistance unit is no longer financially eligible for WFNJ/GA benefits.

WFNJ/GA Unemployable Assistance Units Schedule V

WFNJ/GA Initial Maximum Benefit Payment Levels for Unemployable Single Adults and Couples without Dependent Children

Number in Assistance Unit	WFNJ/GA Unemployable Maximum Benefit Payment Levels
1	\$210
2	\$289
3	\$366
4	\$420
5	\$480
6	\$540
7	\$597
8	\$655
More than 8	Add \$48.00 each person

Administrative correction.

See: 29 N.J.R. 3729(a).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), deleted "equal to or" following "income is" throughout, and inserted "equals or" following "income" in the last sentence.

Administrative correction.

See: 36 N.J.R. 4316(a).

10:90-3.7 Computing prorated cash assistance benefits for WFNJ TANF/GA recipients

(a) The county or municipal agency shall prorate the initial cash assistance benefit or any other cash benefit that is issued for less than one month. The prorated benefit shall be deter-

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 180) adopted as modified, which found that child support payments could not be considered as "lump sums" for which the agency could seek repayment of Work First New Jersey/Temporary Assistance for Needy Families cash assistance under N.J.A.C. 10:90-3.18, since "lump sums" included such items as lottery winnings and personal injury awards; to include regularly recurring child support payments in the definition would violate important public policy considerations, namely the best interests of the child. R.F. v. Union County Div. of Social Services, OAL Dkt. No. HPW 1331-08, 2008 N.J. AGEN LEXIS 1044, Final Decision (July 24, 2008).

10:90-3.19 Exempt income

(a) Exempt income is not considered in determining initial and continued eligibility for assistance or in computing the amount of WFNJ cash assistance payments; however, as part of the determination of eligibility for emergency assistance, the agency shall evaluate all potential contributions of support to the household in accordance with N.J.A.C. 10:90-6.1(c)2. The following sources of income shall be exempt:

1. Income tax refunds;
2. Homestead property tax rebates;
3. Earned income tax credit (EITC) payments;
4. Unearned income (including moneys to offset training expenses) received by a WFNJ dependent child through the Workforce Investment Act (WIA);
5. Earned income received through the WIA by a WFNJ dependent child;
6. Allowance payments to offset expenses related to training received by any WFNJ recipient who is participating in the WIA program;
7. The earned income of any middle or secondary school student in the eligible assistance unit;
 - i. This income exemption applies to children who are full-time students up to the age of 18, or up to the age of 19 if they are expected to complete an educational program before reaching age 19; and children up to the age of 21, if they are enrolled in a special education program (see N.J.A.C. 10:90-2.7);
8. Any grant, scholarship, student loan or other financial aid received by an eligible child or eligible adult who is a student, including funds received through college work study programs for TANF recipients, so long as the eligible child or eligible adult continues to attend school and meets the conditions under which such moneys are granted and complies with required WFNJ work requirements at N.J.A.C. 10:90-4. Income received through a college work study program is not exempt for GA recipients;
 - i. During any period for which a child or adult who is a student receives a grant, scholarship or student loan under a Federal, State or other public or private program, he or she shall not be entitled to any allowances for expenses incident to training which are otherwise provided

for through student financial aid. In other situations allowances shall be provided in accordance with the supportive services provisions at N.J.A.C. 10:90-5;

9. SSI benefits for WFNJ/TANF;

10. Income-in-kind or benefits received in the form of goods, services or via third party payments, rather than cash;

11. Kinship Subsidy Program payments;

12. Individual Development Accounts including matching contributions and interest;

13. Supplemental Living Support (SLS) Program payments made to unemployable WFNJ/GA individuals and deferred WFNJ/TANF individuals who have been determined to be exempt from the 60-month lifetime limit on assistance and the WFNJ work requirement;

14. The following funds are considered as exempt income and are also identified as exempt resources designated for special purposes at N.J.A.C. 10:90-3.20(a)14:

- i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

- ii. The value of the Food Stamp allotment for any household participating in the Food Stamp Program of the U.S. Department of Agriculture;

- iii. Allowances for participation in the WFNJ program, including payments for transportation and related expenses set forth in the supportive services section at N.J.A.C. 10:90-5 and payments for child care;

- iv. Allowance payments, that is, monies paid to offset expenses related to training received by a WFNJ parent or parent-person who is participating in the WIA program;

- v. Payments to assistance units for child care in situations where special circumstances occur within the household (such as emergency illness of the parent(s)) that necessitate alternative care for a child on a temporary basis; and transportation or the cost of transportation, which is not available from any other source, to transport that child to and from the child care site when it is essential for the child's physical health and safety;

- vi. Supplemental aid by other agencies or organizations, whether public or private, provided that:

- (1) There is no duplication between such aid and the public assistance grant;

- (2) Such aid is for a special purpose not within the function of the public assistance agency (for example, vocational rehabilitation); or

- (3) Such aid is to any undergraduate student for educational purposes;

vii. Monies received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81);

viii. Monies received on behalf of foster child care, including extra payments received for special services; and

ix. Funds received by applicants and recipients through certain Federal programs as delineated in (a)14ix(1) through (19) below:

(1) Funds distributed or held in trust for members of any Indian Tribe under Public Law 92-254 or 93-134;

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-03, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

(4) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965 (42 U.S.C. §§ 3001 et seq.);

(5) Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE);

(6) Payments made through the United States Department of Housing and Urban Development (HUD) Section 8, Rental Assistance Program (RAP), which provides funds to certain disabled individuals and low income families to assist them in meeting shelter costs;

(7) HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974;

(8) Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35;

(9) Allowances and benefits under the National and Community Service Trust Act of 1993 (NCSTA) which established a Corporation for National and Community Service which administers national service programs, including the Americorps programs, the Senior Corps and Youth Corps programs; the Learn and Serve program and, the Volunteers in Service to America (VISTA) program;

(10) All student financial assistance received under Title IV of the Higher Education Act and under the Bureau of Indian Affairs student assistance programs;

(11) Student financial assistance made for attendance costs under the Carl D. Perkins Vocational Education Act Amendments of 1990;

(12) Restitution made, under Section 105 of Title I of P.L. 100-383, the Civil Liberties Act of 1988, to individuals of Japanese ancestry who were interned during World War II;

(13) Restitution made, under Section 206 of Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, to Aleuts who were relocated by the U.S. government during World War II;

(14) Major disaster and emergency assistance granted under Section 105 of P.L. 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988, including FEMA;

(15) Agent Orange payments as provided for under Section 1(a) of P.L. 101-201 and Section 10405 of P.L. 101-239 of the Omnibus Budget Reconciliation Act of 1989;

(16) Amounts paid to individuals, under Section 6(h)(2) of P.L. 101-426, the Radiation Exposure Compensation Act of 1990, for injuries or deaths due to exposure to radiation from nuclear testing and uranium mining;

(17) Payments made to individuals because of their status as victims of Nazi persecution;

(18) Stipends received by individuals who participate in the New Jersey Youth Corps Stipends Program; and

(19) Certain payments made by the Department of Veterans Affairs to the natural children of female Vietnam veterans who served in the Republic of Vietnam from February 28, 1961 through May 7, 1975;

15. Kinship Legal Guardian subsidy payments, received either through DYFS or DFD;

16. Benefits received pursuant to N.J.S.A. 52:4B-1 et seq., the Criminal Injuries Compensation Act of 1971;

17. Income earned as a result of temporary census employment; and

18. Supplemental participant allowance payments issued in accordance with N.J.A.C. 10:90-4.2(a)2i.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (a)8i and (a)12.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), substituted "WFNJ/TANF/GA" for "WFNJ/TANF/GA only" in 10, added new 12 through 14 and recodified former 12 as 15.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), rewrote 10 and added 19.

Amended by R.2009 d.135, effective April 20, 2009.

See: 40 N.J.R. 5501(a), 41 N.J.R. 1861(a).

In (a)1, substituted "\$100.00" for "\$50.00".

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (a)8, inserted "for TANF recipients" and ". Income received through a college work study program is not exempt for GA recipients"; and in (a)13, substituted "unemployable WFNJ/GA individuals and deferred WFNJ/TANF individuals" for "WFNJ TANF/GA families/individuals", and inserted "and the WFNJ work requirement".

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

Rewrote the introductory paragraph of (a); deleted former (a)1; recodified former (a)2 through (a)15 as (a)1 through (a)14; in (a)3, inserted "tax" and substituted "(EITC)" for "(EIC)"; in (a)4, substituted "Workforce Investment Act (WIA)" for "Job Training Partnership Act (JTPA)"; in (a)5 and (a)6, substituted "WIA" for "JTPA"; in (a)13, deleted "and" from the end; in (a)14ii, substituted the first occurrence of "Food Stamp" for "coupon"; in (a)14iv, substituted "WIA" for "Job Training Partnership Act (JTPA)"; in (a)14ix(19), substituted a semicolon for a period at the end; and added (a)15 through (a)18.

10:90-3.20 Exempt resources

(a) Exempt resources are not subject to any requirement for liquidation and are not considered in determining WFNJ eligibility or in determining the cash assistance benefit. In addition to the exempt income set forth at N.J.A.C. 10:90-3.19, the following resources shall be exempt for each assistance unit:

1. Benefits available through the WFNJ program which are over and above the cash assistance allowance, such as, but not limited to, child care and transportation payments;

2. Aid/assistance from other agencies or organizations, whether public or private, as exempt from Federal and/or State law such as, but not limited to, Federal Emergency Management Assistance (FEMA), which supplements but does not supplant WFNJ benefits;

3. Up to a total of \$2,000 in resources (including savings);

i. An exception to the \$2,000 limit may be made for minor parents living in alternate adult supervised living arrangements only. For such minor parents, the full amount of special minor parent alternate living arrangement savings accounts and all interest and/or dividend earnings from such an account shall also be exempt;

ii. In addition to the above resources, moneys, matching contributions and interest on funds which are held in separate approved Individual Development Accounts are totally exempt. Funds which are held in approved Individual Development Accounts shall not be considered available for the assistance unit's use for emergency assistance purposes. The funds in these accounts are controlled by other entities and must be designated for one of the following purposes:

- (1) Purchase of a home;
- (2) Educational/training expenses;
- (3) Purchase of a motor vehicle; or

(4) Purchase of a business.

iii. Moneys identified at (a)3 and 3i above are exempt in determining eligibility for WFNJ. However, in the event that a WFNJ assistance unit is in need of emergency assistance, such funds may be considered available for the assistance unit's use to meet the emergency need prior to the issuance of emergency assistance;

4. All motor vehicle(s) registered in the name of a member of the assistance unit;

i. Recreational vehicles are not subject to the resource exemption and the value of recreational vehicles, registered in the name of an assistance unit member, shall be included in the determination of financial eligibility. The fair market value of a recreational vehicle shall be determined by the value of those vehicles as indicated on the National Automobile Dealers Association Internet website www.nadaguides.com. The county or municipal agency shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional or handicap accessible equipment. If a new vehicle is not listed on the website, the county or municipal agency shall determine the wholesale value by some other means such as, but not limited to, contacting a dealer that sells that make of recreational vehicle;

5. Real property owned by an eligible assistance unit member(s) and used as a home by a member(s) of the eligible assistance unit, together with so much of the land on which the house stands as is reasonably necessary for the maintenance of the house;

i. The property may remain in exempt status during temporary absence of the entire assistance unit for a period up to four months, at which time the county or municipal agency shall review the status and, if so indicated, may allow it to remain in exempt status for an additional four months. Continued absence through the entire eight months shall be deemed to be permanent and the property shall be removed from exempt status;

