

**CHAPTER 86**

**FAMILY DEVELOPMENT PROGRAM  
(FDP) MANUAL**

**Authority**

N.J.S.A. 44:10-1 et seq.; and 44:10-3; Family Support Act, Public Law 100-485; Family Development Act approved January 21, 1992, P.L. 1991, c.523. The Department is relying upon the authority also granted by waivers issued pursuant to Federal demonstration authority.

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**Chapter Historical Note**

All provisions of the chapter "AFDC Work Incentive Program" were adopted pursuant to the Authority of N.J.S.A. 44:10-3 and became effective prior to September 1, 1969. Subchapter 6 became effective June 21, 1972 as R.1972 d.114. See: 4 N.J.R. 160(c). This chapter was repealed effective April 18, 1988 as R.1988 d.170. See: 20 N.J.R. 162(b), 20 N.J.R. 903(b).

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### SUBCHAPTER 1. GENERAL PROVISIONS OF THE FAMILY DEVELOPMENT PROGRAM (FDP)

#### 10:86-1.1 Purpose and scope

(a) The purpose of this manual is to set forth the policies and procedures of the Family Development Program (FDP) for the efficient and equitable provision of intensive, coordinated and comprehensive services Statewide to economically disadvantaged families receiving Aid to Families with Dependent Children (AFDC) and to individuals on the State's General Assistance (GA) program. The FDP shall replace REACH/JOBS and the General Assistance Employability Program (GAEP) as the work/training program for AFDC and GA respectively when a county implements the FDP. Based on the availability of resources, the GA program will experience staggered implementation of the FDP due to State fiscal constraints, and may not comply with the implementation schedule in (d) below. The Family Development Program is New Jersey's initiative to help public assistance individuals and their family members overcome barriers to employment to become members of the productive work force employed in full-time unsubsidized jobs with wages and benefits at adequate levels to support themselves and their families. The FDP is a result of the Family Development Act approved January 21, 1992, P.L.1991, c.523, which supplements Title 44 of the Revised Statutes and amends P.L. 1947, c.156; P.L.1987, c.282 and 283.

1. Due to Federal waiver requirements to operate FDP for purposes of evaluation, a control group of AFDC applicant and recipient families must be randomly selected from the AFDC population. The following FDP provisions are not applicable in total or in part to control group families because of the FDP evaluation criteria.

i. The newborn child provisions as delineated at N.J.A.C. 10:82-1.11 and 10:81-3.8(c) and related State disregard provisions set forth at N.J.A.C. 10:82-2.8(c) and 4.4(e);

ii. The procedures for non-needy stepparents marrying a natural or adoptive AFDC-C recipient parent as set forth at N.J.A.C. 10:81-3.9(a) and 10:82-2.10;

iii. The Family Plan at N.J.A.C. 10:86-3.1 and 4.2(d) and (e) shall be completed only for AFDC eligible unit members and FDP services/activities shall only be provided to those AFDC individuals. The sanction penalty at N.J.A.C. 10:86-4.2(e)1 does not apply to control group families (see (a)iv below);

iv. Sanction procedures at N.J.A.C. 10:86-8 do not apply to control group families; rather, procedures at N.J.A.C. 10:81-14.8 shall be followed;

v. The AFDC control group parent shall participate in FDP activities based on the age of the youngest child (age three or older) in compliance with provisions at N.J.A.C. 10:81-14.3A(a)7, rather than provisions at N.J.A.C. 10:86-3.2(b)1viii and 3.4(e)4; and

vi. The AFDC control group shall receive 12 months of post-AFDC Medicaid in accordance with N.J.A.C. 10:81-14.20 rather than 24 months in accordance with N.J.A.C. 10:86-7.2.

(b) This manual is an integral part of the AFDC program and the State's GA program and shall be used and interpreted in conjunction with N.J.A.C. 10:81, 10:82 and 10:85, as appropriate. Satisfying the FDP requirements will ensure compliance for GA employable persons with education/work/training requirements for receipt of GA benefits.

(c) The Family Development Program incorporates the requirements of the Family Support Act of 1988, Pub.L. 100-485, which established the Job Opportunities and Basic Skills (JOBS) program under Title II of that Act, the Federal education/work/training program for AFDC recipients. The Act also guarantees, through Title II provisions, necessary supportive services (that is, child care and participant allowances) for participation in program components. Satisfying the FDP requirements will ensure compliance for AFDC participants with the Federal JOBS work/training mandates for receipt of AFDC benefits.

ii. Within the limits of available funds, financial assistance through the New Jersey Educational Opportunity Fund established pursuant to P.L. 1968, c. 142 (N.J.S.A. 18A:71-28 et seq.) and other State student assistance programs, such as the Tuition Assistance Grant (TAG) program, may be provided to FDP participants. Such funds shall be made available in an amount sufficient to cover all tuition and educational expenses to each AFDC parent/caretaker relative participant or GA employable individual or other family member(s) who has been accepted into an institution of higher education, including public four-year colleges and community colleges, or a post-secondary vocational training program.

2. Preparatory educational activities (also known as remedial educational activities) are activities designed to remedy educational deficiencies and which provide the FDP participant with the basic skills necessary for entry into the labor market. A high school diploma, the ability to speak and understand the English language, basic literacy, and minimum competency in basic mathematics and writing skills are desirable for increasing employability potential. Such educational activities include the following:

i. Programs for completion of a high school education or the equivalent, such as a General Educational Development (GED) certificate, are available to individuals who lack a high school education.

ii. Limited English proficiency educational programs are mandatory educational components for participants who are non-English speaking or who have limited competency in the English language and such competency in English as a second language (ESL) is needed for the participant to obtain employment or to achieve his or her long term employment goal.

(1) "Limited English proficiency education" means instruction which provides the individual with the ability to speak, read, write or understand the English language to function in his or her community.

iii. Basic and remedial educational activities are compulsory FDP activities to help certain individuals achieve a basic literacy level. Many individuals do not have a high school diploma, or its equivalent, and the participant's long term employment goal may not require a high school education. Others may have a high school diploma but cannot read or write or perform arithmetic functions to secure employment. Adult Basic Education (ABE) programs are provided for such individuals who lack basic competency in reading, writing and mathematics necessary for achieving the basic literacy level, to enable the individual to enroll in job training, obtain an equivalency diploma or to obtain employment.

(1) "Basic literacy level" means a literacy level in English that allows a person to function at the level

of an individual who has proficiency at a grade 8.9 level.

#### 10:86-5.3 FDP job search activities for AFDC and GA FDP participants

(a) Job search is an employment-directed activity (EDA) in which mandatory GA and AFDC participants and AFDC voluntary participants engage in activities with the immediate goal of obtaining full-time employment. Job search is directed to the individual participant's needs and local job market conditions and may serve participants in either group or individual job-seeking activities, or in a combination of both methods. Group job search shall be used as much as possible over individual job-seeking/job search activities. Before a participant is placed and required to participate in job search activities, the job search provider entity shall take steps to ensure that the participant can read and complete a job application and is otherwise able to present himself or herself properly for employment. Steps may include the necessary referrals to job readiness activities.

1. Job search activities include referrals to potential employers, the provision of employment counseling, job seeking skills training, information dissemination and guidance in the participant's efforts in actively contacting employers to secure employment. Group job search is a group setting where participants are taught job-seeking skills, and which may include a phone bank from which participants contact potential employers.

