

appropriate documentation and/or trigger a referral to SSI:

(A) A history of chronic substance abuse/early onset;

(B) A personal history of crises and traumas, both physical and/or emotional, as well as significant mental health problems, including, but not limited to, chronic or major depression, over the person's lifetime;

(C) Borderline mental retardation or severe learning disability;

(D) The adult, 55 years of age or older, has a prolonged work history in one particular field or occupation and is no longer able to maintain such employment due to his or her age and inability to perform the unique requirements of the job, and lacks the education/training necessary to engage in other successful gainful employment; or

(E) As long as New Jersey is within the 20 percent exemption limit allowed under PRWORA, adults who have participated in the Supportive Assistance for Individuals and Families (SAIF) program and demonstrated continued efforts to engage in education or employment activities but after 24 months of intensive intervention exhibit more than one barrier to employment, such as:

- (I) Lack of a high school diploma/GED;
- (II) Limited English proficiency;
- (III) Lack of skills/training;
- (IV) Criminal record (resistant to expunction or bonding);
- (V) Lack of work experience;
- (VI) Child care unavailable for a special needs child;
- (VII) Family problems of participant or dependent involving behavioral health system, DYFS or legal issues; or
- (VIII) Chronic health problems of participant or dependent (with Division of Medical Assistance and Health Services (DMAHS) review).

iii. When an adult individual exhibits early indications of being a person who will be eventually classified as a chronically unemployable individual, it is important to carefully plan a realistic Individual Responsibility Plan with such an individual to phase the individual gradually into activities to build up basic skills, to instill confidence and reinforce any talents or aptitudes the individual exhibits. Also, when significant physical, emotional, or other disabilities are present, the individual should be directed to apply for SSI. Such individuals

should be placed in less stressful work placements such as, but not limited to, supervised employment or community service activities. Referrals should also be made to all other appropriate services designed to assist the developmental progress of such individuals;

5. Subject to family violence (see N.J.A.C. 10:90-2.6 for a description of other program requirements which may be waived for victims of family violence). This exemption shall be based upon the request of the recipient. If any of the following family violence situations occur, then an exemption shall be granted. However, this is not an all inclusive list of family violence situations that may warrant an exemption:

i. Individuals currently living in an active family violence situation are to be determined eligible for an exemption to the 60-month lifetime limit on receipt of cash assistance benefits, if a deferral from the work requirement is or was requested;

ii. Individuals with a recent history of family violence who have not been participating in the WFNJ work requirement due to the family violence situation and remain deferred due to family violence are to be determined eligible for an exemption to the 60-month lifetime limit on receipt of cash assistance benefits;

iii. Individuals with a previous history of family violence who were deferred at some time and were not able to fully participate, and have recently been participating in the WFNJ work requirement, shall be determined eligible for an exemption to the 60-month lifetime limit on receipt of cash assistance benefits, if the inability to participate in the WFNJ requirement has impacted his or her ability to become self-sufficient; and/or

iv. A past or present victim of family violence who has previously or who is currently engaging in work activities, if the recipient has been unable to become self-sufficient due to family violence;

6. An individuals who has exhausted 60 cumulative months of WFNJ TANF/GA benefits may be eligible to reapply for and receive assistance after his or her case has been closed if he or she meets the criteria for an extension or an exemption; or

7. An individual whose case is in post 60-month extension or exemption status who continues to have a work requirement and fails to be in compliance with that requirement, without good cause, shall have his or her case sanctioned in accordance with provisions at N.J.A.C. 10:90-4.13.

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)4iii, substituted "any one of the problem areas noted above" for "significant physical, emotional, or other disabilities."

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).

Substituted references to WFNJ/MED-1 for WFNJ-5 (DRS-1) throughout.

Amended by R.2006 d.137, effective April 17, 2006.

See: 37 N.J.R. 4153(a), 38 N.J.R. 1736(a).

In (a)1, substituted "Sixty years of age or older" for "Over 60 years of age"; rewrote (a)4i and ii; in (a)4iii, substituted "indications" for "symptoms".

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

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

Section was "Exemptions from the 60 cumulative month time limit". In the introductory paragraph of (a), substituted "60-cumulative-month" for "60 cumulative month"; in the introductory paragraph of (a)3, substituted a period for a semicolon at the end; in (a)3i, substituted "him or her" for "them", "full-time" for "full time", "an attending" for "a", "advanced practice nurse" for "licensed nurse practitioner", and "HIV-related" for "HIV related"; and inserted "(including a licensed or certified psychologist, as appropriate)," and "and Workforce Development"; in (a)3ii, substituted "may participate" for "are encouraged to engage", "practitioner" for "physician", and "a WFNJ work" for "an", inserted the first occurrence of "WFNJ work", and deleted "less than 35 hours a week" preceding "for a length" and a comma following "such as"; rewrote the introductory paragraph of (a)3iii; in (a)3iii(1), (a)4iii, (a)5i, (a)5ii and (a)5iv, substituted a semicolon for a period at the end; in (a)3iii(1), inserted a comma following "means"; deleted (a)4iv; in (a)5iii; substituted "; and/or" for a period at the end; and in (a)6, substituted "; or" for a period at the end.

10:90-2.5 Extensions to the 60-cumulative-month time limit

(a) A recipient shall receive an extension of no more than 12 cumulative months beyond the 60 cumulative month time limit, to be granted in increments that shall not exceed six months, if the recipient meets one of the following criteria:

1. The recipient or the recipient's dependent child(ren) would be subject to extreme hardship or incapacity in the event of a termination of benefits (see N.J.A.C. 10:90-6);

i. Extensions due to extreme hardship or incapacity will be evaluated within the last three months of the eligibility period prior to reaching the 60-month lifetime limit on benefit assistance. Extensions of this nature require prior approval and authorization by DFD. The assistance unit's case record shall be reviewed to determine if cause to grant an extension due to extreme hardship or incapacity exists. Extreme hardship shall be defined as situations that would:

(1) Result when the recipient has secured employment but without such an extension the transition of the assistance unit from WFNJ to employment could not be effected due to extenuating circumstances, such as, a lack of transportation or available child care to support work.

(2) Result when, during a review of the case record, it was determined that periods of temporary incapacity experienced by the individual which resulted in work deferrals of more than 12 months did not allow the individual sufficient time in which to gain self-sufficiency during the individual's receipt of 60 months of cash assistance;

(3) Result from a situation in which the individual began work activities immediately as scheduled, has cooperated throughout all phases of the WFNJ program, has been fully compliant in the last year, and has no more than one sanction in the prior 12 months for failure to comply with any aspect of the program but fails at the end of the 60 months to secure employment which renders the assistance unit financially ineligible for continued benefits. This situation will be subject to review by a State appointed panel for a final determination;

(4) Result from when the individual experiences a family violence situation which renders the individual temporarily incapable of sustaining the family without continued support. (Victims of family violence are entitled to extensions as long as necessary, see N.J.A.C. 10:90-20 regarding family violence); or

(5) Result when a current temporary deferral exists in accordance with provisions outlined at N.J.A.C. 10:90-4.10 and 4.11. For example, the period of incapacity may be due to the individual experiencing a recent temporary physical incapacity, being in her third trimester of pregnancy or needing to provide care for a child under 12 weeks of age.

2. The recipient is engaged in full-time employment but remains eligible for benefits due to earned income disregards;

3. The recipient has not received an opportunity to engage in work activities as specified in the individual responsibility plan; or

4. The recipient was engaged in full-time employment and was income-ineligible for benefits but was terminated from the employment through no fault of the recipient.

(b) At a minimum, approved extensions shall be reviewed prior to the expiration of the six-month extension period. If an extension has been granted for a shorter period of time than six months, then the extension shall be reviewed timely prior to its expiration.

(c) When a case is closed with an adult(s) and his or her own natural or adoptive child(ren), then that case shall not be transferred automatically to a child only case. In order for a child(ren) who has had his or her case terminated with his or her parent(s) to return to the WFNJ program, another eligible needy parent-person or another non-needy parent-person who is not the child(ren)'s natural or adoptive parent must apply on behalf of the child(ren) who is now in his or her care unless the child's parent(s) later qualified for an extension or exemption. However, a related kinship child(ren) who is not the natural and/or adoptive child(ren) of the recipient who was receiving cash benefits in an assistance unit that reaches the 60-month lifetime limit shall continue to receive benefits as a child only case with the former TANF head of household now designated as the payee for the related kinship child(ren).

1. Child only cases with non-needy parent-persons designated as the payee for the child(ren) are not subject to the 60-month lifetime limit on benefits.

(d) An individual who has exhausted 60 cumulative months of WFNJ TANF/GA benefits may be eligible to reapply for and receive assistance after his or her case has been closed if he or she meets the criteria for an extension or an exemption.

(e) An individual whose case is in post 60-month extension or exemption status who continues to have a work requirement and fails to be in compliance with that requirement, without good cause, shall have his or her case sanctioned in accordance with provisions found at N.J.A.C. 10:90-4.13.

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.127, effective March 17, 2003.
 See: 34 N.J.R. 3674(a), 35 N.J.R. 1425(a).
 Added (b).
 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.2009 d.289, effective September 21, 2009.
 See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).
 Section was "Extensions to the 60 cumulative month time limit".
 Deleted (f).

10:90-2.6 Family violence

(a) Certain WFNJ program requirements shall be waived for those recipients who have been screened and identified via an affidavit as victims of family violence, rape or incest and assessed by the victim service provider agency (see N.J.A.C. 10:90-20). The program requirements that shall be waived upon request of the individual include, but are not limited to, the following, when compliance would make it more difficult for the individual to escape family violence, or when present, past or future family violence impacts on the individual's ability to comply:

1. Time limits on benefits;
2. Residency requirements;
3. The limitation on an increase of cash assistance benefits as a result of the birth of a child conceived as a result of domestic violence, rape or incest;
4. Work requirements;
5. WFNJ/TANF living arrangements for minor parents (see N.J.A.C. 10:90-2.17(c)); and/or
6. Emergency assistance (EA) requirements, in accordance with N.J.A.C. 10:90-6.1(c)4.

(b) Child support cooperation requirements shall not apply when a good cause determination has been made by the WFNJ/IV-D agency worker in accordance with N.J.A.C. 10:90-16.5.