6. Personal property, such as, but not limited to, house furnishings and clothing which are used regularly or likely to be used;

i. Furnishings and clothing in storage may be deemed to be exempt in the presence of a reasonable plan for their use;

ii. Personal effects if regularly used or of small intrinsic value;

(1) Items of exceptional value not regularly used and not essential to the physical health and safety of the eligible assistance unit are not exempt;

7. Livestock, machinery, tools, equipment, and stock-in-trade which serve to produce some net income in cash or

in kind or serve as an incentive for self-help; livestock or property owned or used by a child in connection with a group or school activity (such as 4-H); and farm and garden products raised by the eligible assistance unit for its own use;

8. Any asset, real or personal, the liquidation of which would produce no net revenue to the eligible assistance unit;

9. Nonrecurring gifts and contributions of nominal amount or value, such as those for birthdays, graduations or holidays;

10. Bona fide and/or personal loans which are held and used for specific purposes in accordance with the conditions of the loan and not used to meet day-to-day living costs; and, such loans are evidenced by a document signed by the client and the lender which states the amount of the loan and terms of repayment;

11. Fees paid in conjunction with the collection of a pending claim when the costs were incurred during a period of receipt of WFNJ (see N.J.A.C. 10:90-7);

12. Prepaid burial plots (limited to one for each member of the eligible assistance unit) and prepaid bona fide funeral agreements up to a total value of \$4,000 per assistance unit member, to the extent that the total equity value of any agreement attributable to each member of an eligible assistance unit does not exceed \$2,430, unless such assistance unit member was a recipient of General Assistance prior to July 1, 1997 and the exemption at (a)12iii below applies;

i. Burial plots mean conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.

ii. Funeral agreements mean contractual arrangements to provide for the costs connected with burial, cremation, or other funeral arrangements.

iii. Prepaid irrevocably assigned funeral/burial arrangements, as noted in (a)12iii(1) through (3) below, for WFNJ/GA recipients who were General Assistance recipients and had made such arrangements prior to July 1, 1997;

(1) Prepaid irrevocable funeral/burial insurance policies;

(2) Prepaid irrevocable funeral/burial annuity policies;

(3) Prepaid irrevocable funeral/burial trust funds;

13. Life insurance policies;

14. Resources designated for special purposes as follow:

i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

ii. The value of the NJ SNAP allotment for any household participating in the Supplemental Nutrition Assistance Program of the U.S. Department of Agriculture;

iii. Allowances for participation in the WFNJ program, including payments for transportation and related expenses set forth in the supportive services section at N.J.A.C. 10:90-5 and payments for child care;

iv. Allowance payments, that is, monies paid to offset expenses related to training received by a WFNJ parent or parent-person who is participating in the Workforce Investment Act (WIA) program;

v. Payments to assistance units for child care in situations where special circumstances occur within the household (such as emergency illness of the parent(s)) that necessitate alternative care for a child on a temporary basis; and transportation or the cost of transportation, which is not available from any other source, to transport that child to and from the child care site when it is essential for the child's physical health and safety;

vi. Supplemental aid by other agencies or organizations, whether public or private, provided that:

(1) There is no duplication between such aid and the public assistance grant;

(2) Such aid is for a special purpose not within the function of the public assistance agency (for example, vocational rehabilitation); or

(3) Such aid is to any undergraduate student for educational purposes;

vii. Monies received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81);

viii. Monies received on behalf of foster child care, including extra payments received for special services; and

ix. Funds received by applicants and recipients through certain Federal programs as delineated in (a)14ix(1) through (18) below:

(1) Funds distributed or held in trust for members of any Indian Tribe under Public Law 92-254 or 93-134;

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-03, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

9. A recipient who has been determined to require protective payments shall be given written notice, and an oral explanation, of his or her right to a fair hearing, if he or she is dissatisfied with the decision to appoint a protective payee, the choice of a protective payee, the continuation of protective payments or the manner in which the payee is functioning. If the fair hearing issue is the decision to appoint a protective payee, a temporary payee will be designated by the county or municipal agency pending the fair hearing decision.

(e) A representative payee is a person appointed by the court to receive and administer assistance payments on behalf of an eligible individual or family. A representative payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient, nor to act as representative of the recipient in any other manner whatsoever, unless authorized by a court of law or has a power of attorney.

1. When a representative payee wishes to be released from his or her responsibilities, there must be an application to the court for such release.

2. Upon such notice from a representative payee, the county or municipal agency shall take prompt action to locate another person willing to be appointed. If the present representative payee is unable to continue in that capacity until released by the court, the county or municipal agency shall appoint a protective payee to receive assistance for the client until a new representative payee is appointed by the court.

3. The major personal criterion for selection of a representative payee is an interest in being of service to the recipient. Appropriate sources of recruitment include: the immediate family and other relatives and friends; a person previously appointed to act on behalf of the client by another state or Federal benefit paying agency; and staff members of voluntary agencies.

4. The following persons are precluded from being appointed as a representative payee due to possible conflict of interest questions:

- i. The director of the county or municipal agency;
- ii. The WFNJ worker who determines eligibility for the particular recipient;
- iii. WFNJ staff handling fiscal procedures related to the recipient;
- iv. Banks, trust companies and similar corporate bodies functioning in a ministerial rather than a decision making role; and
- v. Vendors of goods, services, or items dealing with the recipient.

5. No person shall be proposed for appointment, nor accept appointment, as a representative payee who is in the

employ of the county or municipal agency except in situations where such person has a close personal relationship with the client which makes him or her the most suitable person to serve as the client's representative. If an employee with such a relationship is so appointed, he or she shall not thereafter be involved in any agency decision relating to the client's payment or other official actions regarding the client.

(f) A WFNJ recipient may request that, or a county or municipal agency may determine at its discretion that, payments be made to a person or facility as compensation for providing goods and services to or for the WFNJ recipient. Such restricted payments may be in addition to the regular monthly benefit in emergency assistance situations or may be a designated portion of the regular monthly benefit.

1. Restricted payments shall be made in the form of vendor payments or two-party payments, that is, checks which are drawn jointly to the order of the recipient and the provider of the services in situations such as, but not limited to: emergency assistance; rent, mortgage or utility payments; transportation expense; and child care.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (d), added a reference to certain persons authorized under N.J.A.C. 10:90-2.17.

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

In the introductory paragraph of (b), substituted "benefit" for "check"; and in the introductory paragraph of (d), substituted "minor parent" for "parent-minor".

SUBCHAPTER 4. WFNJ WORK REQUIREMENTS

10:90-4.1 General work requirement provisions

(a) Each WFNJ adult recipient, teen parent, and 16 through 18 year old individual not attending school on a full time basis, unless specifically deferred or unless otherwise specified in this subchapter, shall cooperate with and participate in the WFNJ work requirements in accordance with Federal regulations, the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the New Jersey State Plan for Temporary Assistance for Needy Families, the Work First New Jersey Act and the New Jersey Food Stamp Employment and Training State Plan, for up to 40 hours per week as a condition of eligibility for receipt of cash assistance benefits. WFNJ/GA recipients are required to participate in a work activity for up to 30 hours per week.

1. Each WFNJ TANF/GA adult recipient, unless deferred from the work requirement, shall continuously and actively seek employment in an effort to gain self-sufficiency. Unless otherwise specifically deferred under this section, each WFNJ recipient shall cooperate with and participate in the WFNJ work requirements as a condition of eligibility for receipt of cash assistance benefits.

2. Adult WFNJ recipients, teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis, unless deferred, shall be required to comply with all aspects of the cooperation and participation provisions of the WFNJ work requirement as stipulated in this section, unless good cause exists, which shall include, but not be limited to: keeping all scheduled appointments timely; giving reasonable notice and explanation of inability to keep an appointment; cooperating in the development and completion of an individual responsibility plan (IRP); complying with the terms and conditions of the IRP; contacting the child care entity to arrange appropriate child care for WFNJ activity participation, as appropriate; and participating in a WFNJ work activity(ies) as assigned.

i. A WFNJ case comprised of refugees shall be subject to WFNJ work requirements. Appropriate work activities are provided through refugee resettlement agencies (see N.J.A.C. 10:90-10).

3. WFNJ agencies and other agencies contracted to provide services shall be required to meet the needs of WFNJ participants with disabilities.

i. Reasonable accommodations to allow participation by recipients with disabilities may include special-

ized transportation and tailored, appropriate work activities that meet the physical constraints and social and employability needs of such individuals.

(b) WFNJ/GA single adults or couples without dependent children, who are receiving food stamps, not deferred and are registered for work and complying with the Food Stamp Employment and Training Program (FSETP), shall be required to participate in an FSETP work activity and shall meet their WFNJ work requirements through the FSETP. Single adults and couples without dependent children who are not receiving food stamps and are not registered for work and not participating in the FSETP shall register for work with the New Jersey One-Stop Career Center (NJOSCC) and shall participate in a NJOSCC work activity, unless deferred.

(c) Upon application, determination or redetermination of eligibility for WFNJ benefits, all adult WFNJ recipients, unless deferred, shall be required to register for work with the NJOSCC.

1. For WFNJ/GA recipients in nonconsolidated municipalities, NJOSCC shall place WFNJ/GA single adults and couples without dependent children in an approved activity, monitor compliance, and notify the municipal agency when the recipient fails to comply with the activity.

2. For WFNJ/GA recipients in consolidated municipalities, the WFNJ agency shall place WFNJ/GA single adults and couples without dependent children in an approved activity and monitor compliance.

(d) Failure to actively cooperate with or participate in the WFNJ work activity requirements, without good cause, shall be considered noncompliance and shall result in loss of cash assistance benefits in accordance with N.J.A.C. 10:90-4.13.

1. For WFNJ/GA recipients in consolidated municipalities, when the NJOSCC reports to the county agency noncompliance by a WFNJ/GA participant, the county agency shall act on the report of noncompliance in accordance with N.J.A.C. 10:90-4.13.

2. For WFNJ/GA recipients in nonconsolidated municipalities, the NJOSCC will report the noncompliance by the WFNJ/GA recipient to the municipal agency which will begin the sanction process (see N.J.A.C. 10:90-4.13).

(e) A recipient who is not engaged in full time unsubsidized employment shall be required to commence participation in a work activity, self-directed job search, job search or other designated work/educational activity as follows (whichever occurs first):

1. As soon as it is determined that the individual is ready to engage in work or in a work activity; or

2. At some time prior to the individual having received 24 months of cash assistance benefits (whether or not the receipt of such cash assistance is consecutive) unless deferred.

i. Receipt of 24 cumulative months of WFNJ cash assistance benefits does not in and of itself render an individual ineligible for cash assistance.

(f) All adult WFNJ recipients, teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis, including those individuals determined deferred from the WFNJ work requirement, shall be required to sign an initial individual responsibility plan (IRP) which shall indicate the terms of the work activity requirements and/or the plan of action based on the findings and conclusions from the initial assessment that the recipient must fulfill in order to continue to receive benefits as well as identify work related supportive services (such as child care, transportation, and other work-related expenses necessary to engage in work activities) that are to be provided. For all recipients not deferred from the WFNJ work requirements, the individual responsibility plan shall be updated annually or as necessary in accordance with individual progress and/or change in circumstances (see N.J.A.C. 10:90-4.8).