2. Job search is an appropriate activity for job ready individuals who have basic workplace skills and experience applicable to the labor market. Job search for those who are skills deficient shall be coupled with other educational and training activities based on the needs of the individual as determined during assessment.

3. All FDP participants in the FDP Education and Employment-Directed Activities Component may participate in FDP job search. Participation in FDP job search may be postponed while an individual is participating in another FDP employment-directed activity, in an educational program, or when referred to a social service activity for rehabilitation purposes.

4. Assignment to job search activities and the duration of such activities will be based on individual employability potential and geographic location.

(b) FDP Job search activities for AFDC and employable GA individuals include:

1. Job contacts which are defined as contacts made by the FDP participant with a prospective employer. The job search provider may assist the participant by providing a list of employers. The following apply to job contacts:

i. A referral to an employer shall be considered a job contact provided the participant presents himself or herself to the employer as available for employment.

ii. To be considered a job contact initiated by the participant, the participant must present himself or herself to the employer as available for work and the employer must ordinarily employ persons in the areas of work that the participant is reasonably qualified for by means of experience, training or ability.

iii. Depending upon the position sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the county job search provider to be a generally accepted practice, including telephone contacts when the job offer or advertisement lists a telephone number.

iv. The participant cannot count the contact of the same employer more than once in a four-week period unless the employer indicates that vacancies in additional positions may soon exist, or a subsequent advertisement is made by the employer.

v. The participant will be required to report the result of all job contacts to the job search provider at a prescheduled time. The time may vary with the job search participation requirements set forth in the FDP Agreement.

(1) Job contacts shall be reported in writing in a manner prescribed by the job search provider at the time the FDP Agreement is signed. This writing requirement shall be reasonable, given the participant's language abilities. While such reporting will not require the employer's written confirmation of the job contact, the participant shall be required to sign written documentation to attest to its validity. The written report shall be submitted to the job search provider at the participant's follow-up interview. The participant shall be responsible for providing the job search provider with any additional information concerning job contacts.

vi. The job search provider shall review the participant's job contacts and determine if the participant has completed the assigned number of job contacts as set forth in the FDP Agreement.

2. FDP group job search activities may include the classroom group job search training and supervised job clubs.

3. The job search provider shall review the individual's participation in job search and determine if participation should continue or if assignment to another FDP education or employment-directed activity is appropriate. If reassignment is appropriate, the job search provider must notify the respective FDP case manager so that the FDP Agreement may be updated.

(c) Supportive services (including child care and transportation), as determined appropriate, are available to FDP participants in job search activities.

(d) Participation in the job search component, for AFDC/FDP participants only, is subject to the following administrative requirements and limitations:

1. Job search requires that an AFDC/FDP individual participate for an equivalent of at least 20 hours per week for Federal participation purposes.

2. The AFDC/FDP individual may participate in job search for Federal participation purposes for a period of eight weeks, or its equivalent, in any period of 12 consecutive months of continuing receipt of AFDC cash assistance. Should an AFDC/FDP individual leave AFDC, upon filing a new application (reopened case), he or she becomes eligible for a new eight week job search participation period.

3. Participation in job search for an AFDC/FDP participant (who is in continuous receipt of AFDC cash assistance) beyond the eight week (or its equivalent) participation period in a 12 consecutive month timeframe is permissible. However, participation in job search beyond this compulsory eight-week timeframe is an unmatchable FDP activity for Federal financial participation (FFP) purposes. In order for the IV-A/FDP case management agency to claim FFP, the AFDC/FDP individual must participate in another FDP activity (such as education or training) and job search becomes part of that other FDP activity. FFP is available for administrative and supportive service costs of the job search-related portion of the other approved FDP activity. Participation in the job search component beyond the Federal eight-week limit (in a 12 consecutive month period) as an AFDC/FDP activity is State funded only.

(e) Since the majority of GA recipients receive Food Stamps, the Food Stamp Employment and Training Program (FSETP) shall be explored as a resource for GA employable participants by the GA/FDP provider entity for job search activity.

1. FSETP/job search may be a viable activity for employable GA participants who have marketable job skills and experience in lieu of FDP participation.

#### **10:86-5.4 FDP Work Supplementation Program (AFDC participants only)**

(a) Under the FDP Work Supplementation Program (WSP), AFDC funds are used to develop and subsidize employment for AFDC/FDP participants as an alternative to aid provided to such AFDC recipients. While in WSP status, the AFDC/FDP participant is in a subsidized job. WSP can be used extensively with minimal investment of FDP or other employment and training financial resources.

(b) Any appropriate job may be provided or subsidized under the WSP, but acceptance of any such position by an AFDC/FDP participant shall be voluntary. The job positions which may be provided for AFDC recipients must be of the following general types:

1. A job position provided to an eligible individual by the Department of Human Services, Division of Family Development, CWAs, the Department of Labor or Job Training Partnership Act (JTPA); or

2. A job position provided to an eligible individual by any other public or private employer for which all or part of the wages are paid by the FDP entity selected to administer the WSP wage pool.

(c) The county FDP provider entity may use whatever means are appropriate to provide or subsidize jobs for participants in WSP. The FDP provider entity may make whatever arrangements it deems appropriate with regard to the type of work provided, the length of time the position is to be provided or subsidized, the amount of wages to be paid to the AFDC/FDP recipient receiving the work supplemented job, the amount of subsidy to be provided and the conditions of participation.

(d) The following provisions apply to conditions of employment under AFDC/FDP WSP:

1. The county FDP provider entity is not required to provide employee status to any eligible individual to whom it directly provides a job position under the AFDC/FDP WSP.

2. The county FDP provider entity is not required to ensure that eligible individuals filling job positions provided by other employers under AFDC/FDP WSP be granted employee status by such employer during the first 13 weeks during which they fill such positions. Employee status confers on the individual the benefits available to regular employees of that employer (for example, insurance coverage and vacation leave).

3. Wages paid to participants in the AFDC/FDP WSP shall be counted as earned income and are subject to the prospective budgeting requirements set forth at N.J.A.C. 10:82.

4. No AFDC/FDP WSP participant can be assigned to fill any established, unfilled position vacancies at the site of employment.

(e) The AFDC/FDP WSP wage pool is an administrative tool used to provide wage subsidies to employers who hire AFDC/FDP WSP participants. AFDC monies saved through participation of AFDC individuals in the AFDC/FDP WSP activity are diverted to the AFDC/FDP WSP wage pool in the county for use in setting up WSP activity contracts with employers for other AFDC recipient family members. During AFDC/FDP WSP participation, the calculated grant received by the family, if any, is termed a residual grant. The residual grant is determined at the time of placement in the supplemented job by the county IV-A agency income maintenance (IM) worker. Case management shall contact income maintenance to determine the WSP calculation. The residual grant is recalculated periodically at time of the next redetermination or when a change

in circumstances is reported to income maintenance based on information supplied by the individual. IM shall advise the AFDC/FDP case management provider of any changes resulting from the subsequent periodic recalculations as such changes may affect FDP participation status.

1. After application of AFDC earned income disregards, the resulting calculated earned income (CEI) monies are diverted to the AFDC/FDP WSP wage pool. The AFDC/FDP WSP participant will receive a residual grant equal to the difference between the CEI and the AFDC payment standard for the family unit.