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 second and third sentences; deleted (a)3; recodified 4, 5 and 6 to 3, 4, and 5; and added (b).
 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 "family" for "domestic" throughout, amended N.J.A.C. reference, and deleted 5.
 Amended by R.2009 d.289, effective September 21, 2009.
 See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

Rewrote the introductory paragraph of (a); in (a)3, deleted "and" from the end; in (a)4, substituted a semicolon for a period at the end; and added (a)5 and (a)6.

10:90-2.7 Composition of the WFNJ/TANF and WFNJ/GA eligible assistance unit

(a) Composition of the eligible WFNJ/TANF assistance unit is as follows:

1. An eligible assistance unit under WFNJ/TANF shall be comprised of those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship. (A legal relationship is one that is created through marriage, adoption, civil union or legal guardianship procedures.) The eligible WFNJ/TANF assistance unit includes the parent(s), parent person(s) or legal guardian (see (a)3 below) and his or her related dependent children up to the age of 18, or up to the age of 19 if they are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and are reasonably expected to complete the program before reaching age 19. Children up to the age of 21 are also eligible for WFNJ/TANF if they are enrolled in a special education program.

i. When any school or course of training involves attendance during an academic year, a child shall be considered eligible during the summer months when he or she has been accepted for admission in the fall. He or she shall be considered eligible during regular vacation periods unless the educational program has been completed or unless there is verification that the child does not attend or is not acceptable to re-enter the program.

ii. When a parent and another adult relative live in the same household and both are providing care and control of the child(ren), it shall be presumed that the parent is exercising primary responsibility for the care and control of the child(ren) and, therefore, the other adult relative shall not be included in the TANF assistance unit.

(1) In cases where it is determined by the WFNJ agency worker that the parent is not providing the care and control of the child, but instead the adult relative is considered the caretaker relative, then the parent, the caretaker relative and the child shall be included in the eligible TANF unit.

iii. An SSI recipient parent with a needy child may be eligible to receive TANF assistance on behalf of that child. A needy parent of an SSI recipient child may be

eligible to receive TANF assistance for himself or herself.

iv. When an RSDI recipient child joins a TANF assistance unit headed by an adult other than his or her natural or adoptive parent and the child's income and/or child support would make the TANF assistance unit financially ineligible, that child shall be excluded from the TANF assistance unit.

v. An ineligible alien parent with an eligible child may be eligible to receive TANF assistance on behalf of that child. An eligible parent with an ineligible child may be eligible to receive TANF assistance for himself or herself.

2. A recipient child cannot be included in the WFNJ/TANF cash payment after the month in which he or she attains the age when he or she is no longer eligible as a child. Furthermore, an individual who attains such age on the first day of the month is not considered to be of eligible age during that month and is not eligible for inclusion in the grant for that month. Additionally, the assistance unit ceases to be eligible for WFNJ/TANF when the youngest assistance unit member is no longer of eligible age. However, the individual adult(s) may apply for assistance under the WFNJ/GA component.

3. The term "parent" shall refer to natural and/or adoptive parent(s), parent-person(s) or legal guardian(s). By law, certain relatives shall be recognized as taking the place of a parent.

i. The term "parent-person" refers to any person related by blood, marriage, civil union, adoption or legal guardianship.

(1) An applicant who is a parent-person may apply for WFNJ/TANF benefits for a child(ren) and him or herself as a needy parent-person.

(2) Non-needy caretakers and/or parent persons shall also be eligible to apply for WFNJ/TANF benefits for the children in their care.

ii. Spouses of any persons named in the above groups may be considered "parent-persons" even though the marriage has been terminated by death or divorce.

iii. Under New Jersey law, relatives of persons who adopt children become legally related to such adopted children to the same extent that they are related to natural children of the adopting parent.

iv. A legal guardian, according to N.J.S.A. 9:3-38, refers to a person who has "the right to exercise continuing control over the person or property or both of a child which includes any specific right of control over an aspect of the child's upbringing, pursuant to a court order."

4. Any child receiving a payment or subsidy through DYFS, including but not limited to, a foster care payment, guardianship subsidy or adoption subsidy, shall not be included in the eligible assistance unit. Such child's parent(s) may be eligible to receive cash assistance for himself or herself and all other eligible children in the household.

5. Although a WFNJ cash assistance benefit shall not be granted for any child receiving a Kinship Legal Guardianship subsidy through DYFS or DFD, a kinship caregiver who has obtained subsidy payments as a kinship legal guardian, either through DYFS or DFD, may be eligible to receive TANF assistance for himself or herself and all other eligible children in the household.

(b) Composition of the eligible WFNJ/GA assistance unit is as follows:

1. The WFNJ/GA assistance unit shall be comprised of one or more persons. In most cases, it will consist of a single individual, 18 years of age or over, or a couple without dependent children. In room and board or residential treatment situations, each person is an eligible assistance unit of one, with the exception of situations involving couples without dependent children who are considered as an eligible unit of two. In all other situations, the eligible assistance unit shall consist of:

i. The applicant/recipient;

ii. The spouse of the applicant/recipient who lives in the home unless the spouse is receiving SSI or public assistance through another program; or

iii. The person with whom the applicant/recipient lives as a couple (that is, two individuals who live together, function as one economic unit, and present themselves as a couple to the WFNJ agency), unless such person is receiving SSI or public assistance through the WFNJ/TANF program component.

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)1, added second sentence and rewrote the third sentence; added "or legal guardian(s)" to (a)3; added language to (b)1 regarding an exception; added (a)3iv; and rewrote (b)1iii.

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 3i; in (b), rewrote 1iii.
Amended by R.2009 d.289, effective September 21, 2009.
See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In the introductory paragraph of (a)1, inserted ", civil union" and "related dependent"; added (a)1ii through (a)1v, (a)4 and (a)5; and in the introductory paragraph of (a)3i, substituted ", civil union," for "or", and inserted "or legal guardianship".

10:90-2.8 Individuals ineligible for WFNJ TANF/GA

(a) The following persons shall not be eligible for assistance and shall not be considered to be members of the WFNJ/TANF or WFNJ/GA assistance units:

and subsequently reapplies for WFNJ prior to the expiration of the 12 consecutive month period noted in (a)8 above due to the loss of employment through no fault of their own, any child(ren) previously subject to the family cap in accordance with (a)8 above shall now be included in the assistance unit for cash assistance purposes. Such families, however, are not entitled to a new 10-month grace period and any child(ren) born subsequent to the reapplication shall be subject to the family cap provisions and shall be included in the assistance unit for all purposes except the determination of the cash assistance grant.

- (1) Earnings or increased earnings from employment, including earnings from new employment; or
- (2) Increased hours of employment.

(b) Kinship caregivers are not subject to the family cap provision for the kinship children in their care.

(c) A child who is subject to the family cap who becomes a member of a different assistance unit shall no longer be subject to the family cap provision.

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)1, substituted "full months" for "months"; added (a)4i to (a)4ii; and in (a)8i, cited (a)8i(1).

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

Deleted (a)9.

Amended by R.2009 d.289, effective September 21, 2009.
See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In the introductory paragraph of (a), inserted "and non-recipient" and "with the exception of non-needy caregivers,"; in (a)7i, substituted "minor parent" for "parent-minor" twice, "minor parent's" for "parent-minor's", and "10-month" for "10 month"; and added (b) and (c).

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

10:90-2.19 Refusal to cooperate with Quality Assurance reviews

An adult assistance unit member shall be determined ineligible for cash assistance if he or she refuses to cooperate in a State Quality Assurance review. If an adult assistance unit member is deleted for refusal to cooperate, without good cause, with a Quality Assurance review, such an individual shall be removed from the assistance unit until such time as the individual cooperates with the review.

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

10:90-2.20 The Supportive Assistance for Individuals and Families (SAIF) Program

(a) The Supportive Assistance for Individuals and Families (SAIF) Program shall provide intensive case management (ICM) at 48 months for Work First New Jersey (WFNJ) recipients who have complied with WFNJ requirements and have not become self-sufficient and who do not appear to be exemptible from time limits under N.J.A.C. 10:90-2.4, except

for those recipients who would meet the definition of "chronically unemployable." Within the limits of available funding, recipients who appear to be chronically unemployable shall receive intensive case management through the SAIF Program. The goal of the SAIF Program is to assist SAIF Program participants to become self-sufficient before they reach the 60-month time limit.

(b) Intensive case management shall be provided for a total period of 24 months. Recipients shall be required to continue to meet financial and non-financial eligibility requirements for the WFNJ program.

(c) Time limit extensions shall not be granted under N.J.A.C. 10:90-2.5. Instead, all individuals who have exhausted 48 months of benefits, and who are not exempt from time limits, may be eligible to receive assistance for a total period of 24 months under the SAIF Program.

(d) After 48 months of assistance, participation in the SAIF Program becomes a WFNJ program requirement for eligible recipients and the participant shall begin to receive intensive case management services. As a condition of continued eligibility, participants shall receive and cooperate with individualized and intensive case management, and, if appropriate, substance abuse treatment and mental health services. Participation in the SAIF Program is a WFNJ program requirement for the recipients who are required to participate in the SAIF Program. The individual shall fully participate in the SAIF Program to continue receiving cash assistance benefits. If a SAIF participant fails to cooperate with SAIF requirements without good cause, the WFNJ case shall be closed.

(e) SAIF Program participants shall cooperate in the development of a new Individual Responsibility Plan (IRP). The IRP shall be updated every six months. See N.J.A.C. 10:90-4.8 regarding the provisions for the IRP.

(f) Failure, without good cause, to begin or continue to participate in an agreed-upon assigned activity, shall be considered as refusal to cooperate without good cause. This action shall result in the sanction procedures and penalties being imposed, as set forth at N.J.A.C. 10:90-4.13 through 4.18.

- 1. The SAIF Program shall adhere to all notice and hearing requirements as set forth at N.J.A.C. 10:90-9.

(g) SAIF Program participants shall continue to be eligible for WFNJ social and work support services.

(h) Participants shall receive priority treatment by all WFNJ vendors. When referred for an assessment or treatment, a SAIF Program participant shall be given the first available appointment, and in all cases shall be seen within 30 days.

- 1. This includes, but is not limited to, referrals for substance abuse assessment and treatment.

(i) Child welfare is a primary component of the SAIF Program. As a result, a strong link must be established with the Division of Youth and Family Services (DYFS) for families with dual cases. DYFS records shall be consulted for all SAIF Program participants at the beginning of the ICM period to identify if an open DYFS case exists.

(j) An individual who has exhausted 60 cumulative-months of WFNJ benefits may be eligible for two six-month extensions by participating in the SAIF Program, unless the individual has already received 24 months of assistance through the SAIF Program.

