

(b) Conclusions from the employment profile (assessment) shall be included as steps and provisions in the individual responsibility plan described in N.J.A.C. 10:90-4.8.

(c) The employment profile (assessment) shall be reviewed and, if necessary, updated at the time of redetermination and whenever interim changes/updates are made to the IRP.

Administrative correction.

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

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

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

Added (a)5, (b) and (c).

#### 10:90-4.8 Individual responsibility plan (IRP)

(a) An individual responsibility plan (IRP) shall be developed jointly by the county or municipal agency representative, as appropriate, and the WFNJ recipient at time of eligibility determination, and shall be jointly reviewed and/or revised at time of redetermination. The requirements set forth in the IRP must be coordinated with requirements set forth in an emergency assistance service plan, if the participant is also in receipt of EA. Interim changes/updates to the IRP shall be made more frequently as appropriate and necessary in accordance with individual progress and/or change in circumstances. The IRP shall be signed and dated by the recipient and the respective agency representative. The original IRP shall be maintained electronically or in the case record and a copy shall be provided to the recipient. The IRP shall contain:

1. General case information concerning the individual;
2. Conclusions from the employment profile (assessment), in accordance with N.J.A.C. 10:90-4.7(b);
3. A specific employment goal and work activity;
4. Supportive services to be provided to enable participation in the work activity, such as child care, transportation allowances and other available supportive services;
5. Recipient's education level, that is, the highest grade completed; and
6. Identification of barriers to employment, including screening and assessment for substance abuse, and a plan of action to be taken.
7. The IRP may also include specific goals concerning a dependent child member of the assistance unit such as, but not limited to:
  - i. Requirements for parental participation in a dependent child's pre-school, elementary and secondary school program activities;
  - ii. Immunizations for a dependent child; or
  - iii. Regular school attendance by a dependent child.

(b) The IRP for teen parents shall include all of the requirements listed in (a) above, if appropriate, as well as, but not limited to, the following:

1. Regular attendance in high school or an equivalent program of study; or
2. Participation in an approved work activity for those teen parents who have completed secondary education; and
3. Identification of necessary supportive services which are not available free through another source, including child care and transportation, as needed; and
4. Identification of barriers to employment and a plan of action to be taken, including screening and assessment for substance abuse, as appropriate.

(c) The IRP for victims of domestic violence shall include the following, as appropriate:

1. Set goals to move forward toward safety and self-sufficiency. The goals established shall be reviewed with the individual at three month intervals to determine the status and progress the individual has made toward meeting the established goals;
2. Identification of necessary supportive services, such as, but not limited to: information and referral to the Department of Human Services' (DHS) Designated Domestic Violence Programs which provide all core services or to Rape Crisis Programs, as well as referral to any other community services which can assist the victim and any dependent children in the family;
3. If, upon disclosure of the domestic violence victimization, the victim expresses a willingness to begin to engage in a work activity prior to the next regular redetermination, this shall be accommodated. For example, the victim may wish to begin work as soon as permanent housing has been secured, the children have been enrolled and settled in school and major court appointments have been kept;
4. At the point of the first regular six-month case redetermination, unless the victim is in crisis and clearly indicates via affidavit that the inability to participate in work activities still exists, the individual shall be scheduled for participation in a regular work activity or participate in community service for a minimum of 20 hours per week, unless the victim is still in crisis. If the victim requests or if the victim elects to do only the 20 hours of community service, the victim shall also be referred to the local DHS Designated Domestic Violence Program for core services, related support and/or community service placement in counties where arrangements have been made to assist such individuals through purchase of service agreements with the DHS Designated Domestic Violence programs;
5. At each point of redetermination or three month review, the individual shall be encouraged to engage in

work and be provided the supportive services available through the program to support the individual's work efforts. If after a full year (that is, at the second six-month redetermination), the participant continues to be unable to engage in a work or community service activity, referral to a DHS Designated Domestic Violence Program shall be made for an assessment of barriers to enable a plan for specific goals and/or activities to be developed. Goals, such as, domestic violence counseling will be clearly identified on the IRP and the individual will be required to engage in this, or community service, in conjunction with the DHS Designated Domestic Violence Program. The plan will also outline specific constructive movement for the victim and the victim's family to move toward self sufficiency; and

6. If at the next three month review, still no constructive movement has occurred, completion of a WFNJ-5S will be required to substantiate the continuing exemption/deferral. An exception to this shall be allowed only if the victim is currently being abused, is in crisis, is being sabotaged, stalked or harassed by the abuser and/or is deemed to be at risk of further abuse and this situation has been confirmed by the DHS Designated Domestic Violence Program or a certified Domestic Violence Specialist (CDVS).