2. If the resulting CEI monies are greater than or equal to the AFDC payment standard for the family unit, then the entire assistance payment is diverted to the AFDC/FDP WSP wage pool and the participant will not receive a residual grant; however, extended Medicaid benefits may be continued as set forth at N.J.A.C. 10:86-7.

(f) Mandatory and voluntary AFDC/FDP participants are eligible to participate in the AFDC/FDP WSP if they are eligible for AFDC and to the extent that such jobs through WSP are available in the county FDP. Placement in AFDC/FDP WSP is defined as the date on which the county FDP provider agency and the employer agree on the terms of the placement and on the specific person to participate.

1. There is no specific limit on the number of times an individual may participate in AFDC/FDP WSP, but participation shall not exceed a lifetime cumulative total of nine months for each AFDC individual.

(g) If the individual becomes otherwise ineligible for AFDC benefits (such as youngest dependent child reaching the AFDC age limits), the individual shall continue in the AFDC/FDP WSP job until the AFDC/FDP WSP contract expires. All monies from the AFDC grant for those individuals are diverted AFDC grant funds to the AFDC/FDP WSP wage pool. Because of contractual arrangements with the employer, changes which render an individual ineligible for AFDC, such as a change in family composition, do not render him or her ineligible to continue in AFDC/FDP WSP.

(h) A FDP participant shall not simultaneously participate in WSP and in OJT. No one is allowed to be in both activities at the same time.

(i) If more than one individual in the AFDC family unit is participating in WSP, the amount of the Federal reimbursement to the State will not exceed the AFDC standard payment allowance for that family (see N.J.A.C. 10:82-1).

(j) An AFDC/FDP WSP participant is eligible for supportive services as a participant in FDP. Since the participant is working, he or she is treated as any AFDC individual who finds employment. The individual may be eligible for the JOB and CAR Allowances as set forth at N.J.A.C.

10:86-9. Transportation costs are covered through the AFDC \$90.00 work expense disregard. Child care payments for necessary child care services will be made directly (when possible) to the child care provider as set forth at N.J.A.C. 10:86-10.

(k) Medicaid coverage is provided for the duration of an AFDC/FDP WSP contract to the participant and family members so long as the family remains eligible for AFDC. If the family loses eligibility for AFDC, the family may be eligible for extended Medicaid benefits as set forth at N.J.A.C. 10:86-7.

(l) If the family loses AFDC eligibility during the AFDC/FDP WSP contract, the individual would continue participating in WSP; however, child care payments after loss of AFDC eligibility shall be treated as transitional child care benefits if the individual meets those requirements set forth at N.J.A.C. 10:86-10. After fulfilling the AFDC/FDP WSP contract, the individual shall be eligible for transitional child care benefits for the number of months remaining in the 12-month transitional child care period.

(m) The Income Maintenance (IM) worker shall apply the AFDC earned income disregards set forth at N.J.A.C. 10:82-4.4 to WSP participants. A WSP case with earned income is computed the same as any other AFDC case with earnings.

1. The Federal \$90.00 work expense disregard shall apply to earned income of WSP participants.

2. The Federal \$30.00 and one-third disregard shall be extended for the entire period of an individual's participation in WSP, up to a maximum of nine months. The participant is eligible for the Federal \$30.00 and one-third disregard under WSP regardless of the prior application of that disregard to non-WSP earned income while receiving AFDC.

i. Example: A FDP participant has received AFDC benefits for three years. During the first year of public assistance the FDP participant was employed for a period of six months; the participant received four months of the \$30.00 and one-third disregard and two months of the \$30.00 disregard during that time. The participant has remained continuously on assistance. Under WSP participation, this individual is entitled to the \$30.00 and one-third disregard for each month of participation in WSP up to a maximum of nine months.

ii. Example: A WSP participant completed four months of WSP participation in January and subsequently continued to receive AFDC benefits. Participation in WSP resumed on June 1 and continued through October 31, completing a total of nine months in WSP. The participant is eligible for the \$30.00 and one-third disregard for the entire nine months of WSP participation even though entitlement to that disregard had been exhausted under previous non-WSP employment.

3. The WSP participant who has never had the benefit of the \$30.00 and one-third disregard is entitled to the \$30.00 and one-third disregard for each month of WSP participation and may, at the end of this WSP participation period, be eligible for any of the remaining months of the \$30.00 and one-third disregard or the \$30.00 disregard regularly applied to earned income as set forth at N.J.A.C. 10:82-4.4.

i. Example: An individual who has had no previous employment participates in WSP from January 1 through September 30 (the nine month maximum time permitted for WSP participation) and receives the \$30.00 and one-third disregard during the entire nine-month period. The individual then enters unsubsidized employment on October 1 and is eligible for the \$30.00 disregard for three months (through December 31).

ii. Example: An individual who has had no previous employment participates in WSP from January 1 through March 31 and receives the \$30.00 and one-third disregard for those three months. The individual then enters unsubsidized employment on April 1 and is eligible for the \$30.00 and one-third disregard for one additional month (through April 30) and for the \$30.00 disregard for another eight months (through December 31).

4. The child care disregard is not applied to WSP earned income. Payment for child care will be made directly to the provider as a vendor payment as set forth at N.J.A.C. 10:86-10.

5. The State disregard is applied last in the AFDC WSP calculation process (see N.J.A.C. 10:82-4.4).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (l), substituted "transitional" for "post-AFDC" and inserted "child care" preceding "period".

#### **10:86-5.5 FDP Community Work Experience Program for AFDC and GA/FDP participants**

(a) The purpose of the FDP Community Work Experience Program (CWEP) is to provide work experience and training for AFDC and employable GA recipients when and to the extent that such experience is necessary to enable them to adjust to and learn how to function in an employment setting. The CWEP activity serves as a training environment to improve the employability potential of the participant. Participants in CWEP activities may not otherwise be able to obtain employment. CWEP replaces the "workfare" assignments for employable recipients of GA. A participant shall not be placed in a CWEP position simply to give him or her employment when the participant is fully qualified and able to engage in unsubsidized employment but is unable to do so because of the absence of available jobs. The FDP CWEP will operate community work experience programs which serve a useful public purpose.

1. The AFDC/FDP parent or caretaker participant shall be financially able to continue to pay insurance costs after the quarterly premium is paid.

2. If the AFDC/FDP parent or caretaker participant cancels the insurance policy after the quarterly premium has been paid via a CAR allowance payment and receives reimbursement of the premium, that reimbursement is an overpayment subject to recovery (see N.J.A.C. 10:86-11).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a)1, substituted "transitional child care" for "post-AFDC child care".

#### **10:86-9.6 \$10.00 CWEP reimbursement (AFDC participants only)**

The AFDC/FDP case management entity shall provide reimbursement for costs which are determined necessary and which are directly related to participation of an AFDC participant in CWEP. Such costs incurred by the CWEP participant include clothing and personal care items, materials and supplies and similar expenses related to applying for or accepting employment through CWEP. This amount shall not exceed \$10.00 per month for each AFDC participant. The CWEP allowance is used in lieu of the EDA allowance by AFDC participants in CWEP activities.

#### **10:86-9.7 Determining the eligibility participation period for EDA, JOB and CAR allowances**

(a) An eligibility participation period is that period of time during which expenditures are made from the EDA, JOB and CAR funds up to their respective maximum cumulative totals (\$10.00, \$100.00 and \$500.00).