1. Individuals who have received less than 24 months of assistance through the SAIF Program may be eligible to participate in the SAIF Program for the remainder of the 24-month period if he or she meets the criteria in this section.

(k) Assistance may be continued after an individual has exhausted 24 cumulative-months in the SAIF Program only if the individual meets the criteria for an exemption from the WFNJ 60-month time limit at N.J.A.C. 10:90-2.4 or if he or she has not exhausted his or her 60-month time limit according to the Federal TANF clock. Eligibility for continuation of assistance shall be evaluated prior to reaching the 24-month time limit. If the household is ineligible for an exemption, the cash assistance case shall be terminated. Terminations shall require prior approval and authorization by the Division of Family Development.

(l) Prior to terminating the cash assistance case of any SAIF Program participant with an open DYFS case, the county welfare agency shall refer the family to community-based agencies for services appropriate for their needs. Additionally, the county welfare agency shall notify the Department of Children and Families that the participant's cash assistance will be terminated.

New Rule, R.2003 d.340, effective August 18, 2003 (operative October 1, 2003).

See: 35 N.J.R. 1824(a), 35 N.J.R. 3859(b).

Amended by R.2006 d.137, effective April 17, 2006.

See: 37 N.J.R. 4153(a), 38 N.J.R. 1736(a).

In introductory paragraph (a), updated internal reference to include (a)9; added (a)9; in (b), deleted "in increments not to exceed six months" and "up to".

Repeal and New Rule, R.2007 d.224, effective August 6, 2007.

See: 39 N.J.R. 1222(a), 39 N.J.R. 3382(a).

Section was "Work First New Jersey Post 60-Month Pilot Program: Supportive Assistance for Individuals and Families (SAIF) Program".

Amended by R.2010 d.102, effective June 21, 2010.

See: 41 N.J.R. 4052(a), 42 N.J.R. 1199(c).

Section was "The Commissioner's Pilot Program for Long-Term Welfare Recipients". Substituted "SAIF Program" for "pilot program" throughout; in (a) and (j)1, substituted "the SAIF Program" for "this pilot program"; in (a), substituted "Supportive Assistance for Individuals and Families (SAIF) Program" for "Commissioner's Pilot Program for Long-Term Welfare Recipients" and "Within the limits of available funding, recipients" for "Recipients"; in (c), substituted "Time limit" for "For the duration of the pilot program, new"; in (d), inserted the third through fifth sentences; in the introductory paragraph of (j), substituted "SAIF" for "Supportive Assistance for Individuals and Families (SAIF)"; in (j)1, substituted the second occurrence of "in" for "under"; in (k), inserted "or if he or she has not exhausted his or her 60-month

time limit according to the Federal TANF clock"; and in (l), substituted "Families" for "Family Services".

SUBCHAPTER 3. FINANCIAL ELIGIBILITY— INCOME, RESOURCES, BENEFITS

10:90-3.1 General financial eligibility provisions

(a) Benefits for recipients of WFNJ/TANF and WFNJ/GA shall be determined according to standards of countable income (earned and unearned) and countable resources. These standards shall take into account, for the determination of eligibility and provision of benefits, all income and resources of all persons in an assistance unit of which the applicant or recipient is a member, including any income deemed to the assistance unit members as a result of deeming from parents to minor parents and from sponsors to eligible aliens.

(b) Initial financial eligibility for WFNJ benefits shall be determined through an initial test for assistance units applying as a new applicant, reapplicant or reopened case by comparing the total countable income with the maximum income allowed for the appropriate unit size in accordance with Schedule I at N.J.A.C. 10:90-3.3 for WFNJ/TANF and Schedule III at N.J.A.C. 10:90-3.5 for WFNJ/GA employable single adults and couples without dependent children. If the assistance unit has income equal to or less than the maximum allowable income level, then initial financial eligibility exists.

1. There is no separate initial income eligibility test for WFNJ/GA unemployable single adults and couples without dependent children; instead, the total countable income of the WFNJ/GA unemployable assistance unit shall be compared to the unemployable maximum benefit payment level for the appropriate unit size in accordance with Schedule V at N.J.A.C. 10:90-3.6. If the assistance unit has income less than the maximum benefit payment level, then WFNJ/GA initial financial eligibility exists.

(c) Once initial financial eligibility is determined, as long as the total countable income of a WFNJ/TANF or WFNJ/GA assistance unit (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income) is less than the maximum benefit payment level for the appropriate eligible assistance unit size in accordance with Schedule II at N.J.A.C. 10:90-3.3, Schedule IV at N.J.A.C. 10:90-3.5 or Schedule V at N.J.A.C. 10:90-3.6, as appropriate, financial eligibility shall exist until such income equals or exceeds the maximum benefit payment level for the appropriate unit size 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) as published by the Department of Health and Human Services in the Federal Register. However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

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. 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 NJ SNAP allotment for any household participating in the NJ SNAP 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;

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

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

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

17. 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.

Amended by R.2012 d.188, effective November 19, 2012.

See: 44 N.J.R. 544(a), 44 N.J.R. 2947(b).

Deleted former (a)13; recodified former (a)14 through (a)18 as (a)13 through (a)17; in (a)13ii, substituted "NJ SNAP" for "Food Stamp" and "NJ SNAP program" for "Food Stamp Program".

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;

(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; and

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

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)12, added an exception at the end of the first paragraph, and added iii.

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 3 and 4.

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)3i, substituted "minor" for "teen" preceding "parents" twice and "minor parent" for "teen" following "special"; rewrote the introductory paragraph of (a)4 and (a)4i; deleted (a)4ii and (a)4iii; in (a)14ii, substituted the first occurrence of "Food Stamp" for "coupon"; and in (a)14iv, substituted "Workforce Investment Act (WIA)" for "Job Training Partnership Act (JTPA)".

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

10:90-3.21 Overpayments and underpayments

(a) Overpayment means a financial assistance payment (including emergency assistance) received by or for an eligible assistance unit for the payment month(s) which exceeds the amount for which that unit was eligible.

1. The county or municipal agency shall seek recovery of all overpayments (including emergency assistance) regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions.

2. Recovery may be accomplished by any of the following methods: securing repayment from the existing income and resources of the adult members of the assistance unit; reducing the cash benefits payable to the assistance unit; or securing repayment through court action, if necessary. For cases which have both an underpayment and overpayment, the county or municipal agency may offset one against the other in correcting the payment.

i. Child-only cases, as defined in N.J.A.C. 10:90-15.1, are not subject to recovery of overpayments, except in situations where Kinship Subsidy payments have resulted in a duplication of assistance.

3. The amount of the overpayment shall be the amount of assistance (including emergency assistance) received during the period of overpayment less the amount of assistance which should have been received.

i. In the case of an overpayment caused by the client's failure without good cause to report earned income on a timely basis, the amount of the overpayment shall be calculated without benefit of the earned income disregards provided for at N.J.A.C. 10:90-3.8.

ii. If an eligible assistance unit is overpaid for which the county agency receives child support collections, only that amount of assistance paid in excess of support payments received during the period of overpayment shall be considered for overpayment collection.

4. Liability for overpayment of assistance (including emergency assistance) is established jointly among the adult individual responsible for the overpayment, the overpaid adult members of the eligible assistance unit, the adult individual members of the eligible assistance unit and any eligible assistance unit of which an adult member of the overpaid eligible unit subsequently becomes a member.

5. Upon discovery of an overpayment, the county or municipal agency shall inform the client in writing of the incorrect payment(s), the amount of overpayment and what corrective actions will be taken.

6. Overpayment to an eligible unit which is currently receiving assistance (including adult recipients whose overpayment occurred during a prior period of eligibility) may be repaid in full by the eligible unit or in part wherein the assistance benefit amount may be reduced by 10 percent of the appropriate benefit allowance for the unit size, until recovery is completed.

i. If, on a case by case basis, it is determined that, in the judgment of the county or municipal agency, the 10 percent reduction in the assistance benefit may be detrimental to the well-being of the assistance unit, a lesser rate of recovery shall be established, but not below a minimum rate of five percent.

ii. If the benefit assistance amount is reduced to zero because of recovery, members of the eligible unit will continue to be considered recipients of WFNJ. If the amount payable because of recovery is less than \$10.00, the WFNJ benefit shall be issued in that lesser amount.

7. When a member of the eligible assistance unit is the individual responsible for the overpayment, the agency shall recover the overpayment from the adult members of that eligible unit.

8. If the individual responsible for the overpayment is no longer receiving assistance, the agency shall initiate court action against the responsible adult individual to recover the overpayment.

i. If despite agency action, recovery is not completed through court action, the agency shall recover the overpayment in accordance with (a)10 below.

9. If the individual responsible for the overpayment is a member of another eligible unit, the agency shall recover the overpayment from the adult members of that unit.

10. In all other circumstances, the priority of recovery of overpayments shall be: the overpaid adult members of the eligible unit; any eligible unit of which an adult member of the overpaid eligible unit subsequently becomes a member;

or any adult individual members of the overpaid eligible unit whether or not currently recipients.

11. Overpayment to an assistance unit, all members of which are no longer receiving WFNJ, shall be recovered by the county or municipal agency through a court of appropriate jurisdiction if the adult members of the assistance unit do not voluntarily repay the overpayment.

i. Where the overpayment amount owed by an assistance unit no longer receiving WFNJ is less than \$100.00, or it is determined that, after reasonable effort to recover the overpayment, it is no longer cost effective to continue recovery efforts, the county or municipal agency may waive recovery of the overpayment. All circumstances concerning a waiver of recovery must be fully documented in the case record.

ii. Recovery of overpayments due to fraud or Intentional Program Violation (IPV) (see N.J.A.C. 10:90-11) shall not be waived regardless of the amount of overpayment.

12. The county or municipal agency must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

i. Recover the overpayment(s);

ii. Initiate action to locate and/or recover the overpayment(s) from a former adult recipient; or

iii. Execute a recovery agreement from a current adult recipient's grant or income/resources.

13. In all situations of overpayments, the facts and circumstances in each case shall be evaluated and, where indicated, action taken as appropriate in accordance with regulations pertaining to fraudulent receipt of assistance (see N.J.A.C. 10:90-11).