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (a)2.

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.

Administrative correction.

See: 35 N.J.R. 4894(a).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Inserted "teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis" in the first sentence of (a), introductory paragraph, 2, and (f).

Special amendment, R.2008 d.182, effective June 3, 2008.

See: 40 N.J.R. 4232(a).

In the in the introductory paragraph of (d); substituted "in accordance with" for "on a per capita basis (see" and deleted ", Sanctions)" from the end; in (d)1, substituted "in accordance with N.J.A.C. 10:90-4.13" for "within 10 days and begin the WFNJ conciliation process (see N.J.A.C. 10:90-4.12, Sanction notification process)"; and rewrote (d)2.

10:90-4.2 Work activity participation

(a) All recipients, unless otherwise deferred, shall continuously and actively seek work and engage in job search. Recipients who are assessed to be job ready shall be placed in job search immediately. If no employment is found, they shall be reassessed, if appropriate and placed in a work activity as indicated by their individual assessments. Other recipients shall be placed in an appropriate work activity as indicated by the assessment results; however, they shall be encouraged to continuously seek employment.

1. Participation in job search may be counted for up to six weeks, of which no more than four weeks may be consecutive.

2. When an adult WFNJ/TANF recipient is placed in a CWEP or AWEF activity, the number of hours of participation per week, based on the receipt of TANF and NJ SNAP benefits, shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the NJ SNAP allotment less child support collections for the month, divided by the higher of the current Federal or State minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next lower whole hour.

i. If the calculated number of hours does not equal the mandated number of hours of participation for that recipient, the recipient shall continue to participate in the activity in accordance with the prescribed hours of participation for compliance under the WFNJ program. The participant shall be compensated for the total excess hours of participation required through the issuance of a supplemental participant allowance payment that shall be calculated as follows:

(1) Excess hours of participation shall be determined by subtracting the calculated hours of participation (determined using the grant, TRA, EA, and NJ SNAP allotment less child support collections for the month as described above) from the mandated hours of participation for compliance under WFNJ program and multiplying the excess participation hours by the higher of the current Federal or State minimum hourly wage rate.

(b) An WFNJ/TANF adult recipient in a single parent family, unless temporarily deferred, shall be required to participate in one or more work activities for up to 40 hours per week.

1. WFNJ/GA single adults or couples without dependent children, unless temporarily deferred, shall be required to participate in one or more work activities for up to 30 hours per week.

i. When a WFNJ/GA individual(s) is participating in a CWEP activity, the maximum number of hours per week shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the NJ SNAP allotment divided by the higher of the Federal or state minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next whole hour. The WFNJ/GA individual(s) may be required to participate in another activity such as job search or remediation.

ii. In nonconsolidated municipalities, the NJOSCC shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP based on the information reported by the municipal agency at the initial eligibility determination or when the municipal agency reports a change to NJOSCC. If available, NJOSCC may access this information through the State's automated information system.

iii. In consolidated municipalities, the county agency shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP.

(c) A teen parent under the age of 18 shall be required, on a full time basis, to attend high school or an equivalent course of study unless:

1. It is determined that the teen parent is exempt from regularly attending high school or its equivalent, based upon an assessment which indicates the person's inability and lack of aptitude to successfully complete such academic requirements; then the teen parent shall be required to participate full time in an approved alternative educational or training program, including special educational programs for the learning and developmentally challenged (the hours of participation shall be in accordance with the scheduled program); or

2. The teen parent has completed secondary education; then he or she shall be required to participate in a work activity for a minimum of 35 hours per week.

(d) A recipient who has not completed high school and has not attained 20 years of age and is a single head of household, a single adult or either of the adults of a couple without dependent children shall be required to maintain satisfactory school attendance at secondary school or the equivalent during the month or participate in education directly related to employment for at least 20 hours per week. If it is determined

that, due to the person's inability or lack of aptitude to successfully complete academic requirements, he or she shall be required to participate in another appropriate work activity.

(e) Each parent in a two-parent WFNJ/TANF family shall be required to participate in one or more activities for a minimum of 35 hours per week up to a maximum hourly total of 40 hours per week, unless otherwise deferred in accordance with N.J.A.C. 10:90-4.9.

1. For one parent, 30 hours of the required 35 hours of participation shall include participation in one or more of the following federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job training; job-search and job readiness assistance; community service programs; vocational educational training (not to exceed 12 months per individual) which may be combined with work experience; or the provision of child care services to an individual who is participating in a community service program.

2. The second parent shall be required to satisfactorily participate in work activities for 35 hours a week of which a minimum of 20 hours shall be in the following Federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job-training; or community service programs.

(f) Individuals 16 through 18 years of age who are attending school on a full-time basis and are expected to complete the program of the school before reaching the age of 19 are required to satisfactorily attend the scheduled classes at a secondary school or a course of study leading to a certificate of general equivalence.

1. Individuals, age 16 through 18, who are students and who drop out of school will be required to enroll and participate in another appropriate work activity for a minimum of 35 hours per week. Failure to comply with the work activity will result in the sanctions for such persons as stipulated at N.J.A.C. 10:90-4.11.

(g) A recipient who is a full-time post-secondary student in a course of study related to employment, as defined at N.J.A.C. 10:90-4.3(j)1, shall be required to engage in another work activity for 15 hours a week subject to the recipient making satisfactory progress toward the completion of the post-secondary course of study.

Administrative correction.

See: 29 N.J.R. 3729(a).

In (b), deleted "a minimum of 35 hours per week to a maximum aggregate hourly total of" preceding "up to 40 hours per week"; in (b)1, deleted "for an average total of 30 hours per week" following "or more work activities"; in (e)1 and 2, under Federally recognized activities deleted subsidized private sector employment and subsidized public sector employment.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Rewrote (a); added (a)2, (a)2i and 2i(1); and in (d) inserted "dependent" before "children".

4. Vendors providing education and/or training to WFNJ recipients must be listed on the Eligible Training Provider List (ETPL). If a vendor is not currently listed as an eligible training provider, the vendor must demonstrate proof of registration to become an Eligible Training Provider.

5. The CAV Program shall not be construed as an entitlement program. If the fiscal or other resources necessary to carry out the CAV Program are unavailable, that individual shall not be deemed to have a right to such program.

(b) In order to be eligible for this program, the applicant's WFNJ/TANF case must have closed within the previous 24 months and the applicant shall:

1. Be currently employed, for at least 20 hours a week, and have been employed for at least the previous four months;

2. Have expressed an interest in, and have an opportunity for, career advancement;

3. Agree to remain employed and not reduce work hours in order to participate in the program; and

4. Have not already received a CAV within the previous 18 months or if a CAV was received, the program funded by the CAV was successfully completed. Successful completion means the client has participated through the closing date of the class or training program. It is not a requirement that the client pass the course or receive a graduation certificate or license. (Exceptions may be made on a case by case basis as some institutions require payment for an approved subsequent class prior to the completion date of the first class or training program.)

(c) Child care support services may be available to eligible CAV participants as a part of the TCC and Post TCC Programs.

(d) A post WFNJ/TANF participant that received a CAV and successfully completed the CAV funded program may apply for a second voucher up to a maximum of \$4,000, if requested within the 24 month post-TANF benefit period.

(e) CAV participants who lose their job through no fault of their own and need to re-apply for WFNJ/TANF cash assistance, shall be allowed to complete their CAV funded activity and receive the needed supportive services for such attendance.

(f) CAV participants that voluntarily quit a job without good cause and re-apply for WFNJ/TANF cash assistance shall be determined ineligible for WFNJ benefits for a 90-day period beginning with the day of quit. They may still continue to attend their CAV funded activity.

1. During the 90-day period, these clients will be ineligible to continue receiving supportive services for the CAV funded activity.

(g) CAV participants that relocate to another county, if able, may complete the current program with needed supports and the final CAV payment issued by the receiving county.

1. Employed post WFNJ/TANF clients that move to another county are eligible to apply for the CAV program in the receiving county as long as eligibility requirements are met and the request is made within 24 months of case closure.

2. Employed post WFNJ/TANF clients that move to another state are not eligible to apply for a CAV.

3. CAV participants that move to another state during the time of attendance in a CAV funded program, if able, may complete that portion of the program funded through the initial payment. Final payments and supportive services shall not be issued.

New Rule, R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), rewrote 4; in (b), substituted "24" for "12" before "months" in the introductory paragraph; in (c), substituted "and Post TCC Programs" for "Program" after "TCC".

10:90-5.13 Housing Subsidy Program

(a) In an effort to provide housing stability and eliminate long term dependence on WFNJ/TANF assistance, DFD has established a Housing Subsidy Program. This program is designed to provide rental assistance to former WFNJ/TANF recipients for up to 24 months. Eligibility is determined on an annual basis, with the initial income eligibility standard set at 150 percent or less of the FPL during the first year of the program. The income standard for redetermination after the first 12 months is set at 200 percent or less of the FPL.

(b) In addition to ongoing rental assistance, the subsidy can be used toward a one-time payment of the following:

1. A security deposit;
2. Moving expenses; or
3. Utility turn on, when no other assistance is available.

(c) Checks for rent subsidy will be made payable to the landlord and the housing subsidy recipient has the responsibility of paying the balance of the rent to the landlord.

(d) In order to be initially eligible for the Housing Subsidy Program, recipients shall meet all of the following criteria:

1. The recipient shall be a former WFNJ/TANF recipient whose case has closed within the previous 12 months or a current WFNJ/TANF recipient who agrees to close the TANF case;

2. The recipient shall be currently employed a minimum of 20 hours a week and have maintained employment for the previous four months;

3. The recipient shall have an eligible child as defined at N.J.A.C. 10:90-2.7(a) for the entire 24-month period.

i. If determined that the recipient would not meet this requirement for the full 24-month period, the housing subsidy benefit period must be limited to the number of months eligibility would exist.

4. Initial financial eligibility is based on a gross household income of less than or equal to 150 percent of the FPL;

5. Recipients are required to be spending a minimum of 40 percent of their gross household income on rent; and

6. As a condition of eligibility, all recipients shall apply for Section 8 Housing within 60 days of receipt of the subsidy (or make a good faith documented effort to apply, providing a waiting list is available). The recipients shall also agree to accept the Section 8 Housing if it is offered to them.

(e) Recipients in receipt of a housing subsidy shall continue to receive all necessary post WFNJ/TANF supports, such as, child care, transportation and Medicaid based on existing eligibility requirements.

(f) CWA's are required to conduct an annual redetermination that includes a subsidy recalculation.

1. If the program participant is unemployed at the time of the redetermination, he or she shall obtain new employment within 90 days from the date of the last day of his or her employment to maintain eligibility for the housing subsidy.

2. As part of annual redetermination, the CWA shall verify that the recipient has paid his or her portion of the monthly rent and has kept current with his or her utility payments.

i. The CWA shall allow exceptions for situations involving a landlord dispute when the individual is holding payments until the landlord takes action and the situation is resolved.

3. During the annual redetermination, if there is an increase or decrease in the rent, the subsidy amount shall be adjusted accordingly provided the recipient continues to meet the eligibility requirements.