1. The FDP participant who has been off GA or AFDC assistance (including post-AFDC extended benefits) for at least one full year (12 consecutive months) shall be entitled to a new eligibility participation period with full maximum EDA or JOB allowances or the AFDC/FDP parent/caretaker only CAR allowance upon resumption of AFDC/GA FDP participation.

2. The FDP participant who leaves GA or AFDC assistance (including post-AFDC extended benefits) and remains off assistance for less than one year and then returns to AFDC or GA and FDP participation, will be eligible only for the remaining balance of the cumulative total of his or her EDA or JOB allowances or the AFDC/FDP parent/caretaker only CAR allowance.

#### **10:86-9.8 Payment procedures for EDA, JOB and CAR allowances**

(a) Allowances for EDA, JOB and CAR are on a cumulative account basis. The participant is eligible to receive up to the maximum amount of the allowance during the relevant participation period as determined in accordance with N.J.A.C. 10:86-9.7.

1. Payments are to be issued to cover actual expenses, either as a one-time lump sum payment, or in a number of smaller payments during the course of the eligibility period.

2. Payments may be issued retrospectively as reimbursements or prospectively if needed, on or after the effective date of the FDP activities.

3. Payments are to be issued as vendor payments when possible.

4. Payments may be issued directly to the AFDC or GA FDP participant as a reimbursement of expenditures already made.

5. Costs currently paid through FDP contracted service providers (for example, contracted through JTPA) or other providers servicing FDP participants shall not be transferred to the FDP TRE, EDA, JOB, or CAR allowances.

#### **10:86-9.9 Administration of TRE, EDA, JOB, CAR, TCC, and CWEP funds**

(a) The county FDP case management entity(ies), both AFDC and GA, shall be responsible, to the greatest extent possible, for ensuring the prudent administration of the TRE, EDA, JOB, CAR, TCC, and CWEP funds by:

1. Providing FDP activities or services on site, when possible, at participants' homes or at locations which are accessible to participants by less expensive means of transportation. This may be applicable to groups of participants living in the same general area and to homeless participants living in the same shelter accommodations;

2. Scheduling participants to complete more than one FDP activity on the same day when possible; and

3. Enrolling participants in equivalent non-FDP contracted activities or services provided in the vicinity of their homes (for example, GED programs are offered at most local high schools).

### **SUBCHAPTER 10. FAMILY DEVELOPMENT PROGRAM (FDP) CHILD CARE**

#### **10:86-10.1 FDP supportive services: child care AFDC families only**

(a) The general provisions in this subsection apply to all child care benefits available through the FDP, including transitional child care benefits.

1. To the extent that such child care is necessary to permit an AFDC eligible family member to accept employment, to remain employed, to remain in high school if an adolescent parent, to participate in activities of the

FDP/EEDA component (including job search by an AFDC applicant), or to complete the Family Plan or initial assessment, FDP child care is available based on the individual needs of each family.

i. FDP child care benefits and transitional child care benefits are guaranteed for the following children:

(1) A child who is under age 13; or is physically or mentally incapable of caring for himself or herself, based on a determination by a physician or a licensed or certified psychologist, as verified by the county, designee pursuant to Federal regulation or CWA and who would be a dependent child, if needy;

(2) A child age 13 or older, as determined on a case-by-case basis, due to extenuating circumstances (for example, environmental conditions or maturity level of child), which shall be documented in the case record, through State funds only.

(3) A child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under Title XVI or foster care under Title IV-E; or

(4) A child who meets the requirements of (a)1i (1), (2), or (3) above but who is excluded from the eligible unit for cash assistance purposes in accordance with N.J.A.C. 10:82-1.11 and who would otherwise be a dependent child.

ii. Payments through FDP for child care shall not be made for care provided by the child's own parents, legal guardians, or members of the participant's AFDC family unit (including essential persons) whose needs are met through AFDC benefits on the basis of their responsibility of caring for the child(ren).

2. The case manager or designee pursuant to Federal regulation shall be responsible for assessing and determining the need for child care and referral to the county based child care entity and authorizing issuance of FDP child care payments.

3. The county based child care entity will assist the case manager or designee pursuant to Federal regulation, and participant in obtaining appropriate child care based on the parent's and child's needs; will assist in identifying child care resources available for a participant during orientation, assessment, participation in education or employment-directed activities and employment; and shall verify and document that the child care arrangements meet the criteria as specified at N.J.A.C. 10:86-10.3 and 10.4.

4. The case manager or designee pursuant to Federal regulation, the participant, and the county based child care entity shall mutually arrange for child care for the FDP participant's child(ren) as set forth in the FDP Agreement and as described below.

i. Child care arrangements shall be in the best interests of the child and shall consider the individual needs of the child, including the reasonable accessibility of care to the child's home and school, and the appropriateness of the care to the age and special needs of the child.

ii. Child care arrangements shall be agreeable to the participant and located within reasonable commuting distance from the participant's home, place of employment or site of the educational or employment-directed activity. The hours provided or claimed for reimbursement are reasonably related to the hours of participation or employment and shall be sufficient to accommodate the hours required by the employer or FDP activity.

iii. The entity providing child care shall allow parental access.

iv. Child care arrangements shall meet applicable standards of State and local law.

5. Each county AFDC/FDP case manager, designee pursuant to Federal regulation or county based child care entity shall:

i. Inform families requesting FDP child care benefits of their rights and responsibilities;

ii. Respond to a request for FDP child care benefits within a reasonable period of time; and

iii. Assist the caretaker relative to explore all types of child care arrangements authorized for payment through the FDP (that is, licensed child care centers, registered family day care homes, in-home care, school-age child care programs and summer camps) and provide the caretaker relative the opportunity to choose his or her child care arrangement from those available options, including those other programs for which the caretaker relative or child may be eligible under (a)6 below.

6. FDP child care activities and transitional child care shall be coordinated with existing child care resource and referral agencies; with early childhood education programs in the county, including Head Start programs, preschool programs funded under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35), school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children); and with Federal and/or State demonstration programs, such as the Urban Prekindergarten Pilot program, the REACH Capital Expansion Program, the Mini-Child Care Center program and the New Jersey Cares for Kids Program.

7. AFDC recipients are entitled to hearings and notices under the provisions at N.J.A.C. 10:81-6 and 10:81-7 on issues concerning the appropriateness of, denial of, prompt issuance of, or intended actions to discontinue, terminate, suspend or reduce FDP child care benefits.

i. Changes in the manner of payment are not subject to timely notice requirements unless they result in a discontinuation, suspension, reduction or termination of benefits, or they force a change in child care arrangements.

ii. The provisions at N.J.A.C. 10:81-6.9 regarding aid paid pending a hearing do not apply. Therefore, if the individual had been receiving FDP child care benefits and is awaiting a hearing concerning those benefits because such benefits were reduced, he or she is not entitled to receive FDP child care benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing. If the individual had not been receiving any child care benefits and is awaiting a hearing due to nonreceipt of child care benefits, he or she is not entitled to receive any FDP child care benefits pending the hearing.