(b) Underpayment means a financial assistance payment received by or for an eligible assistance unit for the payment month which is less than the amount for which the unit was eligible, or failure by the county or municipal agency to issue a financial assistance payment for the payment month to an eligible assistance unit if such payment should have been issued. Upon discovery of an underpayment, the county or municipal agency shall determine the amount underpaid and proceed as follows:

1. When underpayment was due to failure of a member of the eligible assistance unit to provide appropriate information, the next regular payment shall reflect the corrected grant amount for that payment period and the amount necessary to correct the payment for the period immediately preceding.

2. When underpayment was due exclusively to administrative error by the agency, corrective payment shall be made, retroactive to the month the administrative error first occurred, within the 12 months immediately preceding the discovery of the underpayment.

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 (Reserved)

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

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

Repealed by R.2012 d.188, effective November 19, 2012.

See: 44 N.J.R. 544(a), 44 N.J.R. 2947(b).

Section was "Housing Subsidy Program".

10:90-5.14 (Reserved)

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".

Repealed by R.2012 d.188, effective November 19, 2012.

See: 44 N.J.R. 544(a), 44 N.J.R. 2947(b).

Section was "Supplemental Living Support (SLS) Program".

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. Emergency assistance is also available to Supplemental Security Income (SSI) recipients. In an effort to minimize the incidence of homelessness among the WFNJ and SSI 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 or SSI 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 sus-

pects 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".

Amended by R.2012 d.188, effective November 19, 2012.

See: 44 N.J.R. 544(a), 44 N.J.R. 2947(b).

In the introductory paragraph of (a), inserted the second sentence, substituted "In" for "Consequently, in" and inserted "and SSI"; and in (a)1, inserted "or SSI".

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 fore-

closure. 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 arrange-

ment 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 (e)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.

(f) For other minor violations that may result in an eviction from the hotel/motel or transitional housing placement, the adult recipient will be eligible for continued EA in a supervised placement only. However, hotel/motel placements may be utilized when there are no supervised placements available. A second eviction will result in a loss of EA for a period of six months, unless good cause has been determined.

(g) Prior to EA termination, the agencies shall review, with the recipient, the reason(s) for the termination. If additional barriers are identified that may have prevented EA compliance, then the recipient is considered to have good cause and shall not be terminated and a penalty shall not be imposed. The recipient shall be required to follow through with services to address those barriers for continued EA eligibility. Such services shall be identified as mandatory activities in the EA service plan.

(h) For any subsequent placement, the CWA/MWA shall revise the EA service plan and ensure that the recipient is made aware that failure to comply with the rules of the placement will render him or her ineligible for EA for six months.

(i) The EA penalty shall be lifted when the applicant or recipient experiences a new emergency, which may include, but is not limited to, a fire, natural disaster or a new eviction, through no fault of the applicant or recipient; or if the family has a Division of Youth and Family Services case opened for abuse and neglect pursuant to N.J.A.C. 10:90-6.1(c)3xii.

1. On a case-by-case basis and in consultation with DFD, the penalty may also be lifted when deemed appropriate by the county or municipal agency.

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 a Citizenship Application fee; in (a)1, added language regarding emergency housing; rewrote (a)5; in (a)5i, added N.J.A.C. reference; in (a)7, added last half of first sentence and second sentence; rewrote (a)7i and added new 7i1, 2, and 3; rewrote 7ii; and deleted 7iii.

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 the introductory paragraph, inserted “, unless authorized by DFD on a case-by-case basis” in 3, rewrote 6 and the introductory paragraph of 7.

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), deleted a semicolon following “housing”; added new (a)1i; recodified former (a)1i as (a)1ii; rewrote the introductory paragraph of (a)7 and (a)7i(1); deleted former (a)7i(2); recodified former (a)7i(3) as (a)7i(2); in (a)ii, substituted “until one month after” for “unless”; added (a)7iii; and added (b) through (i).

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

Case Notes

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).

Initial Decision (2007 N.J. AGEN LEXIS 629) adopted, which concluded that although N.J.A.C. 10:90-6.3(a)1 and N.J.A.C. 10:90-6.6(a)1i(1) allowed an applicant for emergency housing to be placed outside his municipality of customary residence, they did not provide the agency with the authority to move him beyond the county’s geographic boundaries. Public policy favored maintaining a homeless person either in or as close to his municipality of residence as possible. G.M. v. Cumberland County Bd. of Social Services, OAL Dkt. No. HPW 395-07, 2007 N.J. AGEN LEXIS 967, Final Decision (February 5, 2007).

10:90-6.4 Time limitations

(a) Any emergency assistance granted shall be limited to 12 cumulative months during the lifetime of the case, irrespective of the county or municipality of residence. A month of emergency assistance shall be any month for which a payment of emergency assistance of any kind is issued on behalf of a WFNJ TANF/GA, or SSI recipient, unless otherwise excluded.

1. Payment of security deposits shall not count towards the recipient’s 12-month lifetime limit on receipt of EA benefits.

2. Payment of retroactive rent or mortgage shall be counted month for month toward the lifetime limit. Payment of retroactive utilities shall be counted as one month for each two full months paid, or parts thereof.

3. The provision of allowances for food, clothing or single replacement items of furniture and the one-time payment of a Citizenship Application Fee are specifically excluded from the calculation of the maximum lifetime EA limit.

(b) Additional emergency assistance shall be granted beyond the 12-month maximum when, in the judgment of the county or municipal agency, the WFNJ or SSI recipient has taken all reasonable steps to resolve the emergent situation but the emergency nonetheless continues or a new emergency occurs, which causes extreme hardship to the family.

1. The following listing is not intended to be exhaustive, nor should it be interpreted as preventing county or municipal agencies from considering other situations not specifically mentioned in the list. Nevertheless, the agency shall confer with DFD if individual and/or family circumstances which are offered as a reason for extending EA represent a departure from the categories provided herein. An extension of emergency assistance based on extreme hardship shall be provided when:

i. There is the danger of a loss of employment or a bona fide offer of employment by a recipient adult;

ii. There is imminent danger of the immediate breakup of the family unit, with children needing to be placed in foster care;

iii. The recipient adult or child is in imminent physical danger or at risk of abuse and neglect;

iv. There is danger of serious harm to persons who are clinically/medically diagnosed as mentally and/or physically incapable of caring for themselves, thereby possibly leading to inpatient hospital care or institutionalization; or

v. The request for additional EA arises directly out of a substantial loss of shelter, food, clothing, household furnishings and/or essential utilities incurred as a result of a natural disaster.

2. Recipients who are in applicant status for Supplemental Security Income (SSI), or who have been denied but have appealed the denial, shall receive a six-month extension of emergency assistance. This status needs to be supported by medical documentation.

(c) No more than 10 percent of single adults and couples without dependent children (WFNJ/GA) who are receiving temporary rental assistance may receive one six-month extension of emergency assistance if the agency determines that a case of extreme hardship exists, pursuant to (b)1 above.

1. The county or municipal agency shall review each such case monthly to determine if the extreme hardship continues to exist.

(d) The county agency shall extend emergency assistance beyond the 12-month limit, for up to six additional months, to an assistance unit with dependent children (WFNJ/TANF) when the agency determines that a case of extreme hardship exists, pursuant to (b)1 above. Agencies are to make a decision on extension applications within 15 days after all extension applications are received for that month and inform the recipient of the agency's decision.

1. Each such case shall be reviewed monthly by the county agency to determine if the extreme hardship continues to exist.

2. If, at the end of the first six-month period, extreme hardship continues to exist in an assistance unit with dependent children, the county agency shall provide an additional six months of emergency assistance to no more than 10 percent of those assistance units with dependent children who are currently in receipt of temporary rental assistance.

(e) County or municipal agencies shall extend emergency assistance beyond the 12-month limit to recipients who are diagnosed as HIV positive with symptoms or who have active AIDS, or are terminally ill and are unable to perform activities of daily living, up to a maximum of 12 additional months.

(f) Agencies are to carefully assess the impact of the termination of EA on victims of family violence, rape or incest. If termination would make it more difficult for a recipient to escape family violence or would unfairly penalize the

recipient who is or has been victimized by any such violence, or who is at risk of further family violence, then the 12-month limit shall be deferred for up to six months. Authorization for continuing or granting EA because of family violence beyond this limit may be authorized by DFD on a case-by-case basis.

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

Added new (a)1; recodified former (a)1 as (a)2; in (b), substituted "Additional emergency assistance" for "Emergency housing" and added language regarding new emergencies; in (b)1, added last sentence; in (b)1i through iv, added language detailing when an extension of emergency assistance will be given; added new v; and recodified former (d)3 as (e).

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 "shall" for "may" preceding "be granted" in the introductory paragraph and added 2; in (d), added the second sentence in the introductory paragraph; added (f) and (g).

Amended by R.2008 d.313, effective October 20, 2008.
See: 40 N.J.R. 2191(a), 40 N.J.R. 6205(a).

Deleted (g).

Amended by R.2010 d.239, effective November 1, 2010.
See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

Added new (a)1; and recodified former (a)1 and (a)2 as (a)2 and (a)3.

10:90-6.5 Recipient contribution

(a) Recipients of emergency assistance, including those receiving SSI, shall contribute 30 percent of their total household income towards payment of all emergency shelter arrangements, including utilities and all other forms of alternative housing arrangements, such as transitional housing programs, domestic violence shelters, emergency shelters, placement in hotels or motels and temporary rental assistance.

1. The EA recipient contribution shall be assessed by the county/municipal agency on the basis of all income available to the EA household. Once the county/municipal agency has deducted the recipient contribution from the cash assistance payment, the county/municipal agency shall be responsible for forwarding the full shelter payment to the vendor.

i. SSI recipients with documented out-of-pocket medical expenses or other disability related expenses, which cannot be met through another source, are eligible for a reduction in their contribution amount.

2. The county or municipal agency shall begin deducting the monthly contribution for recipients temporarily housed in hotels/motels, emergency shelters or transitional housing after the second full month following the month in which the family was initially placed in the temporary housing. TRA contributions shall begin no later than the second month of placement.

3. When a WFNJ recipient is housed in a shelter arrangement that requires an out-of-pocket payment, then the recipient's EA contribution shall be adjusted to take into consideration the out-of-pocket payment. If the required out-of-pocket contribution is 30 percent or more, then the recipient shall not be required to contribute an additional 30 percent of his or her income toward the required EA contribution.

4. The identification of the person cashing the original check as the payee or representative of the payee is convincingly established by one or more mechanical or procedural methods such as a photograph, a videotape, or the recording at the time of the transaction of the number of an ID card which has not been reported lost or stolen.