Administrative correction.

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

Inserted new (c)4 and recodified former (c)4 and 5 as (c)5 and 6. 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 sentence, added (a)2, recodified former 2 through 4 as 3 through 5, added a new 6, and recodified former 5 as 7.

#### 10:90-4.9 Deferrals from the work requirement

(a) Deferrals from WFNJ work requirements shall be limited to:

1. Individuals age 60 or older;

2. Individuals who are unable to engage in regular work activities because they are chronically ill, infirmed, or have a physical and/or mental disability or impairment which is expected to last for more than 12 months and such conditions are certified by an attending physician (including a licensed or certified psychologist, as appropriate) to constitute a permanent disability. Such certification shall be documented through use of Form WFNJ-5(DRS1), Examining Physician's Report, and shall, upon completion by the certifying physician be submitted by the county or municipal agency to the Division of Family Development (DFD) for review and final approval through consultation with the Division of Medical Assistance and Health Services (DMAHS);

i. Individuals receiving a work deferral due to a certified permanent disability shall be required to make application for SSI benefits.

ii. Individuals who provide documentation that they have been determined permanently disabled and are receiving disability insurance benefits under Title II or Title XVI of the Federal Social Security Act. A recertification to determine permanent disability using Form WFNJ-5(DRS1) shall not be required. At the time of case redetermination, the permanent disability condition of the individual shall be reviewed. If the permanent disability remains unchanged as verified through social security documentation, completion of a new IRP will not be required, however, it shall be duly noted on the IRP that the permanent disability remains unchanged, the source of the documentation and the date of the review. If a change in the permanent disability occurs which indicates that the individual may be able to participate in a WFNJ activity, for example the client is no longer eligible for permanent disability considerations under Title II or Title XVI and the client is still requesting a WFNJ deferral based on the disability, the county or municipal agency shall require completion of Form WFNJ-5S by the client's attending physician in order to evaluate the client's ability to participate;

3. A person certified by an attending physician (including a licensed or certified psychologist, as appropriate) to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period of less than 12 months. Such certification shall be documented through use of Form WFNJ-5S, Confidential Medical Examining Physician's Report, which, upon completion by the certifying physician, shall be returned to the county or municipal agency worker, as appropriate for review and final determination of deferral from participation from work requirement activities within the WFNJ program. (see N.J.A.C. 10:90-4.9(b));

4. WFNJ/GA single adults or couples without dependent children who are determined unemployable in accordance with provisions set forth at N.J.A.C. 10:90-2.9(a)2. The WFNJ-5S or WFNJ-5(DRS1) medical form will be required, if appropriate;

5. A woman in the second trimester, or earlier, of a pregnancy, when it is certified by an attending physician that a medical reason exists;

6. A woman in the third trimester of pregnancy;

7. The parent or relative of a child under the age of 12 weeks who is the individual providing care for that child;

i. This deferral may be extended for an appropriate period of time, when it is certified by the attending physician to be medically necessary for the parent or child;

8. A person who has been determined to be temporarily disabled resulting from his or her participation in a CWEP or AWEP activity;

9. An individual who is participating in a CWEP or AWEP activity and is eligible for leave under the State Family Leave Act and the family and medical leave provisions allowed under Federal law;

10. The sole caretaker (parent/relative) of a severely disabled or seriously ill dependent child or the sole caretaker (parent/relative) of a severely disabled or seriously ill family member; and

11. Individuals determined to be victims of domestic violence who have requested temporary deferral from work via affidavit due to circumstances/trauma related to the domestic violence incident in accordance with requirements set forth at N.J.A.C. 10:90-1.1(f).

(b) In all instances when medical documentation is required, Form WFNJ-5S, Confidential Medical Examining Physician's Report, shall serve as a physician's certification and the following procedures concerning receipt of the completed form shall be adhered to:

1. If the WFNJ-5S states that the incapacity will be for less than 30 days, the agency will approve the deferral and retain the documentation at the agency. At the end of the 30 days, the agency worker will review the circumstances of the incapacity with the client and determine if the client is still claiming the same deferral circumstance; if so, another WFNJ-5S is to be completed by the attending physician.

2. If the WFNJ-5S states that the incapacity is expected to last more than 30 days the county or municipal agency, as appropriate, shall make an approval recommendation and forward a copy of the WFNJ-5S to DFD for final approval which shall be made in consultation with DMAHS.

3. If the WFNJ-5S indicates that the incapacity is expected to last one year or more, the county or municipal agency, as appropriate, shall further require the completion of Form WFNJ-5(DRS1), Examining Physician's Report, which, upon completion by the certifying physician shall be forwarded to DFD for review and final approval which will be in consultation with DMAHS.