8. A mandatory FDP participant may refuse available and appropriate FDP child care or transitional child care benefits if the participant can arrange other child care, or can show that such refusal will not prevent or interfere with participation in FDP or employment.

i. Refusal of FDP child care benefits may be inferred if the participant does not select a child care provider within one month of the date the participant and the case manager, designee pursuant to Federal regulation or county based child care entity, as appropriate, evaluate the participant's child care needs and preference of providers and made referral(s) to appropriate child care provider(s).

ii. Refusal of transitional child care may be inferred if the participant does not request transitional child care benefits, that is, fails to respond to a notification of FDP benefits available; does not provide the information necessary for determining eligibility and fee amount, including verification of earnings; does not sign a FDP Agreement for the period of transitional child care; or does not report participation in post-AFDC FDP activities.

iii. Refusal of FDP child care benefits and transitional child care benefits shall be documented in the case record.

iv. In instances where refusal of child care is disputed, it is the responsibility of the county based child care entity or case manager, as appropriate, to show that referrals for appropriate care were made, and it is the responsibility of the participant to show that he or she complied with the referrals timely, and in good faith.

9. The AFDC/FDP case manager or designee pursuant to Federal regulation shall take reasonable precautions to guard against fraud and abuse in the funding and provi-

sion of FDP child care benefits, including following the provisions at N.J.A.C. 10:81-7.40.

(b) Payment for the cost of child care to support FDP participation is available through the FDP program at rates established by the Department of Human Services. Authorization of provider payments for child care is limited to providers satisfying requirements set forth at N.J.A.C. 10:86-10.4, when child care expenses are not otherwise provided through other resources.

1. When child care that is in the best interests of the child has been arranged, the case manager or designee pursuant to Federal regulation has the responsibility to determine eligibility and authorize payment for the child care that will obtain the maximum Federal financial participation for the particular activity. In determining payment of the cost of child care, the following sequence will be applied:

i. The participant's own sources of child care involving no payment for child care through FDP;

ii. Federally matched child care costs while an individual is participating in FDP job search, work supplementation, and community work experience programs;

iii. Federally matched child care costs while an individual is participating in education, in training for employment, or in a program of vocational rehabilitation;

iv. The participant's funds for the amount of the required transitional child care co-payment in accordance with N.J.A.C. 10:86-10.5; and

v. State FDP funds.

(1) Payment for child care using State FDP funds may be made when the participant's own source of Federally matched child care funds are not available or not sufficient to pay for the cost of child care. The priority of funding sources in (b)1ii through v above will be automatically incorporated into every FDP child care payment through fiscal procedures and reporting from the CWA or designee pursuant to Federal regulation to DFD, unless otherwise specified.

2. FDP child care payments will be available as each county begins the operation of the FDP and phases out the REACH/JOBS program.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee and substituted "transitional" for "post-AFDC" and "county based" for "lead" throughout; and in (a)3, substituted "child care entity" for "child care agency".

#### **10:86-10.2 Types of care and duration of child care payments**

(a) FDP child care payments are available for care of an infant, toddler, preschool child, school-aged child (up to age 13 years) or child with special needs in various types of arrangements, including full and part-time day care and care before and after school.

1. "Special needs" is defined as serious physical, emotional, mental or cognitive conditions for which day care is recommended as part of a treatment plan.

i. Records of children referred because of special needs situations shall contain documentation of the result of a standardized developmental or psychological test given by a certified individual, written verification by a physician identifying and delineating the special needs of the child, or documentation by the case manager, approved by the case management supervisor, attesting to a child's special social or emotional needs.

ii. When it is essential for physical health and safety, the cost of transporting a handicapped child to and from the family day care home may be authorized (see N.J.A.C. 10:82-5.2(e)2).

2. Payment for care of school-aged children, which is normally limited to part-time or before/after school hours during the school year, shall be made at the full-day rates during summer vacations and recognized vacations and holidays during the school year, for example, Christmas, spring vacation, and so forth.

3. Payment may be made for the cost of transportation of a child to and from a day care center while participating in an FDP activity or employment in accordance with N.J.A.C. 10:86-9.2(f).

(b) FDP child care benefits are routinely available to participants for participation in an activity of the FDP/EEDA for a limited time to bridge the period between participation in FDP activities, or between a FDP/EEDA activity and employment; for an adolescent parent to remain in high school; for the post-employment period after commencement of employment that does not result in ineligibility for AFDC, that is, while a participant is employed and receiving AFDC, as a direct payment to supplement as necessary, child care paid by the participant as required by the Social Security Act (see N.J.A.C. 10:86-10.3(a)4); and after the commencement of employment that results in ineligibility for AFDC, for one year of transitional child care benefits, subject to transitional child care co-payment requirements specified at N.J.A.C. 10:86-10.5.

1. The transitional child care period begins with the first week in which a participant is employed and receiving AFDC, and expires when the participant is either ineligible for AFDC for reason other than sanction or penalty or is no longer employed. Such payments may be made as direct payment of child care costs or, as supplemental payments for families using the disregard process if the costs of child care exceed the Federal child care disregard limits set forth at N.J.A.C. 10:82-2. Payment is made only when the care is provided through a FDP authorized child care arrangement (see N.J.A.C. 10:86-10.3).

i. If an employed participant becomes ineligible for AFDC for a reason other than a sanction or similar penalty for noncompliance with AFDC program requirements, the participant shall be eligible for payment of child care through the FDP for the one year transitional child care period while the participant is employed, subject to (c) below.

2. For a participant who is waiting to enter a FDP/EEDA activity or to start employment, FDP child care benefits are available to bridge the period between FDP activities:

i. For a period not to exceed two weeks; or

ii. For a period not to exceed one month (defined as five weeks to accommodate calendar months of up to 31 days for operational purposes) where child care arrangements would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(c) Transitional child care benefits are available for one year following the loss of eligibility for AFDC assistance, to families whose eligibility for AFDC has ceased due to increased earnings, increased hours of employment (including new employment) which result in increased earnings, or as a result of the loss of earned income disregards due to the expiration of time limits at N.J.A.C. 10:82-4, for eligible children described at N.J.A.C. 10:86-10.1(a)1i.

(d) The maximum child care payment rates, set forth in Tables I, II and III below, specify weekly and daily rates for the various age categories of children based on the hours of care provided.

1. Table I includes maximum rates for licensed child care centers, school-age programs and day camps.

2. Table II includes maximum rates for registered family day care provider homes.

3. Table III includes maximum rates for approved family day care provider homes.

IV-A CHILD CARE MAXIMUM RATES

Table I

These rates shall be utilized for:

LICENSED CHILD CARE CENTERS, SCHOOL-AGE PROGRAMS, SUMMER DAY CAMPS

Child's Service Category	Hours of care provided			
	Full-Time	Three-Quarter Time†	One-Half Time†	One-Quarter Time†
Infants/Toddlers (0 up to 2 yrs.)	6 hrs. or more per day	4 or 5 hrs. per day	2 or 3 hrs. per day	1 hour per day
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17

Child's Service Category	Hours of care provided			
	Full-Time 6 hrs. or more per day	Three-Quarter Time† 4 or 5 hrs. per day	One-Half Time† 2 or 3 hrs. per day	One-Quarter Time† 1 hour per day
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09

\* Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

IV-A CHILD CARE MAXIMUM RATES

Table II

These rates shall be utilized for:  
REGISTERED FAMILY DAY CARE HOMES

Child's Service Category	Hours of care provided			
	Full-Time 6 hrs. or more per day	Three-Quarter Time† 4 or 5 hrs. per day	One-Half Time† 2 or 3 hrs. per day	One-Quarter Time† 1 hour per day
Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$ 97.50	\$73.10	\$48.75	\$24.40
Daily	\$ 19.50	\$14.62	\$ 9.75	\$ 4.88
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$ 97.50	\$73.10	\$48.75	\$24.40
Daily	\$ 19.50	\$14.62	\$ 9.75	\$ 4.88
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$ 76.40	\$57.30	\$38.20	\$19.10
Daily	\$ 15.28	\$11.46	\$ 7.64	\$ 3.82
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$ 76.40	\$57.30	\$38.20	\$19.10
Daily	\$ 15.28	\$11.46	\$ 7.64	\$ 3.82
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$118.70	\$89.05	\$59.35	\$29.70
Daily	\$ 23.74	\$17.81	\$11.87	\$ 5.94
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$118.70	\$89.05	\$59.35	\$29.70
Daily	\$ 23.74	\$17.81	\$11.87	\$ 5.94

Child's Service Category	Hours of care provided			
	Full-Time 6 hrs. or more per day	Three-Quarter Time† 4 or 5 hrs. per day	One-Half Time† 2 or 3 hrs. per day	One-Quarter Time† 1 hour per day
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$ 97.50	\$73.10	\$48.75	\$24.40
Daily	\$ 19.50	\$14.62	\$ 9.75	\$ 4.88

\* Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

IV-A CHILD CARE MAXIMUM RATES

Table III

These rates shall be utilized for:  
APPROVED HOME DAY CARE

Child's Service Category	Hours of care provided			
	Full-Time 6 hrs. or more per day	Three-Quarter Time† 4 or 5 hrs. per day	One-Half Time† 2 or 3 hrs. per day	One-Quarter Time† 1 hour per day
Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$58.50	\$43.85	\$29.25	\$14.60
Daily	\$11.70	\$ 8.77	\$ 5.85	\$ 2.92
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$58.50	\$43.85	\$29.25	\$14.60
Daily	\$11.70	\$ 8.77	\$ 5.85	\$ 2.92
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$45.85	\$34.35	\$22.90	\$11.45
Daily	\$ 9.17	\$ 6.87	\$ 4.58	\$ 2.29
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$45.85	\$34.35	\$22.90	\$11.45
Daily	\$ 9.17	\$ 6.87	\$ 4.58	\$ 2.29
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$71.20	\$53.40	\$35.60	\$17.80
Daily	\$14.24	\$10.68	\$ 7.12	\$ 3.56
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$71.20	\$53.40	\$35.60	\$17.80
Daily	\$14.24	\$10.68	\$ 7.12	\$ 3.56
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$58.50	\$43.85	\$29.25	\$14.60
Daily	\$11.70	\$ 8.77	\$ 5.85	\$ 2.92

\* Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

Amended by R.1993 d.396, effective August 16, 1995.  
See: 25 N.J.R. 1692(a), 25 N.J.R. 3772(b).  
Amended by R.1994 d.206, effective April 18, 1994.  
See: 26 N.J.R. 296(a), 26 N.J.R. 1636(a).  
Amended by R.1995 d.532, effective October 2, 1995.  
See: 27 N.J.R. 2517(a), 27 N.J.R. 3786(a).  
Amended by R.1996 d.171, effective April 1, 1996.  
See: 28 N.J.R. 222(a), 28 N.J.R. 1850(a).  
Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).  
See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).  
In (a), inserted text "(up to age 13 years)"; in (b), substituted "transitional" for "post-AFDC"; in (b)1, substituted "transitional" for "post-employment"; in (b)1i, substituted "transitional child care period" for "post-AFDC period"; and in (c), substituted "Transitional" for "Post-AFDC".

**10:86-10.3 Payment/reimbursement procedures**

(a) FDP funds are expended for child care as direct vendor payments to providers or as direct payments to participants.

1. Vendor payments to providers are the primary method for issuing child care payments in FDP. Under this method, a voucher is issued to the child care provider. The provider completes the voucher, lists the hours of care and payment required, and returns it to the agency or designee pursuant to Federal regulation responsible for issuing payment. Upon verification of the voucher information, the agency or designee pursuant to Federal regulation issues a FDP child care payment to the provider. The agency or designee pursuant to Federal regulation shall only issue payment to a child care provider for vouchers which have been received no later than 60 days from the end of the designated service period or from the date of issuance, whichever is later. Failure to submit completed voucher forms for receipt by the county agency or designee pursuant to Federal regulation within the established timeframe shall result in loss of payment to the child care provider for services claimed on the voucher.

2. In exceptional or emergency situations, payment for child care provided may be made directly to the participant. As with the child care voucher, payment is issued upon verification of the child's attendance and care provided.

3. Child care services may be authorized by the case manager or designee pursuant to Federal regulation when deemed appropriate for special circumstance situations, such as emergency needs, drop-in care or approved interim care to another provider during illness of a child.

4. The preferred method of payment of FDP child care benefits for employed AFDC-C, -F or -N FDP participants shall be by direct vendor payment to authorized providers of service that meet those requirements set forth at N.J.A.C. 10:86-10.4.

i. When the FDP participant reports the start of employment or is participating in a WSP or OJT assignment, the income maintenance worker shall determine eligibility for AFDC. Additionally, actual expenditures made by the FDP family for care of an incapacitated adult living in the AFDC-C, -F or -N household shall be disregarded in the eligibility determination and benefit calculation in accordance with N.J.A.C. 10:82-2.8. Cost of care of the incapacitated adult remains the responsibility of the FDP family; no supplemental monies for incapacitated adult care are provided through FDP in excess of the disregard limits. Such adult care costs if incurred by the family shall always be disregarded regardless of the method of payment of FDP child care costs. No disregard shall be applied in the prospective eligibility determination for FDP child care purposes (except as delineated in (c) below) as those costs are made by direct vendor payment by the agency or designee pursuant to Federal regulation.

ii. If the employed FDP family remains prospectively eligible for AFDC, the costs of FDP child care shall not be disregarded in the computation of the family's AFDC assistance benefit except in situations as delineated in (c) below. The income maintenance worker or designee pursuant to Federal regulation shall explain to the participant that actual FDP child care costs shall be paid directly to the child care provider.

iii. The income maintenance or designee pursuant to Federal regulation, worker shall inform the case manager or designee pursuant to Federal regulation, verbally and in writing via an FDP referral form, or a similar agency developed form, of the participant's eligibility status. The worker shall file a copy of the form (or agency form) in the AFDC case record and forward two copies to FDP case management or designee pursuant to Federal regulation, for filing in the FDP case record and distribution to the county based child care entity. The income maintenance worker, case manager, and county based child care entity must work together to ensure timely receipt by the provider, of the FDP transitional child care payment.

iv. If the family is prospectively ineligible for AFDC due to the earnings from employment, the AFDC case will be closed and the participant referred for transitional child care benefits in accordance with this section.

(b) If an employed participant receiving AFDC pays for child care not approved by the FDP, the actual expenditures for unauthorized child care shall not exceed the child care disregard limits set forth at N.J.A.C. 10:82-4.4 in the determination of eligibility and in the calculation of benefits. In such circumstances, no supplemental payments for child care are provided through FDP in excess of the disregards.