(c) In any situation in which an original check is later returned bearing the true endorsement of the intended payee, the agency will shall honor the check, even though a stop payment order may have interfered with its negotiation, provided 10 calendar days prior to honoring the check the intended payee is afforded advance written notice and an opportunity to contest the intended action. The county/municipal agency shall refuse to honor an original check which is returned without the true endorsement of the intended payee, the effectiveness of a stop payment order notwithstanding.

(d) In any situation in which the issuance of a duplicate check in accordance with (a) above produces a payment in excess of authorized amounts, the agency shall observe N.J.A.C. 10:90-3 and 11, as appropriate.

(e) In a situation in which benefits are issued by way of the EBT system the county/municipal agency shall follow the policies and procedures governing the replacement of benefits and EBT cards as found in N.J.A.C. 10:88-6.

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).

In (a), rewrote the second sentence; rewrote (e).

10:90-7.6 Reporting of child abuse and neglect

County and municipal agencies are required by State law to report known or suspected instances of or risk of child abuse and neglect of a child to the Division of Youth and Family Services. Instances of abuse or neglect involve situations where a child experiences physical or mental injury, sexual abuse or exploitation or negligent treatment or maltreatment under circumstances which indicate that the child's health or welfare is threatened.

10:90-7.7 Confidential nature of information

(a) Information about applicants for or recipients of WFNJ benefits shall be used or disclosed only for purposes directly related to the administration of public assistance and related services, including Title IV-E (foster care and adoption assistance programs), HUD Section 8 housing, school lunch programs, which cannot be offered without such information. County/municipal officials and appointees, members of the governing body and county/municipal employees not under the jurisdiction of the county/municipal agency director are not permitted access to public assistance records.

1. Any person or entity under contract to provide services to the program shall comply with this section.

2. The provisions of this section shall not be construed as prohibiting the exchange of information among agencies, organizations or other entities as prescribed by the Commissioner or pursuant to Federal requirements.

(b) Pursuant to the New Jersey Address Confidentiality Program Act, P.L. 1997, c.369, eligible WFNJ participants, who are victims of family violence, may apply to participate in the New Jersey Address Confidentiality Program (ACP) to protect confidentiality of personal information for victims of family violence. The WFNJ agency shall advise individuals of the ACP in conjunction with the FVO notification process at the time of initial application. Participants that make use of this service may utilize a substitute address service and will receive security records handling from State and local government agencies.

1. An individual interested in making application for the ACP must be a victim of domestic violence who has relocated to an address unknown to the batterer. Applicants must be at least 18 years old, an emancipated minor, a parent or guardian acting on behalf of a minor or guardian acting on behalf of an incapacitated person.

2. Local victim assistance programs such as the Department of Human Services' (DHS) Designated Domestic Violence Programs and/or Rape Crisis Programs and Victim Witness Advocacy Programs (within each county prosecutor's office) will work with victims of domestic violence to complete applications and forward them to the ACP's office. An ACP staff person will review the application and certify an individual as a program participant and issue an ACP authorization card designated by the Division on Women.

3. Once accepted into the ACP, participants may use their substitute address when creating records with State and local government agencies. The ACP authorization card must be presented to an agency when requesting the use of a substitute address.

(c) Information considered confidential includes, but is not limited to, the following:

1. Names and addresses, including lists; and
2. Information contained in applications, reports of investigations, reports of medical examinations, correspondence, evaluations (whether written or verbal), and other records concerning the condition or circumstances of any person from whom or about whom information is obtained.

(d) The county/municipal agency director is authorized to release, subject to the consent of the client or as required pursuant to Federal rules, relevant and necessary information under the following circumstances:

1. For clearances on applications and cases with social service agencies, banks, Bureau of Vital Statistics, insurance companies, and so forth;
2. To procure a service or benefit for the client; or

3. To provide necessary information to agencies sub-contracted to provide services and/or benefits to clients.

(e) Recipient address information shall be furnished to State and local law enforcement officials attempting to locate a fugitive felon (see N.J.A.C. 10:90-2.8 concerning fugitive felons). Likewise, pursuant to P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the safeguards listed in this section shall not prevent a county/municipal agency from furnishing a Federal, State, or local law enforcement agency with the current address of any recipient, if the agency provides the county/municipal agency with the name of the recipient and notifies the county/municipal agency that the information is necessary for the law enforcement agency to conduct official duties and the location and apprehension of the recipient is within such official duties.

(f) Information concerning applicants or recipients shall also be released to the Division of Youth and Family Services in instances involving child abuse and neglect as described in N.J.A.C. 10:90-7.6.

(g) Any member of the county/municipal agency staff called to testify and/or produce agency records in conjunction with a judicial or quasi-judicial proceeding shall confer with county/municipal agency legal counsel concerning the nature of testimony and the provision of records to the court.

(h) Information necessary to the performance of quality assurance reviews, regular or special audits by State staff or a municipality's registered municipal accountant (RMA) shall be released.

1. County and municipal agencies shall cooperate in any quality assurance reviews conducted by staff of the DFD. Failure to do so shall result in the imposition of penalties as prescribed by the DHS Commissioner pursuant to authority granted in N.J.S.A. 30:1-12 concerning the imposition of sanctions where agencies have failed to comply with rules promulgated by DHS.

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 (b) and recodified former (b) through (g) as (c) through (h).

10:90-7.8 Settlement of suits and claims

(a) Pursuant to P.L. 1997, c.38, (N.J.S.A. 44:10-64), upon liquidation of a claim or interest (other than liquidation of nonexempt real property) for which a written promise to repay (Form WFNJ-10D, Agreement to Repay) has been executed, regardless of whether or not the person(s) involved are receiving assistance at the time, the county or municipal agency shall notify the person(s) of its claim and pursue repayment of the assistance granted from the date of eligibility for that payment, with the exception of any portion of a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury, or any other benefits specifically protected by law.

1. RSDI, SSI (unless subject to interim assistance agreements), Railroad Retirement, Worker's Compensation, Veteran's Administration benefits, temporary disability benefits, and term life insurance are exempted by law from the repayment process. However, lump sum payments from these sources are subject to the lump sum regulations at N.J.A.C. 10:90-3.18.

2. Nothing in these rules shall be held as preventing the county/municipal agency from moving to recover assistance granted from other sources, such as, but not limited to, payments in the nature of a windfall, such as inheritances, lottery, casino and racetrack winnings. Such funds shall be subject to the rules of this section, less any portion which has been disregarded in order to purchase items which are integral to promoting self-sufficiency. Any remaining funds shall then be subject to the lump sum income provisions at N.J.A.C. 10:90-3.

(b) Whenever the county/municipal agency ascertains that a recipient or former recipient, living or dead, of WFNJ/TANF or WFNJ/GA, or any of its predecessors, including a child who dies prior to his or her 21st birthday and leaves an estate, has real or personal property above what is necessary for his or her maintenance and the maintenance of a spouse or minor children, the agency shall move, in reliance upon established legal procedures, to recover all assistance paid. The county/municipal agency's claim shall take priority over all other unsecured claims, except for reasonable funeral expenses and terminal medical and hospital expenses.

(c) If a person refuses to repay assistance granted pending liquidation of a claim or interest, including refusal by any party acting for or on behalf of either or both parents or relative, the county/municipal agency shall take all necessary and proper action under State law to enforce the promise to repay, including the withholding of benefits from the uncooperative individual(s) for as long as the refusal to repay persists.

(d) Any partial or initial payments made to the county/municipal agency from the settlement of a claim or interest made by or on behalf of a single adult, couple without dependent children, either or both parents or caretaker relative, subsequent to notice of claim and prior to express written approval by the county/municipal agency, shall obligate that person to the county/municipal agency in the amount of the payment.

(e) The county/municipal agency may, with the consent and approval of the DFD, compromise and settle any claim for repayment of WFNJ benefits or its predecessors. At the discretion of the agency, up to \$500.00 may be deducted from the proceeds of a claim or interest, without the consent and approval of the DFD. Primary consideration shall be given to whether or not release of additional funds will promote the goal of self-sufficiency, if this consideration is appropriate under the circumstances.

1. A timely notice is a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action.

(c) When a county or municipal agency decision results in an adverse action to a recipient, there will be no change in the amount of benefits until 10 calendar days after the mailing date of the notice, unless assistance had been granted based on immediate need.

(d) Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of the action when:

1. The county or municipal agency has information confirming the death of a recipient or of the payee when there is no relative to serve as the new payee;

2. The county or municipal agency receives a clear written statement signed by a recipient that he or she no longer wishes to receive assistance, or that provides information which requires termination or reduction of assistance. In such instances, the recipient must indicate, in writing, that he or she understands that supplying such information will result in a reduction or loss of assistance;

3. The payee has been admitted or committed to an institution, and payments to that individual are no longer permitted under State law;

4. The recipient has been placed in a long term care or intermediate care facility, or is hospitalized;

5. The recipient's whereabouts are unknown and the county or municipal agency mail directed to him or her has been returned by the postal service indicating no known forwarding address. The recipient's benefit must, however, be made available to him or her if his or her whereabouts become known during the payment period of issuance covered by the returned check, unless (d)5i below applies.

i. The recipient moves out-of-State, with apparent intent to remain permanently absent from New Jersey;

6. A recipient has been accepted for assistance in another state and that fact has been established by the county or municipal agency previously providing assistance;

7. An eligible child is removed from the home as a result of a judicial determination, an intervention by the Division of Youth and Family Services or is voluntarily placed in foster care by his or her legal guardian;

8. An additional payment or special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period, including such payments as directed by a final hearing decision;

9. A recipient has incurred a WFNJ sanction and the sanction is progressing to the next month within the three-

month sanction period (whether pro-rata to suspension, or suspension to case closure) based on continued refusal to comply;

10. Assistance is reinstated in the corrected amount following suspension;

11. An application for assistance is being denied and no assistance payment has been issued, or assistance had been granted based on immediate need;

12. Assistance is terminated due to an individual's receipt of SSI, RSDI or unemployment benefits; or

13. The WFNJ/GA recipient is confined to jail for a period in excess of seven calendar days.

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

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

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

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

Rewrote (d)9.

10:90-9.2 Definitions related to hearings

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise.

"Administrative hearings" are hearings concerning either contested cases or non-contested cases, which have been determined by the Director of the Division of Family Development (DFD) in accordance with N.J.A.C. 1:1, to be appropriately heard in the Office of Administrative Law (see N.J.A.C. 10:6).

"Administrative Law Judge" (ALJ) means the person from the Office of Administrative Law (OAL) who conducts the hearing and who writes an initial decision which may be reviewed by the Director of the DFD.