(g) Recipients are no longer eligible for program participation when any of the following takes place:

1. A recipient loses his or her housing due to criminal activity of the recipient or activity that the recipient knowingly permitted to occur on the premises;

2. A recipient fails to apply for Section 8 Housing (or make a good faith documented effort to apply, providing a waiting list is available);

3. A recipient fails to accept Section 8 Housing if it is offered to him or her;

4. A recipient's household income exceeds 200 percent of the FPL at the time of the annual redetermination; or

5. Rent is less than 40 percent of the recipient's household income.

(h) If a recipient leaves the Housing Subsidy Program, then re-applies, the recipient may be eligible for the balance of the months remaining, up to 24 months, provided the recipient meets the eligibility requirements.

(i) When a recipient moves, whether within or outside of the county issuing the subsidy, the subsidy amount shall remain unchanged during the first 12 months of the subsidy as long as program eligibility is maintained. The county of origin shall maintain responsibility for issuance of the monthly subsidy.

1. If the recipient fails to notify the agency regarding a move and a subsidy payment is subsequently issued to the previous landlord, no new subsidy can be issued on the recipient's behalf for that month. The CWAs shall attempt to secure repayment from the previous landlord.

New Rule, R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

10:90-5.14 Supplemental Living Support (SLS) Program

(a) The Purpose of the Supplemental Living Support (SLS) Program is to offset additional housing or living costs associated with long term disability as evidenced by receipt of assistance in excess of 60 months and designation as an exempt individual.

(b) The SLS Program is available to all cases where at least one TANF or unemployable GA adult has been determined to be exempt from both the 60-month time limit and the WFNJ work requirement and continues to be in receipt of WFNJ benefits.

(c) The SLS program provides assistance units with an additional \$150.00 per month for those exempt cases where one or both of the adults has met the exemption criteria for post 60-month WFNJ/TANF benefit receipt.

(d) Cases that fail to comply with program eligibility requirements or work requirements and are sanctioned, are not eligible to receive the SLS. In addition, if the exempt status of an individual should change, the household is no longer eligible to receive the SLS payment.

(e) The SLS payment is not included when calculating the WFNJ benefit amount.

(f) In the calculation of other benefits received by the household, the SLS shall be treated as unearned income for food stamp purposes and as part of total household income when determining, where necessary, the TRA/EA household co-payment amount.

1. If a WFNJ/TANF/GA recipient is already receiving TRA when he or she begins to receive an SLS benefit, the TRA shall be continued even if the additional SLS income would have rendered the recipient ineligible for TRA. The

TRA co-payment amount will be 65 percent of all household income including the SLS benefit or the combined cash assistance and SLS benefit, whichever is less.

New Rule, R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (f), added 1.

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (b), substituted "TANF or unemployable GA" for "active" and "benefits" for "Benefits", and inserted "both" and "and the WFNJ work requirement".

10:90-5.15 Mental Health Initiative

(a) Mental health and employment readiness services are available through the Work First New Jersey Mental Health Initiative (MHI). The MHI provides services to WFNJ recipients who are experiencing mental health barriers to self-sufficiency.

1. WFNJ recipients enrolled in the MHI are eligible to receive mental health services provided and/or arranged by a Mental Health Case Manager who is a trained mental health clinician from a contracted agency, and employment readiness services provided by an employment specialist from an agency associated with the Division of Mental Health Services' Supported Employment Program and/or coordinated with the One-Stop Career Centers (OSCC).

i. Mental health services arranged for may include, but are not limited to, psychiatric evaluation and medication, out-patient counseling, or partial care/psychosocial rehabilitation.

ii. Employment services may include, but are not limited to, vocational readiness determination, career profiling, community-based occupational exploration, job-seeking skills, alternative work experience with support, support plan development, and individualized job placement.

(b) A participant's hours spent in treatment provided by and/or arranged through the MHI may count towards the required hours of a work activity.

1. For WFNJ recipients required to participate in a work activity, mental health treatment counts as a participant's work activity only if the mental health case manager assesses the recipient and monitors the participant's treatment.

(c) A WFNJ recipient who appears to have a mental health barrier and appears to meet the eligibility criteria for the program shall be asked to complete the form MHI-1, WFNJ Mental Health Initiative Questionnaire. Completion of this form is voluntary. If the results of the MHI-1 indicate a mental health barrier, the recipient shall be referred to the MHI for an assessment by a Mental Health Case Manager.

1. A mental health assessment shall be administered to each WFNJ recipient referred to the program by a trained mental health clinician using recognized DMHS Intensive Case Management Services assessment protocols.

(d) Participants may be enrolled in the MHI if they meet either of the following criteria below:

1. They are mandatory TANF recipients required to participate in a work activity or employable GA recipients, and have a mental health problem that prevents them from achieving self-sufficiency, as determined by the Mental Health Case Manager, based on the results of the mental health assessment, pursuant to (c)1 above; or

2. They have an open DYFS case, and have a mental health problem, as determined by the Mental Health Case Manager, based on the results of the mental health assessment, pursuant to (c)1 above. These cases may include deferred TANF and unemployable GA cases.

(e) Referral to and participation in the MHI shall be either voluntary or mandatory based on the following criteria:

1. Non-sanctioned WFNJ recipients who are required to participate in a work activity shall be offered a referral based on the results of the MHI-1. Acceptance of such referral is voluntary. Individuals that choose not to accept the referral are to be assigned an appropriate work-related activity.

i. For those individuals that accept the referral and agree to attend a meeting with a Mental Health Case Manager, the referral is to be noted on the IRP. If the meeting with the recipient and the Mental Health Case Manager is held and it is determined that a mental health problem exists and an appropriate mental health activity is assigned, then the recipient has the option of attending that activity or participating in another WFNJ work-related activity. Refusal to attend the mental health activity is not sanctionable in this situation.

ii. If the recipient agrees to attend this activity, it becomes his or her WFNJ work-related activity, with non-compliance triggering the start of the sanction process.

(1) Before starting the sanction process for a recipient enrolled in MHI, the WFNJ worker shall contact that recipient's Mental Health Case Manager for a determination of whether the client's non-compliance was due to his or her mental health problems. If the Mental Health Case Manager concludes that the recipient's non-cooperation may have been a result of his or her mental health barriers, that recipient shall not be sanctioned and shall be offered the opportunity either to continue participating in the MHI or to be assigned an alternate activity.

2. WFNJ recipients who are required to participate in a work activity, and who have been sanctioned for non-compliance with a work activity in accordance with N.J.A.C. 10:90-4.13, may be advised that they shall be required to

complete the MHI-1 and, if applicable, participate in the MHI in order to remove the sanction, unless the agency worker determines that the reason for the non-compliance is other than a mental health problem. A referral to meet with a Mental Health Case Manager for a mental health assessment shall be provided to the sanctioned individual. Acceptance of such referral is mandatory. The MHI referral is to be noted on the recipient's IRP.

i. If treatment is indicated, the recipient shall be required to actively attend that program during the two-week intent to comply period in order for the sanction to be removed. Continuation of the mental health activity will become the recipient's mandatory work activity. Failure to participate as designated shall cause the individual's sanction to proceed as scheduled.

(1) Before the individual's sanction is reinstated to proceed as scheduled, the WFNJ worker shall contact the recipient's Mental Health Case Manager for a determination of whether the recipient's non-compliance was due to his or her mental health problems. If the Mental Health Case Manager concludes that the recipient's non-cooperation was a result of his or her mental health barriers, then the recipient shall not be sanctioned and shall be offered the opportunity either to continue participating in MHI or be assigned an alternate activity.

New Rule, R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

Special amendment, R.2008 d.182, effective June 3, 2008.

See: 40 N.J.R. 4232(a).

In (e)2i, substituted "cause the individual's sanction to proceed as scheduled" for "advance the penalty to the next sanction offense level"; and in (e)2i(1), substituted "the individual's sanction is reinstated to proceed as scheduled" for "advancing a MHI recipient to the next sanction level".

10:90-5.16 TANF Initiative for Parents (TIP) Program

(a) The TIP Program is a performance-based child abuse and neglect prevention initiative that offers comprehensive parenting, nutritional and support services utilizing in-home visitation parenting models of service delivery, one of which includes the Healthy Families America (HFA) model, for families at risk of abuse or neglect. TIP Program services are made available initially based on the in-home visitation service provider's assessed needs of the family. TIP Program participants shall be re-evaluated for continued program services, by the service provider, at three-month intervals.

(b) The purposes of the TIP Program are to:

1. Promote the safety, permanency and well-being of infants and their siblings while:
 - i. Encouraging healthy parent-child interactions; and
 - ii. Reducing the number of referrals to the Division of Youth and Family Services (DYFS);

2. Increase healthy child development, rates of immunizations, early identification of development delays, and good nutrition;

3. Link families to community based medical, social, nutritional and employment services; and

4. Provide TANF parents an opportunity to acquire parenting skills that will assist the recipient in the pursuit or maintenance of employment while balancing a healthy family environment.

(c) Participation in TIP Program services, including the in-home visitation, is not mandatory. The TIP program preferred approach is in-home visitation. However, participants are given a choice of participating in the program services voluntarily, as follows:

1. In their own home;
2. Outside of their own home; or
3. In their own home and outside of their own home.

(d) The TIP Program services are available to certain individuals in their last trimester of pregnancy and new parents with infants from birth through 12 months of age, even if the individual has older children in the family in addition to the new infant, as follows:

1. Individuals in their third trimester of pregnancy:
 - i. WFNJ TANF/GA individuals; and
 - ii. Non-Public Assistance (NPA) New Jersey Supplemental Nutrition Assistance Program (NJ SNAP) individuals; and
2. Individuals who are new parents:
 - i. WFNJ TANF recipients, including new TANF parents, needy parent persons, parents in child-only cases, sanctioned recipients and recipients with a capped child;
 - ii. SSI recipients in child-only cases; and
 - iii. NPA NJ SNAP recipients.

(e) TIP Program participants who are deferred from the WFNJ work requirements in accordance with N.J.A.C. 10:90-4.10 may voluntarily take part in parenting skills services.

1. WFNJ recipients who are deferred may want to consider participating in the TIP Program as a transitional activity that will help prepare them for employment readiness and assist the recipient with balancing work activity and raising a family.

(f) For TIP Program participants who are required to participate in a work activity in accordance with N.J.A.C. 10:90-4, hours spent participating in the TIP Program shall count towards the required hours of a work activity. A TIP participant may need to participate in another work activity in addition to TIP in order to fulfill his or her required number

of hours. No adverse action or sanction shall be imposed on a TIP participant for non-compliance with the TIP Program. If the participant does not comply with the TIP program requirements, that individual shall be removed from TIP and placed in a different work activity. However, a sanction may result from the recipient's failure to comply with a non-TIP work activity in accordance with N.J.A.C. 10:90-4.13.

1. Participation in TIP Program services shall count towards a WFNJ recipients work activity only through the child's 12th month of age.

i. TIP services provided to the participant shall not extend beyond the child's 12th month of age, except in certain situations when the in-home service provider determines, on a case-by-case basis, that continued periodic in-home or in-community visitation is necessary.

2. In order for TIP Program participation to count towards the required hours of a work activity, the participant must attend the identified parenting skills program(s) that is determined to be necessary, based on the assessed needs of the family.

(g) The in-home visitation service provider shall administer a comprehensive assessment to each individual referred to the TIP Program to determine eligibility for participation.