(c) Alcohol or drug addiction does not make a recipient unemployable, but shall be considered an impairment if an individual evidences symptoms of alcohol or substance abuse which prevents the individual from securing a job, retaining employment or engaging in a work activity. Such an individual shall be referred for substance abuse treatment. If the individual does not comply with the referral or stops participating in the treatment program, the individual shall no longer be considered deferred from WFNJ work requirement participation.

(d) A recipient shall not be required to engage in a work activity if appropriate child care is necessary but unavailable. Child care services shall be provided in accordance with child care services regulations at N.J.A.C. 10:15 through

10:15C and N.J.A.C. 10:81-14.18. WFNJ supportive services provisions concerning child care are found at N.J.A.C. 10:90-5.2. Child care is unavailable if:

1. Appropriate child care is not available within a reasonable distance from the individual's home or work-site;
2. Appropriate informal child care from a relative or otherwise, if available, is unsuitable; or
3. Appropriate formal child care arrangements are unaffordable.

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

In (a)11, amended N.J.A.C. reference; and in (d), deleted "from any other source, and the recipients child(ren) is under 13 years of age or up to 18 years of age if a special needs child" following "Child care is unavailable if:".

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)2ii; and in (d), added N.J.A.C. references.

**10:90-4.10 Good cause**

(a) Good cause for failure to participate in WFNJ or refusal to accept or maintain employment shall be found if:

1. The mandatory WFNJ participant is certified by DFD to be physically or mentally unable to engage in any education, training, community service, employment or other work activity;
2. The conditions of employment are a risk to the WFNJ individual's health and safety (subject to review and determination by the Division of Family Development); or
3. Child care is needed and is not available. (See N.J.A.C. 10:90-5.2, Supportive services, child care.)

(b) Good cause for temporary excused participation from the WFNJ activity shall be limited to the following:

1. WFNJ participants shall be temporarily excused from participation if the WFNJ activity for which they are scheduled, as set forth in the IRP, is not available. Excused participation is to be reviewed once every week up to once every month, depending on the circumstances surrounding the reason for the excused participation.

i. During the excused period, the WFNJ participant and the county or municipal agency worker shall be expected to continue to comply with the other terms of the IRP.

ii. Another WFNJ activity, which is suitable for the participant and for which necessary supportive services are available, may be substituted as an alternative form of participation for that individual.

2. Absence from a particular day of employment or a WFNJ activity scheduled session shall be considered temporarily excused participation under the following circumstances (when the participant has notified his or her employer or an appropriate person at the work activity of the need for an absence from a particular day or appropriate documentation is provided):

i. Illness of the participant, child of the participant, or any other member of the participant's household or immediate family who is or becomes dependent upon the participant because of such illness;

ii. Death of a spouse, parent, child, sibling, or grandparent has occurred within the preceding 10 working days; or

iii. Other circumstances requiring the participant's immediate and personal attention, including but not limited to: jury duty, a court appearance, school conferences concerning a child of the participant, medical diagnosis or testing, and other similarly important matters.

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

In (a)3, added N.J.A.C. reference; and in (b)2, added language describing excused participation.

#### 10:90-4.11 Sanctions

(a) The failure of a recipient to actively cooperate with the program or participate in work activities, without good cause, shall result in a loss of cash assistance benefits as follows:

1. First offense sanctions are as follows:

i. In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children, the person in noncompliance shall be subject to a loss of cash assistance benefits as follows:

(1) The cash assistance benefit provided to the assistance unit shall be reduced by the per capita share of the person in noncompliance for a minimum period of one month.

(2) If an intent to comply by the person in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the parent in noncompliance for up to two additional months (which shall be applied as full month increments).

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) A single custodial parent shall not be sanctioned for failure to comply with a work requirement, if the parent proves that failure to participate is due to lack of child care or suitable child care (see N.J.A.C. 10:90-5.2, Supportive services, child care).

ii. In a two-parent assistance unit with dependent children, the following sanctions shall be applied for noncompliance:

(1) If one parent is in noncompliance, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the parent in noncompliance for a minimum of one month when the other parent is not otherwise participating in a work activity, or is not otherwise deferred.

(2) If an intent to comply by the parent in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the parent in noncompliance for up to two additional months (which shall be applied as full month increments).

(3) If an intent to comply by the parent in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) When both parents are mandatory to participate and are in noncompliance, the following sanctions shall apply:

(A) The cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of both parents for a minimum of one month.

(B) If an intent to comply by both parents is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of both parents for up to two additional months (which shall be applied as full month increments).

(C) If an intent to comply by both parents is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication parents who were sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.