"Administrative review" means a review of a disputed matter which has been determined by the Director of the DFD not to constitute a contested case and therefore remains in the DFD for review. At the discretion of the Director, an administrative review may be conducted as a procedure at which parties appear and are heard or it may be a paper review only (see N.J.A.C. 10:6-2).

"Administrative review official" is a representative of the State, Department of Human Services, assigned to conduct an administrative review.

"Contested case" means a dispute that is heard by an Administrative Law Judge. (For statutory definition see N.J.S.A. 52:14B-2(b); see also N.J.A.C. 1:1-1.5 and 1.6.).

"Fair hearing" means a formal or informal procedure through which a WFNJ recipient may protest an adverse action or decision of the county/ municipal agency regarding eligibility, amount or manner of granting assistance. Fair hearing is a general term which includes administrative hearing and administrative review at the State level, as well

as a local hearing proceeding convened by a municipal agency at the request of a WFNJ/GA recipient.

“Initial decision” means the decision of an ALJ that is sent to the Director of the DFD, who may accept, reject or modify it within 45 days.

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

10:90-9.3 Right to a fair hearing

(a) It is the right of every applicant for or recipient of WFNJ adversely affected by an action of a county or municipal agency to be afforded a fair hearing in a manner established by the rules in this subchapter, by the Uniform Administrative Procedure Rules (N.J.A.C. 1:1) and N.J.A.C. 1:10, Family Development Hearings. These rules have been established pursuant to Federal regulations, and the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

(b) County or municipal agency actions which adversely affect an applicant or recipient include any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits, adjustment in the level of benefits or work requirements, or designation of a protective payee.

(c) No fair hearing will be granted when either State or Federal legislative action which affects all or part of a recipient population results in the reduction or termination of assistance, unless the reason for an individual appeal is incorrect grant computation.

(d) The notification of the right to a fair hearing shall be incorporated in or attached to each adverse action notice (denial, termination, reduction, suspension). The notice shall include an explanation of how to request a fair hearing, time limits on requesting a hearing, the right to examine evidence and the circumstances under which benefits are continued unreduced.

(e) When a request for a fair hearing is made within 15 calendar days from the date of mailing of a notice of termination, suspension or reduction, benefits shall be continued at an unreduced level until the scheduled date of the administrative hearing or the date of the administrative review, unless the recipient waives such entitlement or requests postponement of the scheduled hearing or review date. When a fair hearing is requested because of a notice regarding a three-month progressive sanction and such request is made before the date of the case closure, benefits shall continue unaltered. In the event the recipient elects to receive continued benefits, they shall be continued unreduced pending a final decision.

(f) An adjournment of a hearing at the request of a recipient shall not prolong continuation of benefits at an unreduced level, unless the adjournment is due to: delay caused by the

DFD, OAL or the county/municipal agency; unavoidable causes, such as an illness on the part of the recipient or the failure of the agency to provide transportation when such assistance is required by regulations. Adjournment at the request of the county/municipal agency or by the ALJ shall not affect continued benefits.

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

(b)1 was merged with existing (b).
Special amendment, R.2008 d.182, effective June 3, 2008.
See: 40 N.J.R. 4232(a).

In (e), inserted the second sentence.

10:90-9.4 Rules applicable to WFNJ/GA applicants/recipients

(a) With the exception of hearing requests related to a denial, reduction or termination of emergency assistance granted under N.J.A.C. 10:90-6 (refer to N.J.A.C. 10:90-9.17(a)1 for additional exceptional circumstances), applicants for or recipients of WFNJ/GA shall receive a local hearing regarding any action or inaction of the county/municipal agency as specified in N.J.A.C. 10:90-9.3(b)1. See N.J.A.C. 10:90-9.10 concerning time limitations on entitlement to fair hearings.

(b) The hearing officer at the local hearing shall be the municipal agency director, or, as appropriate, a person designated by the county agency director to conduct such a hearing, unless he or she has participated in the action or inaction which gave rise to the hearing request.

1. If the director has been thus involved, the director will select a hearing officer who has not been involved. The selection will be made from among the following in order of priority:

- i. A professional staff member of the agency;
- ii. A member of the Local Assistance Board (LAB) other than an elected official as designated by the LAB; or
- iii. With the advice and consent of the LAB of the municipality of the hearing, a director of another municipality, or a professional staff member of supervisory rank of the municipal agency of another municipality.

2. The local hearing shall be conducted and a decision rendered in accordance with the following procedures:

- i. Participants in the local hearing shall include, at a minimum, the appellant and his or her representative, the agency staff member who made the decision, and the hearing officer who shall hear both sides of the issue and decide whether or not the action was correct.

(1) Generally, only those persons shall be admitted to the hearing whose testimony and presence are necessary to a full and fair determination. The appellant may exercise a right to be assisted in his or

her representative by a relative, friend or other spokesperson, or to be legally represented by a lawyer of his or her own choosing. Observers may attend at the discretion of the hearing officer and with the appellant's consent.

ii. Hearings shall in all respects be informal and conducted in an atmosphere conducive to the full development of facts. An effort shall be made to conduct the hearing in such manner that all parties shall feel free to present all relevant aspects of the situation. All parties shall be given opportunity to offer evidence and to question witnesses.

iii. At the beginning of the hearing, the appellant shall be given the opportunity to make a statement of the situation as he or she sees it. The hearing officer shall state the points at issue, subject to amendment or correction by the appellant or any of the other parties concerned. At the end of the hearing, the hearing officer shall summarize the issue(s).

iv. Within 10 business days following the hearing, the hearing officer shall prepare a brief written report. This report shall include a summary of the facts presented at the hearing and the findings (decision) of the hearing officer; it shall also state the regulation(s) upon which the decision is based. The final sentence on the report shall advise the appellant of the availability of a State fair hearing.

(1) This report and decision shall be filed with the Local Assistance Board, a copy mailed to the appellant, and a copy forwarded to the State Division of Family Appeals (BARA).

3. When a decision has been rendered by the hearing officer, it shall be implemented immediately by the agency.

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)2i, i(1), ii, iii, iv, iv(1), and (b)3.

10:90-9.5 Responsibilities of the county/municipal agency in processing hearing requests

(a) To assure orderly and expeditious processing of complaints and hearing requests, each county agency will designate a liaison between the agency and the DFD whose duties shall include, but not be limited to, the following. These duties shall likewise apply to the municipal agency director when a WFNJ/GA recipient has requested a State fair hearing under the circumstances listed in N.J.A.C. 10:90-9.10.

1. Informing the Bureau of Administrative Review and Appeals (BARA) by telephone or FAX on the same day in which an oral or written request for a hearing is received, providing BARA with the following information:

- i. The case number and the applicant/recipient's name and address;
- ii. The date the request was received;
- iii. The nature of the contested action;
- iv. The date of the action; and
- v. The reason for the action;

2. Establishing a system to assure that every written request for a hearing received in the county or municipal agency is stamped with the date of receipt and forwarded to BARA within one business day of the date;

3. Reviewing incoming requests for possible corrective action prior to hearing;

2. **WFNJ/GA-SSI Match Report:** A match of the WFNJ/GA files with the (SDX) State Data Exchange which lists all SSI recipients.

i. The WFNJ/GA-SSI Match Report is sent to agencies on a monthly basis;

3. **WFNJ/GA-WFNJ/GA Match Report:** A match of all municipalities matched against each other.

i. The WFNJ/GA-WFNJ/GA Match Report is sent to agencies on a monthly basis;

4. **WFNJ/GA-FAMIS Match Report:** A match of all WFNJ/GA cases matched against the FAMIS (county agency) files.

i. The WFNJ/GA-FAMIS Match Report is sent to agencies on a monthly basis;

5. **WFNJ/GA-UIB Match Report:** A match of the WFNJ/GA cases with the Department of Labor's Unemployment Insurance Benefits files. The WFNJ/GA-UIB Match Reports are sent to the agencies on a monthly basis;

6. **WFNJ/GA-NY State Wage Files Match Report:** A quarterly match of the WFNJ/GA cases with NY State Wage Files; and

7. **WFNJ/GA-Veterans Benefits Match Report:** An annual match of WFNJ/GA cases with Veterans' benefits.

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

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

Recodified from N.J.A.C. 10:90-14.9 and 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 2i, 3i and 4i, and substituted "are sent to the agencies" for "are sent only to the computerized agencies" in 5. Former N.J.A.C. 10:90-14.7, Retention and destruction of case records, recodified to N.J.A.C. 10:90-14.6.

10:90-14.8 (Reserved)

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

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

In (a), changed N.J.A.C. reference.

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

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

In (a), changed N.J.A.C. reference.

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

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

Section was "Processed medical service claims".

SUBCHAPTER 15. DEFINITIONS

10:90-15.1 Definitions

The following words and terms, used within this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Active participation" means participation in a Department of Health and Senior Services' licensed or approved residential or in-patient or out-patient substance abuse treatment program and that the WFNJ applicant/recipient shall cooperate with the program's recommended treatment plan.

"Adjusted allowance" means the balance remaining as a result of subtracting the assistance unit's total income from the appropriate public assistance allowance amount for that assistance unit.

"Adjusted gross income" means, when self-employed, the net income as determined by subtracting the cost of producing the income from total gross earnings.

"Adverse action" means any action by the county or municipal agency resulting in denial of an application for assistance, suspension, reduction or termination of assistance. The term is also applicable to decisions pertaining to protective and restricted payments and denial of request for special payments.

"Allowance" means the amount of money recognized for a specific purpose.

"Alternative Work Experience Program (AWEP)" means work and training only with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine that experience with education and job training.

"Appeal" means the process of exercising the right to challenge a decision or action of the administering entity and to have such decision or action reviewed by an impartial agency.

"Applicant" means a person who makes a written request for benefits provided by the WFNJ Program. An applicant can be an individual, couple without dependent children, natural or adoptive parent(s), parent-person(s), parent-minor, or legal guardian acting on behalf of the assistance unit.

"Application" means a written request for public assistance made by an applicant or legal guardian acting on behalf of the assistance unit.

"Application process" means the required actions necessary to make an official determination of the disposition of the application for benefits.

"Approved residential substance abuse treatment program (RSATP)" means a residential substance abuse treatment program; drug treatment facility; alcoholism treatment facility; or halfway house that has made application to the Department of Health and Senior Services' for licensure or licensure renewal and is identified by DHSS as an approved facility.