1. The parenting skills assessment shall evaluate the individual's abilities, skills, and knowledge about healthy parenting. The assessment includes, but is not limited to, the following:

- i. A universal health screening;
- ii. A family stress checklist; and
- iii. A child welfare checklist.

2. Upon completion of the assessment, the individual and the in-home visitation service provider shall identify the services appropriate for that family. A menu of parenting services and other services that promote transition into the workplace shall be offered. For WFNJ recipients, such services shall be recorded on the IRP and may include, but are not limited to, the following:

- i. Assessment, nutrition and parent education programs;
- ii. Fatherhood services/workshops;
- iii. Interactive parent-child sessions;
- iv. Counseling and employment coaching sessions;
- v. Links to social, medical and employment services; and
- vi. Coordinated case planning among the CWA, OSCC, DYFS (when appropriate) and the in-home visitation service provider.

New Rule, R.2007 d.15, effective January 16, 2007.
See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

Amended by R.2009 d.202, effective June 15, 2009.

See: 41 N.J.R. 364(a), 41 N.J.R. 2483(a).

In (f)2, deleted “, and attain satisfactory attendance in accordance with the provisions at N.J.A.C. 10:90-4.4” from the end.

Administrative change.

See: 44 N.J.R. 1529(a).

Case Notes

Agency erred in sanctioning petitioner's benefits under Temporary Assistance to Needy Families after petitioner refused to participate in an Initiative for Parents (TIP) assessment; failure to participate in a TIP is not a sanctionable offense under N.J.A.C. 10:90-5.16(c) (remanding on other grounds). C.W. v. Hunterdon County Bd. of Social Services, OAL Dkt. No. HPW 4341-07, 2007 N.J. AGEN LEXIS 934, Remand Decision (October 5, 2007).

SUBCHAPTER 6. EMERGENCY ASSISTANCE

10:90-6.1 Availability of emergency assistance

(a) Emergency assistance shall be made available through the WFNJ program as a supportive service to meet the emergent needs of WFNJ recipients, so that recipients shall not be prevented from complying with the work requirement due to disruptions caused by homelessness and related emergencies. Consequently, in an effort to minimize the incidence of homelessness among the WFNJ recipient population, the county/municipal agency shall be alert to the following circumstances, which may reasonably be assumed to, if not addressed by the recipient and the agency, result in imminent or actual homelessness of the individual or family. Upon identification of any of the indicators listed below, the county/municipal agency shall review the case record to determine if the individual or family shall be referred to sources of help, either within or outside the agency, to plan to ensure the availability of uninterrupted housing.

1. When shelter costs equal or exceed total recorded income to the WFNJ assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses;

2. When the county/municipal agency receives information to the effect that the individual or family's utility bills are in arrearages or utilities have been shut off;

3. When the individual's or family's income is reduced as a result of the reduction in WFNJ benefits or other available income, through no fault of the individual or family;

4. When the individual's or family's rent which had previously been affordable is increased to an amount which makes the current housing costs appear to exceed available income; or

5. When the county/municipal agency receives information that the individual or family is involved in a tenant/landlord dispute or threatened foreclosure.

i. When a tenant/landlord dispute or threatened foreclosure exists, the agency shall assist the family in an attempt to prevent the loss of existing permanent housing, including referral to appropriate legal/service agencies.

(b) The EA as listed in (a) above can also be an appropriate form of assistance for WFNJ recipients who are unable to work.

(c) The county or municipal agency shall provide emergency assistance when there has been substantial loss of housing, food, clothing or household furnishings or utilities by fire, flood or other similar disaster, or an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing (see (c)1 below); and the county or municipal agency determines that the provision of shelter/housing and/or food and/or emergency clothing, and/or minimum essential house furnishings or utilities is necessary for health and safety.

1. A lack of realistic capacity to engage in advance planning shall be said to exist in the following circumstances:

i. When the assistance unit can demonstrate that there was insufficient time to secure housing between receipt of notice of imminent loss of housing and actual eviction, foreclosure or loss of prior permanent housing; or

ii. When the assistance unit can demonstrate or signs a document, prepared by the county/municipal agency, certifying that available funds, including liquid resources at N.J.A.C. 10:90-3.20, were exhausted on items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living. The specific event(s) or circumstance(s) upon which the granting of EA is based must be documented in the case record. In addition to expenditures for food, clothing and housing, other appropriate items include, but are not limited to, expenditures for a family emergency, such as attending the funeral of a family member, excessive unreimbursed medical expenses or car payment or repairs; or

iii. When the assistance unit demonstrates functional incapacity, for example, evidence of alcohol or drug abuse, or a mental or cognitive impairment that would prevent them from planning for or securing substitute housing. When additional barriers are identified, the recipient shall be referred to appropriate services. Individuals granted EA on this basis must agree as part of their service plan (see N.J.A.C. 10:90-6.6 concerning the development of a service plan) to engage in appropriate treatment for their addiction or other impairments that may limit their ability to function. Such

treatment for addiction or incapacitating condition shall also be included in the IRP in order to coordinate the requirements contained in the IRP.

(1) Adult applicants or recipients who have been evicted, are facing an eviction or have been terminated from a shelter program, for reasons related to substance abuse, shall be referred to the SAI for a substance abuse assessment by a qualified professional. If the qualified professional determines that treatment is necessary and that the recipient is able to follow through with the recommended treatment plan, then participation in a substance abuse treatment program is considered mandatory for continued EA. If the qualified professional determines that the recipient is unable to comply with service plan requirements, then the recipient shall be found to have good cause and will therefore, not be subject to a penalty. The agency and the qualified professional shall review the case at a minimum of every three months to determine the recipient's ability to comply with the EA service plan requirements.

(A) Adult applicants or recipients with two or more episodes of unexplained homelessness shall be assessed for substance abuse, if the agency suspects that substance abuse is a contributing factor. If treatment is deemed appropriate by a qualified professional who shall also determine whether the recipient is able to participate in a program, then treatment shall become a mandatory part of the EA service plan for continued EA eligibility unless the recipient has good cause. If treatment is unavailable, or a waiting list exists, the recipient shall not be penalized; he or she shall be considered to have good cause.

(2) Adult applicants or recipients who have been evicted, are facing an eviction or have been terminated from a shelter program shall be assessed by a mental health professional if the underlying reason is the result of suspected mental illness. If the qualified professional determines that treatment is necessary, participation in a mental health program then becomes a mandatory part of the EA service plan and cooperation is required for continued EA eligibility unless the recipient has good cause.

(A) If treatment is unavailable, or a waiting list exists, for entry into a mental health program or in cases where the qualified professional determines that the recipient is unable to follow through with an assessment or treatment plan due to acute mental incapacitation, or other cognitive impairments, then he or she shall be deemed to have good cause. The agency and the qualified professional shall review the case at a minimum of every three months to determine the recipient's ability to comply with the EA service plan requirements.

2. As part of the determination of eligibility for emergency assistance, the agency shall evaluate all potential contributions of support to the household, including income received by ineligible household members, particularly when determining the amount of temporary rental assistance (see N.J.A.C. 10:90-6.3(a)5) to be provided, and the specific kinds of preventive services which may be required by the individual, couple without dependent children or family with dependent children.

3. Emergency assistance shall not be provided to a WFNJ applicant when an actual or imminent state of homelessness exists as a direct result of the voluntary cessation of employment by the adult household member without good cause (as provided at N.J.A.C. 10:90-4.11). EA shall not be provided for a period of six months to the entire household in which the recipient adult member voluntarily quits employment without good cause while receiving emergency assistance (see N.J.A.C. 10:90-4.11(b) concerning a voluntary quit). Nor shall EA be provided for a period of six months when an adult EA applicant or recipient has caused his or her own homelessness, without good cause, for reasons that may include, but are not limited to, (c)3i through ix below. The EA penalty shall not be imposed when it has been determined by a qualified professional that due to mental, cognitive or substance abuse impairments, the recipient lacked the functional capacity to avoid behaviors that contributed to his or her becoming homeless. Such recipients shall be required to follow through with the recommendations of the qualified professional to maintain EA eligibility.

i. For the purpose of making himself or herself eligible for EA, for example, refusing to accept subsidized housing;

ii. Eviction from public and/or subsidized housing for nonpayment of rent;

iii. Eviction from private, public and/or subsidized housing because of criminal activity, except when the criminal activity was committed by an adult who is no longer part of the assistance unit;

iv. Eviction from private, public and/or subsidized housing for destruction of the property, provided that the destruction of property was caused by the adult applicant;

v. The adult applicant or recipient had the available funds and the capacity to prevent homelessness;

vi. The adult applicant's or recipient's behavior directly caused the eviction;

vii. The adult applicant or recipient abandoned permanent affordable housing;

viii. Refusal to accept Section 8 housing, if offered; or

ix. Failure to comply with the mandatory activities identified in the EA service plan.

4. An adult household member who incurs a sanction as a result of his or her failure to comply with the WFNJ program work requirements may apply for and receive emergency assistance for himself or herself and the eligible unit while in sanction status.

5. An adult household member who incurs a sanction due to failure to comply with the WFNJ work requirements (not a voluntary quit) while receiving emergency assistance shall continue to receive such assistance (see N.J.A.C. 10:90-6.4 concerning time limits on receipt of emergency assistance), as may be required, for himself or herself and the eligible unit, for up to one month after all WFNJ cash assistance to the eligible unit has been terminated and the case closed as a result of failure to correct a sanction.

6. In consultation with DYFS, EA shall be provided to a DYFS family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements.

i. When EA is granted to a DYFS family that caused its own homelessness, the CWA and DYFS shall establish communication to ensure coordination of the DYFS plan, the EA service plan and the IRP.

(1) Every effort shall be made to avoid situations in which the development and execution of one plan infringes upon the development and execution of another, thereby placing the recipient in danger of being either sanctioned due to noncooperation or terminated from receipt of EA.

(2) Failure to comply with the DYFS service plan or the EA service plan may, in consultation with DYFS, result in the termination of EA.

7. Emergency assistance is likewise available in situations where there is an indication that an individual, or a parent and his or her children, have left their customary residence and the unit is in a state of homelessness due to imminent or demonstrated domestic violence which imperils the health and safety of the eligible unit.

i. Temporary living arrangements during the period between the occurrence of the incidence of domestic violence and the application for EA do not negate the existence of a state of homelessness.

8. In instances where the Division of Youth and Family Services, in consultation with the county agency, certifies that placement of the children is imminent due only to the fact that the family is being subjected to a serious health or life threatening situation because of the lack of adequate housing, EA shall be provided in accordance with the applicable provisions of this subchapter.

(d) The county agency may authorize EA to a family on behalf of a child in order to facilitate the return of a child

from foster care placement when the appropriate District Officer Manager (DOM) of the Division of Youth and Family Services (DYFS) has approved a specific plan for the return of a child from foster care placement and all of the following conditions exist:

1. The county agency is in receipt of detailed written verification from DYFS that the return is barred solely by insufficient or inadequate shelter, food, clothing or house furnishings and there is no other way by which a deficiency can be remedied;
2. The appropriate DOM of DYFS has certified that the return of the child will be effected on a specific date subject to remedy of the deficiency;
3. The return from placement will be to any parent or relative specified in N.J.A.C. 10:90-2.7(a)3; and
4. Upon return of the child, WFNJ eligibility will exist.