(c) The earned income disregard procedure for expenditures made for care of a child (see N.J.A.C. 10:82-2.8 for disregard limits) shall remain available to eligible families participating in FDP in the situations delineated in (c)1 through 4 below:

1. The FDP child care payment is made to a child care provider selected by the AFDC-C, -F or -N family participating in FDP and that provider does not meet the criteria set forth in N.J.A.C. 10:86-10.4 as an authorized child care arrangement for direct payment through FDP funds. In addition, no supplemental monies over the disregard limits are provided through FDP for such unauthorized arrangements.

2. Any AFDC-C or -F FDP family who has an employed family member who has been participating in REACH/JOBS prior to April 1, 1991 and who has been utilizing the disregard method on or before April 1, 1991, for payment of child care costs (see (c)3 and 4 below for applicable procedures).

3. Any employed AFDC-C or -F family who has been continuously eligible for and was receiving AFDC-C or -F benefits on October 13, 1988 and had earnings on that date whereby the child care disregard was the method of payment for child care costs, and who would be financially disadvantaged due to the loss of AFDC eligibility as a result of the direct payment of child care costs rather than the use of the disregard when employed and participating in FDP.

i. The employed FDP AFDC-C or -F participant shall pay actual child care costs up to the Federal disregard limits directly to the provider of care. The child care disregard shall be applied to that first month in which the FDP employed participant begins payment for child care costs. Cost of care in excess of the Federal disregard limits may be supplemented by the FDP program as a FDP transitional child care payment up to the maximum rates authorized by DFD (see N.J.A.C. 10:86-10.2(d)). Supplemental FDP payments are issued as vendor payments to the child care providers when the child(ren) is in an authorized child care arrangement (see N.J.A.C. 10:86-10.4). Such FDP supplemental payments shall not be counted as income or resources in any month received.

ii. Direct vendor payment by the agency or designee pursuant to Federal regulation is available as a bridge payment (see N.J.A.C. 10:86-10.2(b)2) for families using the disregard payment procedure, to assist the FDP family in transition to work. That bridge payment through FDP may be paid by the agency or designee pursuant to Federal regulation as a direct payment to the provider for care in authorized arrangements up to the receipt of the first pay check or for a period not to exceed one month, Child care costs paid through a bridge payment shall not be disregarded in the calculation of the FDP family's assistance payment.

4. Any AFDC-C, -F or -N applicant family which has an employed family member who is defined as a FDP mandatory participant (that is, not exempt from FDP participation) shall utilize the disregard procedure for costs of child care due to employment during the interim time period covering referral of that mandatory individual to FDP case management; and, until such time (subject to timely and adequate notice provisions at N.J.A.C. 10:81-7.1) that income maintenance is subsequently advised by case management or designee pursuant to Federal regulation of the direct payment of child care costs through FDP.

5. FDP families may voluntarily request direct payment of child care costs rather than the use of the disregard process. Upon request, a prospective AFDC eligibility determination shall be made to determine if continued eligibility exists if the child care disregard is not applied. The participant shall be informed of the result of the determination and of the consequences. If eligibility continues to exist and the client decides to have direct

payment rather than the disregard, the case record shall be documented as to the request and appropriate action taken.

Amended by R.1995 d.447, effective August 21, 1995.

See: 27 N.J.R. 1930(a), 27 N.J.R. 3231(b).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee throughout; in (a)4iii, substituted "county based" for "lead" and "transitional" for "post-employment"; in (a)4iv, substituted "transitional" for "post-AFDC"; and in (c)3i, substituted "transitional" for "post-employment".

#### 10:86-10.4 Provider requirements

(a) FDP payments to providers of child care are available according to the following conditions and in accordance with payment procedures for child care providers set forth at N.J.A.C. 10:86-10.3.

1. To qualify for FDP child care payments, a child care center or program shall meet one of the following requirements as set forth at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers (N.J.S.A. 30:5B-1 through 15) (see also N.J.A.C. 10:15A-1.3(b)).

i. Centers providing care for infant, pre-school and school-age children up to age 13 years which meet the definition of a child care center shall be licensed by the Division of Youth and Family Services (DYFS), Bureau of Licensing, or shall have a letter of exemption from DYFS, Bureau of Licensing; or shall be operated under the auspices of the public school system; or

2. All family day care providers (registered homes) who serve three or more nonsibling children must be registered pursuant to the Family Day Care Provider Registration Act (See N.J.A.C. 10:126) in order to qualify for payment through the FDP for child care provided to children of FDP participants.

i. Family day care providers of one or two children may choose to register under the Family Day Care Provider Registration Act or to provide family day care as an approved home.

ii. Payment shall be made to the provider who has secured a Certificate of Registration or a temporary registration certificate, as defined by rules promulgated under the Family Day Care Provider Registration Act.

3. Providers of family day care who are not living in the home of the AFDC/FDP participant and who are not registered under the Family Day Care Provider Registration Act (N.J.S.A. 30:5B-16 et seq.—P.L. 1987, c.27; N.J.A.C. 10:126) shall be approved by the Department of Human Services in order to qualify for payment through the FDP. (Reference is made to N.J.A.C. 10:15A-1.3(d) and N.J.A.C. 10:81-14). Unregistered relatives, friends or neighbors are eligible for approved home status.

i. The minimum requirements for approval of the home are an inspection of the home using the "Self-

Arranged Care Inspection and Interview Checklist” (see Appendix A, N.J.A.C. 10:81).

ii. As an approved home, providers may receive payment for a maximum of two nonsibling children or of all the sibling children of one family. This type of provider may provide care for no more than eight children in total at any one time. This includes the children of the provider. Children residing in the provider’s home who are six years or older are not to be counted in the total number of children being cared for in the home. The maximum number of ratio children, by age, permitted in an approved home is not to exceed the totals set forth by the family day care provider registration requirements (N.J.A.C. 10:126-6.1(c)), as that standard sets minimum safety levels.

iii. Approved homes are reimbursed for services up to a rate which is 60 percent of the State maximum rate set for centers and registered homes, if the home has received approval since September 5, 1988. Homes approved prior to September 5, 1988 are paid at prior approved rates.

4. Providers of in-home care, that is, care of a FDP participant’s children in the participant’s own home, shall be evaluated using the “Self-Arranged Care Inspection and Interview Checklist,” in order to qualify for payment through the FDP.

i. The authorized rate for in-home care shall be provided for all services and supervision pertaining to the care of the children and is not for the performance of household tasks unrelated to child care. Payment shall not be authorized for services provided by a non-needy caretaker relative who resides in the same home as the child when that relative is legally responsible (for example, parent, adoptive parent or legal guardian) for any member of the eligible family; or an individual who is a member of the AFDC assistance unit. The authorized payment for in-home care shall be deemed to be the full cost for such services and no additional amounts shall be recognized.

5. Regarding day camp providers, “day camp” is construed to mean either the operation of child care center services in an outdoor rather than an indoor setting, or other supervised group care for children with a planned recreational and educational program in an outdoor setting. The use of a day camp is permitted as an alternate form of child care during periods when other facilities are unavailable or in situations where, in the judgement of the CWA, such care is considered necessary or desirable.

i. The maximum allowable rate for care in a day camp, regardless of the source or sources of such payment, shall not exceed the maximum rates established by the Department of Human Services (see N.J.A.C. 10:86-10.2(d)).

ii. Payment for child care in a camp program may be authorized if the camp has been inspected and is in good standing with the New Jersey Department of Health and Senior Services (DHSS) pursuant to N.J.S.A. 26:12-1 et seq. and N.J.A.C. 8:25 and appears on the DHSS certified listing obtainable from the DHSS, Environmental Services; or possesses a valid provisional or certified certificate from DHSS.