"Arrears" means the amount of support determined through a court order or administrative order from this State or another state for support and maintenance of a child(ren) or of a child(ren) and the custodial parent, which has not been paid.

"Assistance payment" means the money amount authorized and issued to the assistance unit.

"Assistance unit" means a single adult without dependent children; a couple without dependent children; dependent children only; or a person or couple who are legally or blood related to or the legal guardian of one or more dependent children who live together as a household unit.

"Authorized representative" means an individual (or organization) whom a client designates, orally or in writing, to act on his or her behalf; or in cases of incompetence the person designated by the court to act for the client.

"BARA" means the Bureau of Administrative Review and Appeals in the Division of Family Development.

"Benefits" means any financial or service assistance available to the assistance unit through WFNJ.

"Calculated earned income" means amount of earned income remaining after applicable disregards and deductions have been subtracted from total gross earnings. This is the countable amount to be used in determining the assistance unit's total income.

"Case management" means the provision of certain services to WFNJ recipients.

"Case record" means the official file, including electronically stored data, that constitutes a complete record which supports the decisions and actions of the WFNJ entity on a case and may include, but is not limited to, forms, chronological narrative, correspondence, record of work requirement compliance and other documents pertinent to the application and eligibility of the client.

"Certificate of Parentage (COP)" means the official form for paternity acknowledgment in New Jersey.

"Child care center" means any home or facility licensed by the Division of Youth and Family Services, which is maintained for the care, development or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

"Child only case" means an assistance unit comprising a child(ren) only who is (are) receiving WFNJ/TANF benefits and is(are) residing with a non-needy parent-person who has been designated as the payee for the child(ren)'s cash assistance grant.

"Child support" means the amount required to be paid under a judgment, decree, or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or child and the parent with whom the child is living, which provides monetary support, health insurance, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees and other relief.

"Client" means an all inclusive term for an applicant or recipient of assistance.

"Collateral investigation" means contact with a source other than members of the applicant's or recipient's immediate household which is made with the knowledge and consent of the applicant(s) for the purpose of obtaining or verifying information.

"Commissioner" means the Commissioner of the New Jersey Department of Human Services.

"Community Work Experience Program (CWEP)" means work and training only with a public, private nonprofit or private charitable employer, provided to a recipient when, and to the extent, that such experience is necessary to enable the recipient to adjust to, and learn how to function in, an employment setting.

"Cooperation with child support" means making a good faith effort to establish parentage and establish, modify and/or enforce a support order(s) and/or health care coverage.

"County agency" means the county agency that was administering the Aid to Families with Dependent Children program at the time the Federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, was enacted and which shall also administer the WFNJ Program in that county.

"County residence" means that county where an applicant or recipient is residing.

"Couple" means two individuals who live together, function as one economic unit, and present themselves as a couple to the WFNJ agency.

"CSP" means the Child Support and Paternity Program.

"Custodial parent" means the primary resident parent prior to the establishment of the order determining custody.

"Date of eligibility" means for an eligible applicant, the date of the application or as soon thereafter as there is evidence of financial need; or when verification of eligibility has been satisfactorily completed.

“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 bene-

fits, 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.

“LWD” means the New Jersey Department of Labor and Workforce Development.

“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.

“NJ SNAP” means the New Jersey Supplemental Nutrition Assistance Program.

“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).

Amended by R.2012 d.188, effective November 19, 2012.

See: 44 N.J.R. 544(a), 44 N.J.R. 2947(b).

Added definitions “LWD” and “NJ SNAP”.

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-

ing the violence and the client's circumstances is not and shall not be required by the CWA/CSU. The individual's case shall be handled in accordance with the rules for the WFNJ FVO Initiative at N.J.A.C. 10:90-20 and involves completion of the WFNJ FVO Risk Assessment process, as delineated at N.J.A.C. 10:90-20.8 and 20.12, to determine possible risks of harm to the WFNJ/TANF individual and family members.

ii. The CWA/CSU shall make the determination as to whether or not the WFNJ/TANF applicant/recipient has initially cooperated in good faith in accordance with N.J.A.C. 10:90-16.3.

iii. During the period after initial cooperation has been determined, if the CWA/CSU finds that the information provided by the WFNJ/TANF applicant/recipient is insufficient and additional information is necessary, the CWA/CSU shall make a determination as to whether or not the applicant/recipient has continued to cooperate in meeting the good faith effort requirement in accordance with N.J.A.C. 10:90-16.4.

iv. If later CWA/CSU efforts to verify a WFNJ/TANF applicant's/recipient's information show that inaccurate information related to the non-custodial parent was deliberately provided, the applicant/recipient shall be found to have failed to cooperate.

v. At the point of initial intake, for WFNJ/GA applicants, initial cooperation in good faith with the child support requirements shall be established by the completion and signing of the affidavit of cooperation, which shall include the identification of his or her child(ren) and their respective custodial parent(s). Although completion of the Affidavit of Cooperation satisfies the WFNJ eligibility requirement to cooperate with child support, a WFNJ/GA applicant/recipient may have continuing child support requirements, which do not impact the individual's eligibility for WFNJ benefits.

vi. At the time of any adverse action, the applicant/recipient shall be advised of his or her rights to a fair hearing and to appeal any adverse action in accordance with N.J.A.C. 10:90-9.3.

2. If at the time of application, it is not possible to complete the IV-D interview due to extraordinary circumstances, the following procedures shall apply:

i. When the WFNJ/TANF applicant is applying for multiple benefits, for example, WFNJ, Medicaid and NJ SNAP, the CWA shall determine if the IV-D interview and work registration requirement can be completed on the day of initial contact with the agency. Where the IV-D 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 NJ SNAP and Medicaid if appropriate, 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 application which are relevant in determining whether the household is entitled to NJ SNAP expedited service and all questions relevant to determining Medicaid eligibility. In addition, the applicant shall be provided with an appointment to return to the agency to comply with the IV-D interview and/or the work registration requirement.

ii. When the WFNJ/TANF applicant is applying for multiple benefits, for example WFNJ, Medicaid and NJ SNAP, and fails to cooperate with the CWA/CSU, the application process shall continue for NJ SNAP and Medicaid for any eligible children and any applicant who meets the Medicaid exception requirement in accordance with N.J.A.C. 10:90-16.3(f)1.

iii. In cases of immediate need, where the IV-D interview and/or work registration requirement cannot be completed on the day of application, the application process is to continue and immediate need determined, with the WFNJ/TANF applicant being provided an appointment to return to the CWA to comply with the IV-D interview and/or the work registration requirement.

iv. All child support activities shall be coordinated with the WFNJ/TANF applicant's/recipient's work activities as delineated in the individual responsibility plan (IRP) and/or the emergency assistance service plan.

v. A WFNJ/GA applicant's lack of cooperation with the child support requirement shall not delay a referral to the CWA to apply for the NJ SNAP program or the Medicaid program for those individuals who meet the exception requirement in accordance with N.J.A.C. 10:90-16.3(f)1 or the processing of such application, if applicable.

vi. All child support activities shall be coordinated with the WFNJ/GA applicant's/recipient's work activities as delineated in the IRP and/or the emergency assistance service plan.

vii. In cases of immediate need, where the affidavit of cooperation and/or work registration requirement cannot be completed on the day of application, the application process is to continue and immediate need determined with the WFNJ/GA applicant being provided an appointment to return to the municipal or county agency to complete the affidavit of cooperation and/or the work registration requirement.

(b) WFNJ/TANF applicants, as a condition of eligibility for WFNJ, automatically assign to the CWA all rights to support from the children's non-custodial parent(s) or any other support to which the eligible children, or the applicant when he or she is included in the eligible unit, may be entitled (see N.J.A.C. 10:110-6.1). An assignment of rights is also required for DYFS cases under Section 471(a)17 of the Social Security Act and as a condition of Medicaid under 42 C.F.R. 433.146.

(c) Title IV-D services with regard to paternity determinations and support collections shall be available to the Division of Youth and Family Services (DYFS) upon application and referral on behalf of the child(ren) for whom services are requested.

(d) Child support and paternity regulations contained in this subchapter are not required for the Refugee Resettlement Program (RRP). Although CWAs will not receive incentive payments for amounts collected for individuals in this program, there is no bar to providing child support services to this population.

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); recodified former (a)2 as (b); added new (c); recodified former (b) as (d); deleted former (c) and (d).

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).

Rewrote the section.

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 the introductory paragraph of (a)1, deleted a comma following "10:90-16.4"; and in (a)1v, inserted the last sentence.

Administrative change.

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

10:90-16.3 Cooperation in good faith in establishing paternity and support

(a) The cooperation requirement herein is applicable pursuant to the Work First New Jersey Act, P.L. 1997, c.14.

(b) Applicants/recipients of WFNJ/TANF are required to cooperate in good faith as defined at N.J.A.C. 10:90-16.4 with the CWA/CSU unit to establish parentage and establish, modify and enforce child support orders, subject to good cause exceptions as set forth at N.J.A.C. 10:90-16.5.

(c) Cooperation in good faith for WFNJ/TANF applicants/recipients shall include, but is not limited to, providing the CWA/CSU with information related to the non-custodial parent as specified at N.J.A.C. 10:90-16.4(b) and (c). The CWA/CSU shall conduct an investigation based upon the information provided in an effort to identify and locate non-custodial parents, establish parentage and establish, modify and/or enforce child support orders. If an applicant/recipient of WFNJ/TANF fails to cooperate by not providing the necessary information as outlined at N.J.A.C. 10:90-16.4(b) and fails to make a good faith effort as outlined at N.J.A.C. 10:90-16.4(c), or fails to meet the criteria for continuing cooperation as outlined at N.J.A.C. 10:90-16.4(e), and good cause for failure to cooperate is not established, the CWA/CSU shall notify the WFNJ/TANF applicant/recipient that a determination of non-cooperation shall be made unless he or she takes certain specified actions to cooperate.

(d) A WFNJ/GA applicant/recipient shall be required to cooperate in good faith with the child support requirements

by identifying his or her children and their respective custodial parent(s) and by providing the custodial parents address, date of birth and social security number or by providing all of the requested information he or she reasonably can through the completion and the signing of the affidavit of cooperation.

1. If an applicant/recipient refuses to provide information or sign the affidavit of cooperation, a determination of non-cooperation with the WFNJ/GA agency shall be made. See N.J.A.C. 10:90-16.2(a)2v regarding eligibility for other programs.