(e) EA is also available in cases where only the child is eligible to receive WFNJ cash assistance (that is, the parent-person is non-needy).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b), added "or utilities", "prior", "or imminent homelessness", and "or the absence of a realistic capacity to plan in advance for substitute housing"; added new (b)1, 1i through iii; recodified former (b)1 and 2 as 2 and 3, added second sentence in 3; added 3i and 3ii; and recodified former 3 and 4 as 4 and 5.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Added a new (b) and recodified former (b) as (c); added (d) and (e).

Amended by R.2004 d.436, effective December 6, 2004.

See: 36 N.J.R. 3339(a), 36 N.J.R. 5354(a).

In (c), substituted "see (c)1 below" for "see 1 below" following "advance for substitute housing" in the introductory paragraph, added iii in 3; in (d), recodified 2 to 5 as 1 to 4.

Amended by R.2010 d.239, effective November 1, 2010.

See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

In the introductory paragraph of (a), inserted a comma following the first occurrence of "recipients" and following "circumstances"; in (a)3, substituted "through no fault of the individual or family" for "as long as such reduction is not due to any of the situations listed in (b)2 below"; in (c)1ii, substituted "or from" for "not due to the", deleted "of" following "meeting", a comma following "such as", and "or" preceding "excessive", and inserted "or car payment or repairs"; in (c)1iii, inserted "or a mental or cognitive impairment", inserted the second sentence, and substituted "impairments that may limit their ability to function" for "incapacitating condition"; added (c)1iii(1) and (c)1iii(2); in the introductory paragraph of (c)3, updated the N.J.A.C. reference, substituted "six" for "two", rewrote the next to last sentence and inserted the last sentence; added new (c)3i through (c)3ix; recodified former (c)3i through (c)3iii as new (c)4 through (c)6; recodified former (c)4 and (c)5 as (c)7 and (c)8; rewrote (c)4; and in (c)5, substituted "for up to one month after" for "unless".

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 560) adopted with comment, which found that disabled petitioner did not violate N.J.A.C. 10:90-6.1(c), and lose eligibility for emergency assistance, by seeking to have her husband — a convicted sex offender — reside with her and their children; the HUD lease prohibited sex offenders from residing on the premises, but the conduct that resulted in the lease violation was perpetrated by the husband, not petitioner. K.J. v. Atlantic County Dep't of Family & Community Development, OAL Dkt. No. HPW 4417-07, 2007 N.J. AGEN LEXIS 935, Final Decision (August 14, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 155) adopted, which found that in calculating Temporary Rental Assistance, N.J.A.C. 10:90-6.1(c)2 required the agency to consider all "potential contributions," including an applicant's prospect of continued Universal Service Fund subsidy and voluntary rent contribution from a friend; however, because the agency was provided with insufficient information to determine whether the individual volunteering to assist with rent had the wherewithal or the will to continue payments for the entire term of the lease, the agency was within its right to deny emergency assistance under N.J.A.C. 10:90-6.3(a)7i(2). T.A. v. Burlington County Bd. of Social Services, OAL Dkt. No. HPW 8995-06, Final Decision (April 16, 2007).

Where petitioner used available funds to pay for a leased automobile rather than to finance her mortgage and utilities, her circumstances did not meet the eligibility requirements for emergency assistance; although petitioner was afflicted with medical problems, these problems did not render her functionally incapacitated as defined in N.J.A.C. 10:90-6.1 such that she was prevented from planning for or securing substitute housing. D.M. v. Ocean County Welfare Agency, OAL Dkt. No. HPW 6602-05, 2005 N.J. AGEN LEXIS 1531, Final Decision (October 27, 2005).

10:90-6.2 Persons eligible for emergency assistance

(a) Only WFNJ (WFNJ/TANF and WFNJ/GA) recipients, including those determined eligible for WFNJ benefits based on immediate need, and Supplemental Security Income (SSI) recipients, are eligible for emergency assistance.

1. When an applicant or recipient requests EA, the Application for Emergency Assistance (WFNJ/EA-1) and the attachments, as appropriate, shall be completed. After considering all factors leading up to the individual's circumstances, and determining whether or not the individual had the functional capacity to avert the situation, based on the initial WFNJ screening, the agency shall make an EA eligibility determination. The determination shall be made timely to avoid eviction and prevent homelessness.

Amended by R.2010 d.239, effective November 1, 2010.

See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

Inserted designation (a); and added (a)1.

10:90-6.3 Kinds of emergency assistance authorized

(a) The county or municipal agency is authorized to provide the following kinds of assistance to meet emergency situations when there is no other source of support available: payment for emergency shelter and emergency temporary housing and allowances for permanent living arrangements including, but not limited to, allowances for retroactive rental, mortgage or utility payments, security deposits for rent and utilities and advance rent, eviction related costs that are authorized by DFD, reasonable costs of transportation required to search for housing, reasonable costs of temporary storage of personal possessions (see (a)4iv below), moving expenses, food, clothing, essential house furnishings including a one-time purchase of an air conditioning unit when medically necessary and, when applicable, the one-time payment of a Citizenship Application Fee and associated fingerprinting fee.

1. The county/municipal agency shall determine the most appropriate form of emergency housing which is required to address the need and authorize payment of the

costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided. Such emergency housing shall include placement in shelters; hotel/motel placement; transitional housing; or shelters for victims of domestic violence.

i. Adult EA recipients transitioning from GA to TANF, who are residing in transitional housing, shelter or hotel/motel placement, and who appear to meet the TANF Initiative for Parents (TIP) eligibility requirements, shall receive a mandatory TIP assessment by the TIP Vendor for continued EA eligibility. The outreach and assessment results shall be documented on the EA service plan.

ii. A pending eviction or foreclosure must be documented, either through a tenancy complaint filed by the landlord or an order from a court for eviction or foreclosure. Where such documentation does not exist, a letter from a landlord or other person serving in such capacity (relative/friend with whom the individual/family is residing), subject to agency verification, stating that eviction is imminent or has occurred shall be accepted by the agency.

2. When food is not available from any other source, an amount of \$4.50 per day per person shall be authorized and allowed until such time as other funds become available (for example, the next regular assistance payment, support payment, receipt of earnings or receipt of NJ SNAP benefits).

i. When it is necessary to provide temporary living arrangements for a recipient by utilizing emergency shelter/housing in a hotel, motel, or other facility in which cooking facilities are not available or are determined by the county or municipal agency to be inadequate, payments for restaurant meals, not to exceed \$7.50 per person per day, shall be authorized and allowed until such time as other funds become available.

3. When the agency determines that they are necessary, payments to enable a recipient to purchase minimum essential clothing for physical health and safety shall be granted, not to exceed the amounts stated below, unless authorized by DFD on a case-by-case basis.

- i. Adult—\$86.00;
- ii. Child, age 13 and over—\$86.00;
- iii. Child, age five through 12—\$48.00;
- iv. Child, birth through four—\$29.00.

4. Allowances for those items deemed urgent and essential to the physical health and safety of the recipient shall not exceed those amounts stated at (a)4i below. The recipient is obligated to use any other reasonable source for provision of these items, including, but not limited to, relatives and charitable organizations.

i. Items deemed urgent and essential to the physical health and well being of the individual or family, as appropriate, include, but are not limited to, the following: a refrigerator, a dinette set, kitchen equipment, lamps, beds, cribs, chests of drawers and bed and bath linens. A maximum allowance is provided for the purchase of such items. Payment for these items shall not be made on more than three occasions during the 60 cumulative month lifetime limit under WFNJ assistance.

No. of eligible persons:	1	2	3	4	5	6
Maximum allowance:	\$585	\$745	\$895	\$1,045	\$1,195	\$1,365
Add \$150 for each additional person						

ii. Replacement of house furnishings is not solely limited to replacement of items lost or destroyed in the incident that gave rise to the emergency. For example, a recipient may be moving from a hotel/motel shelter or furnished apartment into an unfurnished living arrangement where there is no essential furniture. Likewise, when an item which is essential for the recipient's health and well-being, such as a refrigerator, wears out, EA funds may appropriately be used to replace it.

iii. Itemized invoices and vouchers shall be provided to the county or municipal agency for all purchases.

iv. Payment of storage costs shall be made at the most reasonable rates available and shall not exceed six months. If additional time is required due to individual circumstances, the agency shall request approval from DFD.

5. Payment shall be authorized for up to any three calendar months of retroactive rental or mortgage payments if it will prevent actual eviction or foreclosure, and/or six calendar months of retroactive utility payments if it will prevent the loss of utilities or make utilities operable.

i. Payment for more than three calendar months of retroactive rental or mortgage payments and/or six months of retroactive utility payments shall be made only under extraordinary circumstances (as found at N.J.A.C. 10:90-6.4(b)1) subject to authorization by DFD.

ii. Basic utilities are those that are necessary to make a dwelling habitable. At a minimum, basic utilities shall include electric, water, a fuel source for heating and cooking and, where applicable, sewerage and garbage disposal. In those instances where it is necessary to pay a utility deposit in order to reinstate utilities, such payment may be made under EA.

6. If appropriate for the individual/family situation, WFNJ recipients shall be notified that temporary rental assistance (TRA) may be provided, when the recipient is facing eviction, in order to maintain current permanent housing which had previously been affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or under-

employment and it is anticipated that such housing will again become affordable; or when it is determined that maintaining the unit in the current housing arrangement is both the least costly alternative and serves to preserve the family structure while the search for affordable housing continues. TRA is the preferred form of emergency housing assistance in all situations, as appropriate.

7. If appropriate for the individual/family situation, WFNJ recipients shall be notified that TRA may also be provided to recipients who have experienced an actual state of homelessness and are able to locate a housing arrangement or can be accommodated in a housing arrangement in lieu of temporary shelter when the county/municipal agency has determined that a TRA is the appropriate remedy to address the emergency. The agency may authorize TRA when the total cost of housing inclusive of basic utilities is equal to or below the current Fair Market Rent (FMR), as established by the United States Department of Housing and Urban Development for the county of residence. The agency shall also consider the recipient's eligibility for the Universal Service Fund or other utility assistance programs in the FMR calculation.

i. TRA shall be provided when:

(1) The total cost of housing does not exceed the current FMR for the county in which the recipient resides. Amounts in excess of the current FMR will require prior approval and authorization of subsidy level by DFD; and

(2) The recipient's service plan and individual responsibility plan states the conditions under which a TRA has been granted and reflect the recipient's understanding of such.

ii. TRA shall not be discontinued when an adult recipient of WFNJ benefits has been sanctioned for non-compliance with the work requirement until one month after all WFNJ cash assistance to the eligible unit has been terminated and the case closed as a result of a failure to correct a sanction, provided this period of time in sanctions is prior to the 12-month lifetime limit placed on EA.

iii. In a household with two adult recipients, where one adult is noncompliant, and the cash assistance is reduced by the pro rata share, the agency portion of the EA/TRA shall be adjusted to offset the decrease in the cash assistance.

(b) The county or municipal agency may authorize payment for security deposits when a TRA is being provided. Issuance of a new security deposit shall not be contingent upon return of the previous deposit.

(c) EA shall not be provided to adult recipients who are terminated without good cause from an EA placement, such as a hotel/motel shelter or transitional housing for a period of six months when the termination is the result of the adult

recipient's actions, which may include, but are not limited to, the actions identified in (c)1 through 6 below. Such a determination cannot be made unless the county and municipal agencies have thoroughly reviewed with the recipient, prior to placement, the hotel, motel, shelter, or transitional housing violations that could result in EA termination and a six-month period of ineligibility.

1. Possession of a weapon or an instrument used as a weapon after entry into the shelter;

2. Destruction of shelter property or the property of others;

3. Threatening and/or disruptive behavior that affects the operations of the shelter or the safety of the other residents;

4. Possession or use of drugs or alcohol on the premises. If the recipient is terminated from the shelter for this reason, EA cannot be terminated unless the recipient is already participating in the SAI and with the consultation of the SAI coordinator. Otherwise, the recipient shall be referred to the SAI;

5. Violation of health and safety policies, including, but not limited to, smoking in undesignated areas, burning of candles or incense in the room, and the use of hotplates or other cooking devices in the room; or

6. More than one violation of the same rule of the hotel/motel or shelter, other than those enumerated in (c)1 through 5 above, which has a substantial effect on the health and safety of the residents, staff or facility.

(d) The CWA/MWA shall request, prior to EA termination, that the facility provide written documentation to support the termination, if possible.

(e) The recipient shall be eligible for continued EA for other violations, including, but not limited to, those identified in (c)1 below, that may result in a termination from a facility. The caseworker shall evaluate the recipient's circumstances and make an appropriate placement. A hotel/motel placement shall be considered as a last resort when there are no supervised placements available.

1. An adult EA recipient who incurs two or more terminations, for reasons that may include, but are not limited to the following will result in a loss of EA for a period of six months.

i. Failure to observe the curfew policy of the facility, without good cause;

ii. An absence from the facility without good cause, for 24 hours or more, without prior notification or approval; or

iii. Violation of the facility's policies concerning visitation, for example, visits to other floors, rooms or outside guests.

“Denied application” means a determination that, for a specific reason, the applicant is determined ineligible for assistance.

“Department” means the New Jersey Department of Human Services.

“Designated payee” means a person signing the application to whom the assistance benefits will be issued.

“Disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working; a record of such an impairment; or being regarded as having such an impairment (Americans with Disabilities Act of 1990 and Rehabilitation Act of 1973).

“Dismissed application” means recognition that eligibility need not be considered further because the applicant moved to another state during the application process or cannot be located, or the application was registered in error.

“Disregards” means the amount of earned income which is not considered in the WFNJ program when determining the amount of the assistance benefit.

“DDD” means the Division of Developmental Disabilities.

“Division of Employment Services (DES)” means the office within the State Department of Labor and Industry responsible for administration of Unemployment Insurance and Temporary Disability Benefits programs and for operation of the State Employment Service.

“Division of Family Development (DFD)” means the office within the State Department of Human Services responsible for supervision of the administration of county and municipal agencies.

“DVRs” means the Division of Vocational and Rehabilitation Services.

“DYFS” means the Division of Youth and Family Services in the Department of Human Services.

“Electronic Benefit Transfer (EBT)” means the utilization of a Families First debit card by which a recipient may draw benefits through an approved financial institution or vendor.

“Eligible medical institution” means a facility or specified section thereof certified as an approved institution for the purpose of treating acute illness (private or general hospitals) or providing care for the chronically ill (long term care facilities).

“Emergency assistance” means a program of assistance and related services to WFNJ recipients for brief periods of time, necessitated by unusual circumstances which were neither foreseen nor controllable by the recipient.

“Enrollment” means the WFNJ applicant/recipient has been admitted to a Department of Health and Senior Services’ licensed or approved residential substance abuse treatment program, is physically residing at the treatment facility, or has been admitted to a DHSS in-patient or out-patient facility.

“Exempt resource” means a resource which is not to be taken into consideration when computing extent of need and is not subject to liquidation requirements.

“Families First” means the program which utilizes Electronic Benefit Transfer as an alternate method of distributing benefits, such as but not limited to cash assistance and NJ SNAP benefits, to eligible individuals and families.

“Family violence” means subjecting an individual(s) to extreme cruelty or physical battering, as defined at 408(a)(7)(C) of the Social Security Act. These behavioral acts of abuse by a perpetrator are those behaviors that result in, or threaten to result in, physical or mental injury/abuse; threatened or attempted sexual assault; sexual assault activity involving a dependent child; the forcing of an individual as the caretaker relative of a dependent child to take part in non-consensual sexual acts or activities; and neglecting or preventing the individual(s) from getting medical care. Such harmful physical and controlling behavior(s) by the perpetrator, that may have occurred in the past or are presently taking place, can cause, but is not limited to, economic intimidation and isolation of the intimate partner(s) or other family member(s), and may impact that individual’s compliance with WFNJ program requirements or in seeking needed services for fear of their own or their child(ren)’s safety.

“Filiation proceedings” means court action to establish paternity and responsibility for support of a child born out-of-wedlock.

“Financial income eligibility” means it is determined that the applicant’s total monthly income is less than the applicable maximum income level established for needy individuals and families in the WFNJ program.

“Full-time employment” means employment unsubsidized by any level of government in which a person is engaged for at least 35 hours a week.

“Full-time post-secondary student” means a student enrolled for a minimum of 12 credit hours in a post-secondary school.

“FVO Risk Assessment” means the specific contracted services of the Department of Human Services’ (DHS) designated domestic violence agency or the Department of Community Affairs (DCA), Division On Women’s (DOW) sexual assault service program to assess WFNJ TANF/GA individuals, who are granted a Family Violence Option (FVO) Waiver, for the purpose of confirming the individual’s need for a waiver or continued need for a waiver. The assessment includes a safety and service plan or a strategy consistent with

the identified needs and safety concerns of WFNJ TANF/GA individuals; and the identification of intervention services.

“FVO Risk Assessment Process” means the standardized process established within each WFNJ CWA to refer WFNJ TANF/GA individuals, granted a FVO Waiver to the DHS’ designated domestic violence agency or the DCA, DOW’s sexual assault service program for a FVO Risk Assessment.

“Good faith effort for WFNJ/GA” means that the GA individual shall provide oral, written or additional information and documentary evidence known to, possessed by or reasonably obtainable by that individual, which leads to the identification of his or her child(ren) and the identification of the custodial parent(s), and is relevant to establishing paternity when applicable, and to obtaining a support order(s) and/or health care coverage.

“Good faith effort for WFNJ/TANF” means that the TANF individual shall provide oral, written or additional information and documentary evidence known to, possessed by or reasonably obtainable by that individual, that may lead to the identification and/or location of the non-custodial parent(s), and is relevant to establishing paternity when applicable, and to obtaining a support order(s) and/or health care coverage.

“Gross earned income” means the total earnings of members of the assistance unit before applicable disregards and deductions are subtracted, or the net profit from self-employment before income tax or personal taxes are deducted.

“Head of household” means the individual who is recognized by other members of the household as having primary responsibility for financial control and direction of the household.

“Homelessness, state of” means when the physical health and safety of an assistance unit, through no fault of its members, is imperiled by substantial loss of shelter.

“IM” means income maintenance.

“Incapacity” means physical or mental defect, illness or impairment, supported by competent medical testimony, of such a debilitating nature as to reduce substantially or eliminate an individual’s ability to support or care for himself or herself and/or the otherwise eligible child in his or her care, which is expected to last for at least 30 days.

“Income” means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, rent receipts, unemployment compensation, any legal or equitable

interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, Federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, inheritances, annuities, retirement benefits, veteran’s benefits, union benefits, or other source that may be defined as income by the Commissioner.

“Income eligibility standard” means the income eligibility threshold based on assistance unit size for benefits provided within the limit of funds appropriated by the Legislature.

“Income exclusions” means income that is not to be taken into consideration when determining WFNJ financial eligibility.

“Income-in-kind” means income received in the form of goods or services rather than cash.

“Inquiry” means any request for information about assistance programs which is not a request for an application.

“Institution” means a public or private facility providing 24 hour residential placement, care or incarceration.

“Intervention services” means those activities and services offered by the DHS’ designated domestic violence agencies, the DOW’s sexual assault service programs or through other community providers, such as, but not limited to, counseling.

“Legal custody” means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

“Legal guardian” means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child’s upbringing, pursuant to a court order.

“Legally-related” means a relationship created through marriage, adoption or legal guardianship procedures.

“Licensed residential substance abuse treatment program” means a Department of Health and Senior Services’ licensed residential substance abuse treatment program; drug treatment facility; alcoholism treatment facility; or halfway house.

“Location” means verified information about the alleged father’s and/or non-custodial parent’s physical whereabouts, employer(s), and/or other sources of income or assets, as appropriate, which are sufficient and necessary to take the next appropriate action on a case.

“MDO” means Medicaid District Office in the Division of Medical Assistance and Health Services.

“Medicaid” means the New Jersey Medical Assistance and Health Services Program in the Department of Human Services.

“Medicaid Only” means provision of medical assistance only to a family or certain individuals who are eligible for WFNJ benefits and choose to waive the money payment benefit portion.

“Medicaid Special” means Medicaid coverage available to any dependent child under 21 or an independent child under age 21 based on financial eligibility only regardless of other program requirements (for example, WFNJ, employment, training, CSP or school attendance).

“Medical Assistance (MA)” means payments on behalf of recipients to providers for medical care and services.

“Money payment” means an assistance check paid to, or funds deposited through EBT for a recipient or his or her authorized payee.

“Monthly amount” means the amount of money required, provided or received for one month.

“Monthly grant” means the amount of money payment to be made each month to an assistance unit.

“Municipal agency” means an agency within a municipality that has been designated, via municipal resolution, to administer the WFNJ/GA Program.

“Municipality” means any city, borough, township, town, village or municipality governed by a board or commissioners or an improvement commission.

“Needy person” means a person who requires and qualifies for a money payment in the WFNJ program.

“New application” means a signed request for assistance by an individual who has never previously applied under that program in any county or municipality in the State.

“NJSES” means the New Jersey State Employment Service, New Jersey Department of Labor.

“Non-custodial parent” means the non-primary resident parent prior to the establishment of an order determining custody.

“Noneligible person” means a person who is neither sanctioned nor required by law or regulation to be included in the WFNJ assistance unit.

“Non-needy caretaker” means a relative caring for a dependent child, or a legal guardian of a minor child who,

in the absence of a natural or adoptive parent, assumes parental responsibility for such minor child.

“Obligee” means the individual or entity entitled to receive child support and health insurance or provide health insurance under a court order for support and shall include agencies of this and another jurisdiction to which an obligee has assigned the obligee’s right to support.

“Obligor” means the individual who according to applicable law(s) has the obligation to pay child support and/or provide health insurance coverage.

“On-the-job-training (OJT)” means an activity in which a participant is hired by a public or private sector employer for which the employer is reimbursed a portion of the individual’s wages while he or she is learning on the job.

“Out-of-wedlock child” means a child born to a mother who is not married to the father of such child.

“Ownership of real or personal property” means, for WFNJ program purposes, any and all rights, title or interest, legal or equitable, to such property.

“Parent” means natural and/or adoptive parent(s), parent-person(s), or legal guardian(s).

“Parent-minor” means a parent of a child or children who is himself or herself under the age of 18.

“Parent-person” refers to an adult individual related through blood, marriage or adoption to a child who, in the absence of a natural or adoptive parent, assumes parental responsibility for that child.

“Payee” means the person designated to receive assistance payments on behalf of the eligible members of an assistance unit.

“Pending application” means a general term for application, reapplication, reopened application, or transferred application prior to official disposition.