(e) An applicant/recipient of Medicaid benefits shall be required to cooperate in good faith in obtaining a child support order and medical support to which members of the eligible unit are entitled (see N.J.A.C. 10:90-16.4).

(f) Once a determination of non-cooperation is made, the WFNJ/TANF applicant/recipient and the children in the assistance unit shall be ineligible for cash benefits under WFNJ and the applicant/recipient shall be ineligible for Medicaid. The exception to this Medicaid ineligibility requirement is listed in (f)1 below. The applicant/recipient shall have the opportunity to challenge a determination of non-cooperation by requesting a fair hearing.

1. The exception to this Medicaid ineligibility requirement is that Medicaid does not sanction pregnant women and children. If a client is pregnant at the time a determination of non-cooperation with child support is made, Medicaid eligibility shall continue until pregnancy and the 60 day post-partum eligibility period are concluded.

(g) WFNJ applicants/recipients shall be required to cooperate fully with the CWA/CSU by:

1. Appearing at the appropriate child support agency, as necessary, to provide oral or written information, additional information or documentary evidence relevant to obtaining support health care coverage, which is known to, possessed by, or reasonably obtainable by the applicant/recipient and to provide information to establish parentage and establish, modify and/or enforce a child support order. A WFNJ/GA individual will have his or her case reviewed for appropriate action;

2. Appearing as a witness at judicial or administrative hearings necessary to obtain a support order(s);

3. Appearing for and submitting appropriate samples for scheduled genetic tests, along with the respective child(ren) of the alleged father, to determine paternity;

4. Providing information, or attesting to the lack of information, under penalty of perjury;

5. Permitting the CWA/CSU to obtain pertinent information not otherwise obtainable from third parties, as appropriate; and

sistent with rules and procedures adopted by the Supreme Court, the determination will be based on a petition filed by the caregiver that contains a kinship caregiver assessment certifying to the ability of the petitioner to care for the child. The assessment shall also contain the results from a criminal history record background check, domestic violence central registry check and a child abuse record check of the caregiver and any adult residing in the caregiver's household.

1. The Department of Human Services (DHS) may, subject to the availability of funding, provide payments for assessments associated with obtaining kinship legal guardianship for caregivers meeting the definition of a Temporary Assistance for Needy Families (TANF) parent person with family incomes of less than or equal to 150 percent of the FPL. The costs for the assessment shall be borne by DHS in cases where an eligible individual is applying for cash assistance provided by the Division of Family Development for which kinship legal guardianship is a requirement and for the Division of Youth and Family Services cases. In cases where DHS is paying for the assessment associated with obtaining kinship legal guardianship, after filing an application for child support services the caregiver may contact the Kinship Navigator Program for a referral to an appropriate entity. The caregiver assessment shall be conducted by a designated entity contracted by the DHS or by the Division of Youth and Family Services.

(d) Kinship legal guardianship terminates when the child reaches 18 years of age or when the child is no longer continuously enrolled in a secondary education program, whichever event occurs later, or when kinship legal guardianship is otherwise terminated.

1. An order or judgment awarding kinship legal guardianship may be vacated by the court prior to the child's 18th birthday if the court finds that the kinship legal guardianship is no longer in the best interests of the child or, based upon clear and convincing evidence, the court finds that the parental incapacity or inability to care for the child that led to the original award of kinship legal guardianship is no longer the case, and termination of kinship legal guardianship is in the child's best interests.

2. An order or judgment awarding kinship legal guardianship may be vacated by the court if, based upon clear and convincing evidence, the court finds that the guardian failed or is unable, unavailable or unwilling to provide proper care and custody of the child, or that the guardianship is no longer in the child's best interests (see N.J.A.C. 10:90-19.3(h)).

10:90-19.3 Determining eligibility for the KCSP

(a) When it has been confirmed that kinship legal guardianship has been granted, eligibility for KCSP participation shall be approved if the kinship legal guardian's family

income is less than or equal to 150 percent of the FPL and funds are available.

(b) Based upon the total gross income of the kinship legal guardian's family and the child, the designated entity shall calculate the annual income to determine if the family's income is less than or equal to 150 percent of FPL eligibility requirement. Income definitions reflective of those used to determine WFNJ/TANF eligibility will be utilized when determining eligibility for the KCSP.

1. All countable earned and unearned income of the kinship legal guardian's family and the child, with the exception of Work First New Jersey (WFNJ)/TANF benefits received on behalf of the child, is to be counted in the financial determination. Kinship subsidy eligibility shall not exist if the total countable gross annual income exceeds 150 percent of the FPL guidelines 66 Fed. Reg. 10,695 (February 16, 2001) for the appropriate family size.

(c) For purposes of determining eligibility for the kinship care subsidy, the kinship legal guardian's family shall include the kinship legal guardian(s), his or her spouse, his or her children and the child or children for whom kinship legal guardianship has been awarded. The family also includes dependent children who are over the age of 18 or other adults who are not legally responsible for the children for whom kinship legal guardianship has been awarded but who are dependent on the kinship legal guardian and who live in the household.

(d) Sources of countable income reflect WFNJ/TANF income definitions found at N.J.A.C. 10:90-3.9(b) and include, but are not limited to, employment (including self-employment), rental income, Social Security (disability, retirement or survivor's) benefits, State disability, rental property managed by an agent, worker's compensation, pensions/annuity/401K payments, alimony received, railroad retirement, General Assistance payments, TANF payments (excluding payments for the kinship child), unemployment, interest and dividend income, veterans benefits and any child support received.

1. For purposes of determining kinship family eligibility, exempt income, as stipulated at N.J.A.C. 10:90-3.19, includes, but is not limited to, SSI benefits, and foster care payments and shall be excluded from the 150 percent FPL income eligibility test in the same manner that such benefits are excluded when determining WFNJ/TANF eligibility. Any member of the family who receives SSI or foster care benefits is not counted as a member of the kinship family for this determination.

(e) Resources shall not be considered when determining financial eligibility for the kinship subsidy.

(f) Kinship subsidy eligibility calculations shall be based on an estimate of the gross annual income of the kinship legal guardian's family, using income averaging and a prospective budgeting methodology reflective of that used to determine WFNJ/TANF eligibility as stipulated at N.J.A.C. 10:90-3.11.

To determine the estimated income of the family, all earned and unearned income shall be considered.

1. For purposes of determining financial eligibility for the kinship subsidy, the entity shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application or redetermination. Likewise, all unearned income received within this four-week period shall be verified and documented in the case file.

(g) Once it is determined that a kinship legal guardian meets the criteria for participation in the KCSP, the designated entity shall refer him or her to the appropriate county welfare agency (CWA) to apply for the subsidy benefit for the child.

1. Eligibility for the kinship subsidy shall be redetermined on an annual basis (12 months from the date of application) by the designated entity.

i. Once determined KCSP eligible, the recipient shall continue to receive the subsidy for the remaining balance of the 12-month eligibility period. However, there are circumstances that may result in termination of the kinship subsidy payment prior to the 12-month redetermination date. These include, but are not limited to, termination of kinship legal guardianship, if the child leaves the kinship legal guardian's home, if the child moves out of New Jersey or if the child's countable income exceeds \$250.00 per month.

(h) Kinship subsidy eligibility shall extend beyond the age of 18 if the child is a full-time student in a secondary school (or equivalent level of vocational or technical training) and expected to complete the program before reaching age 19. Kinship subsidy eligibility shall be extended to age 21 if the child is enrolled in a special education program per N.J.A.C. 10:90-2.7(a). If the court terminates kinship legal guardianship prior to the child's 18th birthday, eligibility for the KCSP shall no longer exist.

(i) Continued participation in the KCSP shall not be affected by time limitations on WFNJ/TANF benefits for the kinship legal guardian's family. If a TANF recipient who has kinship legal guardianship reaches the 60 month time limit, the child may continue to receive the kinship subsidy with the caregiver continuing to act as the "payee." If the family meets WFNJ/TANF exemption or extension criteria, the case continues unchanged. The child remains eligible for the subsidy until eligibility is redetermined.

10:90-19.4 Kinship Care Subsidy Program application process

The Kinship Care subsidies shall be administered through the CWAs. The kinship legal guardian must apply for the KCSP in order to receive the kinship subsidy benefit for the child. All kinship legal guardians are considered the "payee" for a related child in his or her care when the child is not their

natural or adopted child. The applicant shall provide his or her case file papers that were completed by the designated entity, including the original eligibility determination, which shall be retained and attached to the kinship subsidy application. In order to receive a WFNJ kinship subsidy, all eligible children up to 16 years old must be attending school on a full-time basis and 16 through 18 year old children must be attending school on a full-time basis or participating in an appropriate work activity (see N.J.A.C. 10:90-1.2(f)10iv, 2.2(c) and (d)1, 4.2(f) and 4.8(a)). To receive the kinship subsidy for the eligible child, the kinship legal guardian shall sign the application and agree to cooperate with efforts to collect child support from the parents of the child. The decision to apply rests with the applicant.

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

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

Added the fifth sentence.

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

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

In the fifth sentence, substituted "a WFNJ kinship subsidy, all eligible children up to 16 years old must be" for "an" and updated the first N.J.A.C. reference.

10:90-19.5 Kinship Care subsidy payments

(a) A calculation utilizing WFNJ/TANF income definitions will be performed by the CWA to determine the amount of the kinship subsidy. Any countable income (see N.J.A.C. 10:90-3.9) the child receives shall be considered and will reduce the subsidy benefit. If there is more than one child eligible for a kinship subsidy in one household, the children shall be considered a "kinship unit." In a kinship unit, the combined subsidy amount is reduced by the combined countable income of the kinship unit members.

1. The subsidy amount shall be the full subsidy benefit of \$250.00, multiplied by the number of eligible children in the unit, less all combined countable income of the eligible children.

(b) When calculating the subsidy for children living with kinship legal guardians receiving WFNJ/TANF cash benefits, the CWA worker will re-calculate the TANF benefit for the assistance unit without counting the kinship child(ren) or the kinship subsidy income. The kinship child is not a member of the TANF unit for purposes of cash assistance. An additional calculation will issue the kinship subsidy for each child. The subsidy issuance will be sent to EBT along with the TANF issuance, if applicable, for the designated payee on the case.

(c) When calculating the subsidy for children who do not receive WFNJ/TANF benefits, the CWA worker shall initiate the application process for the kinship subsidy as a child only case at the request of the kinship legal guardian. If the child is already receiving a WFNJ/TANF child only benefit, the CWA worker will re-calculate the payment to issue the kinship subsidy.