“Per capita” means an amount equal to one individual’s share of the total (allowance, cost, income, and so forth).

“Personal interview” means face-to-face discussion between individuals.

“Potential resource” means a resource which, through liquidation, will provide cash for the use of the assistance unit or for reimbursement to the agency.

“Poverty level” means the official poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B of the “Community Services Block Grant Act,” Pub. L. 97-35 (42 U.S.C. § 9902(2)).

"Program" means the Work First New Jersey (WFNJ) program.

"Protective payee" means a person authorized by the WFNJ entity under certain conditions to receive and administer assistance payments on behalf of an eligible family.

"Protective payment" means assistance payment made to an individual other than the parent or parent-person, as designated by the WFNJ entity under certain conditions.

"Provider" means any person, public or private institution, agency or business concern, approved by the Division, who lawfully provides medical care, services, goods and/or supplies, and holding, where applicable, a current valid license to provide such services or to dispense such goods and/or supplies.

"Public assistance" means assistance rendered to needy single adults, couples without dependent children and families with dependent children and includes all benefits provided under the WFNJ program.

"Reapplication" means a signed request for assistance by an individual who has previously applied for, but never received, assistance under that program in any county or municipality in the State.

"Recipient" means a recipient of benefits under the WFNJ program.

"Recovery" means the repayment of assistance improperly obtained.

"Redetermination of eligibility" means a review and investigation of all facts and circumstances relating to the recipient's application to determine continuing eligibility for receipt of WFNJ assistance benefits.

"Referral" means a request for assistance and/or services from a public or private agency or individual on behalf of another individual.

"Refugee Resettlement Program (RRP)" means a Federally funded program designed to help meet the needs of refugees as defined by the Immigration and Naturalization Service.

"Registration" means the action of the WFNJ administrative entity in making an official record of and assigning a control number to an application.

"Reopened application" means a signed request for assistance by an individual who has previously received assistance under that program in any county or municipality in the State.

"Representative payee" means a person appointed by the court under certain conditions to receive and administer payments on behalf of an eligible family or individual.

"Resident of New Jersey" means a person who is living in the State for other than a temporary purpose and who has no intention of moving from the State.

"Resources" means all real and personal property.

"Resource limit" means the maximum amount of resources/assets, that will not be taken into consideration when determining eligibility for the WFNJ program.

"Responsible adult" means a person who agrees to be designated to receive assistance payments on behalf of a parent minor and his or her child(ren) and who is 21 years of age or older, of reputable character who can provide a safe, nurturing home life and/or will advocate on behalf of the parent-minor as well as provide stability, guidance and support to a parent-minor and his or her child(ren).

"Restricted payments" means checks drawn to the order of a specified person and subject to some condition or restriction which prevents immediate and unconditional negotiation and use by the payee upon delivery; checks drawn to the order of a third person or a vendor and intended for use on behalf of the client.

"Retirement, Survivors and Disability Insurance (RSDI)" means the Federal program administered by the Social Security Administration (SSA) which provides protection to workers and their families against loss or stoppage of earnings resulting from retirement at age 62 or older, death or disability.

"Return to state of origin" means that a family, who has resided in New Jersey for a relatively short period desires to return to the state from which it came.

"RSDI" means Retirement, Survivors and Disability Insurance.

"Sanction" means loss of receipt of assistance benefits for a designated period of time because of noncompliance with program requirement(s).

"Services" means any WFNJ benefits that are not provided in the form of cash assistance.

"Social Security payment" means RSDI benefit.

"Spouse" means a husband or wife of a specified individual.

"Spousal-support obligation" means a support obligation for a spouse or former spouse of the obligor.

"SSA" means Social Security Administration.

"SSI" means Federal Supplemental Security Income Program.

“State IV-D Agency” means the Department of Human Services (DHS).

“State institution” means any institutional facility for the mentally ill or developmentally disabled, penal institution or veteran’s hospital under the jurisdiction of the State of New Jersey.

“State office” means the Division of Family Development.

“Substance Abuse Initiative” means active participation in substance abuse treatment services that requires a substance abuse assessment administered by a professional clinical care coordinator (CCC) and treatment services as determined clinically appropriate by the CCC, for all WFNJ eligible applicants and recipients who have substance abuse problems.

“Suspended grant” means a payment which is withheld from the recipient pending clarification of continuing eligibility and/or extent of need or because of temporary increase of available resources.

“TANF” means the Federal welfare reform program called Temporary Assistance for Needy Families.

“Temporary payee” means a person designated temporarily by the WFNJ entity to receive assistance payments on behalf of an eligible individual or family, usually in an emergency situation.

“Time-limited assistance” means an aggregate total of 60 cumulative months of receipt of WFNJ benefits whether or not those months are accrued consecutively or intermittently during periods of program participation.

“Timely notice” means a notice that is mailed to a WFNJ applicant/recipient by a county or municipal agency at least 10 calendar days before the effective date of an agency’s decision or action concerning WFNJ benefits.

“Title IV-D” means Part D, “Child Support and Establishment of Paternity,” of subchapter IV of the Social Security Act (42 U.S.C. § 651 et seq.) under which states receive partial Federal reimbursement of their administrative expenses for establishing paternity and collecting child support.

“Total countable income” means the sum of all recognized income of the assistance unit, including unearned and calculated earned income.

“Transfer application” means a signed request for assistance from a recipient who is presently receiving assistance under the same program in another county or municipality in the State.

“Unrestricted payments” means checks drawn to the order of and delivered to the recipient or authorized payee and received by such person without direction of any kind as a condition of receiving the payment.

“Vendor payment” means a payment drawn to the order of a person or facility for providing goods or services to or for the client, representing payment for such goods or services.

“Vocational training” means providing recipients with classroom training experience and instruction related to specific occupational areas in demand in their labor market area. Training may be combined with CWEP.

“Voluntary acknowledgment of paternity” means consent to the parentage of a child(ren) by signing a Certificate of Parentage. This includes a request by the alleged father and/or the non-custodial parent for genetic testing.

“WFNJ/TANF” means the Work First New Jersey/Temporary Assistance for Needy Families Program.

“WFNJ/GA” means the Work First New Jersey/General Assistance Program.

“Withdrawn application” means an oral or written request by an applicant that the WFNJ entity terminate its activity on his or her application.

“Work activity” means, but is not limited to, the following: employment, on-the-job-training, job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalency; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalency, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

“Work First New Jersey participants” means all individuals in the assistance unit.

“Work First New Jersey program” means the single public assistance program established pursuant to P.L. 1997, c.13, c.14, c.37 and c.38, which provides assistance to single adults, couples without dependent children and families with dependent children.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Inserted “Legal custody” and “Legally-related”; and in “Parent”, added a reference to legal guardians.

Amended by R.1999 d.66, effective March 1, 1999.
See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

Inserted “Substance abuse research demonstration (SARD)”.

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Inserted “Cooperation with child support”, “Good faith effort for WFNJ/GA” and “Good faith effort for WFNJ/TANF”.

Amended by R.2000 d.371, effective September 18, 2000.

See: 32 N.J.R. 2203(a), 32 N.J.R. 3435(a).

In "Substance Abuse Research Demonstration (SARD)", deleted a reference to applicants.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Rewrote "Parent-person".

Administrative change.

See: 44 N.J.R. 1529(a).

SUBCHAPTER 16. CHILD SUPPORT AND PATERNITY

10:90-16.1 Introduction

(a) P.L. 93-647 establishes Title IV-D of the Social Security Act, which mandates procedures for locating non-custodial parents, establishing paternity for children born out-of-wedlock and establishing, enforcing and/or modifying support obligations owed by non-custodial parents to their children. Title IV-D services with regard to paternity determinations and support collections shall be available to a WFNJ individual, a Medicaid individual, a Title IV-E individual or any other individual not receiving WFNJ who files an application for child support services.

(b) The WFNJ program is designed to promote self-sufficiency. Support collections are a vital financial resource to all individuals attempting to attain and/or maintain self-sufficiency. Applicant/recipient cooperation with the county welfare agency child support unit (CWA/CSU) is a necessary step in obtaining support collections. Child support cooperation is an interactive ongoing process based on individual case circumstances. The applicant/recipient has a continuing responsibility to provide all necessary and new information available to them. The CWA/CSU is responsible for assisting the clients in obtaining information in its efforts to make paternity determinations and to obtain support collections from their responsible parent(s).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added the second sentence.

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Rewrote the section.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), substituted "CWA/CSU" for "CWA/CSP".

10:90-16.2 Cooperation with child support for WFNJ eligibility

(a) The first step in the WFNJ application process is cooperation with child support. In addition to the eligibility requirements contained in N.J.A.C. 10:90-2.2 and 3.2 or 3.4, requirements for WFNJ eligibility shall include the following:

1. The application process for WFNJ benefits for both WFNJ/TANF and WFNJ/GA individuals begins with the

agency worker assigned to ascertain cooperation requirements of child support. For TANF purposes, at the time of the IV-D interview with the WFNJ/TANF applicant/recipient, the CWA/CSU worker shall explain the child support cooperation requirements set out in this section and N.J.A.C. 10:90-16.3, the good faith effort requirement set out in N.J.A.C. 10:90-16.4 and what constitutes a claim for good cause exceptions from the child support requirements, as outlined at N.J.A.C. 10:90-16.5 and the related procedures for those individuals affected by family violence at N.J.A.C. 10:90-20. The CWA/CSU worker, as an agency program contact person, shall notify all WFNJ/TANF individuals having contact with the CWA/CSU of the WFNJ Family Violence Option (FVO) in accordance with N.J.A.C. 10:90-20.2, and explain the purpose of the WFNJ FVO and of the availability and opportunity for referral to the CWA FVO representative. Except in extraordinary circumstances, the IV-D interview shall be conducted at the time of application.

- i. For TANF purposes, the IV-D interview to establish cooperation shall begin with the applicant/recipient signing the affidavit of cooperation and completing the child support questionnaire which includes providing information related to the non-custodial parent in accordance with N.J.A.C. 10:90-16.4(b) and (c), unless the WFNJ/TANF individual requests a WFNJ FVO Waiver in accordance with N.J.A.C. 10:90-16.5 and 20.6 for reason of family violence as a good cause exception from child support requirements, or any of the other reasons for good cause exemption from child support requirements in accordance with N.J.A.C. 10:90-16.5. The WFNJ FVO Waiver and WFNJ/TANF Waiver mean the same as a good cause exception from the child support requirements for reason of family violence or the risk of family violence and are used interchangeably throughout this subchapter.

- (1) The WFNJ/TANF applicant/recipient is required to provide information related to the non-custodial parent at the time of the IV-D interview but no later than 30 calendar days from the date of the notice of initial cooperation with child support in accordance with N.J.A.C. 10:90-16.4(d).

- (2) During any IV-D contact of a WFNJ/TANF applicant/recipient with the CWA/CSU as a component of the WFNJ/TANF application processing, WFNJ/TANF redetermination processing, IV-D case processing, or after completion of these processes, the WFNJ/TANF applicant/recipient shall be informed of the right to speak with a CWA FVO representative and offered the opportunity to do so in accordance with N.J.A.C. 10:90-20.2. During any of the aforementioned types of contact with the CWA/CSU, should the WFNJ/TANF applicant/recipient request a WFNJ/TANF Waiver, that is, a good cause exception from the child support requirements for reason of family violence, then corroborative evidence concern-