6. Providers of child care not in the categories (a)1 through 5 above are not entitled to payment through the FDP for child care provided to children of FDP participants.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a)1, inserted reference to N.J.A.C. 10:15A-1.3(b); in (a)1i, inserted reference to school-age children up to 13 years and inserted provision relating to meeting the definition of child care centers; deleted (a)1ii, relating to programs for school-age children; and in (a)5ii, amended Department references and inserted N.J.S.A. reference.

#### 10:86-10.5 FDP transitional child care benefits

(a) Families ineligible for AFDC may be provided transitional child care benefits through FDP if AFDC ineligibility was as a result of increased earnings, increased hours of work or the loss of time-limited earned income disregards on or after April 1, 1990. The FDP seeks to:

1. Enable an AFDC family to accept and maintain employment;
2. Ensure that the parent has freedom of choice in selecting child care arrangements and is provided with flexibility to choose the location and type of provider that best meets their child care needs; and
3. Requires that all recipients of FDP transitional child care benefits pay a portion of the cost of care based on ability to pay, as required by the Federal Family Support Act of 1988.

(b) Before the period of transitional child care expires, the case manager or designee pursuant to Federal regulation shall advise the participant, the provider and the county based child care entity of the expiration date of FDP child care payments and that the participant shall be responsible for payment of the entire cost of child care. The case manager or designee pursuant to Federal regulation, with the assistance of the county based child care entity, will work with the participant to ease the transition to payment of child care not subsidized by FDP.

(c) A family is eligible for transitional child care provided the following conditions are met:

1. The family must have ceased to be eligible for AFDC as a result of increased hours of, or increased income from employment, including earnings from new employment, or the loss of earned income disregards, due to the time limitations at N.J.A.C. 10:82-4;

2. The family must have received AFDC in the month preceding the first month of ineligibility (although Federal financial participation for transitional child care payments is available only if the family received AFDC in at least three of the six months preceding the first month of ineligibility);

3. The family requests transitional child care benefits and provides the information necessary, including verification of earnings, for determining eligibility and fees;

4. The participant signs a FDP Agreement covering the period during which the child care is to be provided;

5. The participant cooperates in transitional child care activities set forth in the Agreement;

6. The family pays the required co-payment, if the family ceased to be eligible for AFDC on or after April 1, 1990; and

7. The family complies with FDP requirements to report participation in post-AFDC activities.

(d) The county agency or designee pursuant to Federal regulation must notify orally, as appropriate, and in writing all families whose AFDC eligibility has been or will be terminated due to the reasons in (c)1 above, of their potential eligibility for transitional child care benefits. The FDP notification advises a family who loses or may lose AFDC eligibility due to income from employment, of potential eligibility for transitional child care and extended Medicaid benefits (see N.J.A.C. 10:86-7), and asking the family to request such benefits by contacting the AFDC/FDP case manager or designee pursuant to Federal regulation whose name and telephone number are included in the notification, which also describes the steps the family must take to establish eligibility for transitional child care benefits and their rights and responsibilities with regard to those benefits.

1. The income maintenance worker shall notify orally, as appropriate, and in writing, all families whose AFDC eligibility has been or will be terminated for the above reasons, of their potential eligibility for transitional child care benefits via the FDP Benefit Letter, or a similar locally-developed letter (subject to DFD approval). A copy of the notification shall be sent to case management or designee pursuant to Federal regulation as verification that the potential participant has been notified of the transitional child care benefits and for the possible initiation of the FDP transitional child care benefits.

2. Voluntary case closings at the request of the participant shall be explored by the IM worker for the true reason of closing to determine if employment is a possible reason for the voluntary termination of assistance benefits. The IM worker shall contact the participant by phone if possible and by sending the FDP Benefit Letter or a similar locally developed letter. A copy of the letter shall be sent to case management or designee pursuant to Federal regulation for possible initiation of FDP transitional child care benefits.

3. As soon as case management or designee pursuant to Federal regulation receives the FDP Benefit Letter, the FDC/FDP case manager or designee pursuant to Federal regulation shall contact the participant to advise of available FDP transitional child care benefits and to ascertain whether the participant needs child care. The AFDC/FDP case manager or designee pursuant to Federal regulation shall advise the participant of the need to sign a FDP agreement and provide verification of earnings for transitional child care benefits.

(e) Notwithstanding when the family requests transitional child care, eligibility for transitional child care begins with the first month for which the family is ineligible for AFDC for the reasons at (c) above, and continues for a period of 12 consecutive months computed according to (e)1 below. The 12-month transitional child care period shall consist of 52 consecutive weeks, if the participant remains employed and does not receive AFDC during that period of time. Families may begin to receive transitional child care in any month during the 12-month eligibility period.

1. The 12-month transitional child care eligibility period shall begin with the month AFDC is terminated due to income from employment, but no later than the AFDC payment month in which the family becomes ineligible due to earnings from employment. If the family fails to report the earnings causing ineligibility, the 12-month eligibility period shall begin with the first month in which the family became ineligible for AFDC.

i. Example: A participant starts employment and first receives earnings in January and reports the earnings timely. The earnings render the family ineligible for AFDC; assistance is terminated effective for the March payment month. The eligibility period for transitional child care benefits will start on March 1, the effective date of AFDC case closing.

ii. Example: In January a participant starts working and receives earnings that cause ineligibility for AFDC. However, the family does not report the earnings until April. Assistance is terminated effective May 1. The eligibility period for transitional child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

iii. Example: In January a participant starts working and receives earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June, effective June 1. The eligibility period for transitional child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

iv. Example: In February an AFDC recipient voluntarily requests that the AFDC case be closed. The agency processes the request and terminates assistance

from March, effective March 1. It is later determined that the recipient has been and is currently employed, and the earnings would have rendered the family ineligible for AFDC starting in January. If the individual applies for transitional child care benefits, the eligibility period for transitional child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

2. Employment shall be presumed unless the participant reports otherwise in the 12-month transitional child care period.

(f) The family is not eligible for transitional child care for any remaining portion of the 12-month period if the caretaker relative:

1. Terminates employment without good cause, as defined at N.J.A.C. 10:86-8;
2. Fails to cooperate with the CWA or designee pursuant to Federal regulation in establishing payments and enforcing child support obligations; or
3. Fails to pay required co-payment.

(g) If the caretaker relative loses a job with good cause, and then finds another job, the family can qualify for the remaining portion of the 12-month transitional child care eligibility period.

1. If the family reestablishes AFDC eligibility during this period, it may qualify for a new 12-month period of transitional child care. To be eligible for a new 12-month period, the family must have received AFDC in at least three of the six months preceding the first month of ineligibility for AFDC, and must satisfy all other conditions of eligibility at (c) above.

(h) Each family receiving transitional child care is required to contribute a co-payment toward the cost of such care.

1. A co-payment scale established by the Department of Human Services will provide for some level of contribution by all recipients of transitional child care. The co-payment scale shall consider: family income, family size, number of children, and number of children in care. The co-payment scale is set forth at N.J.A.C. 10:86-10.6(b).

2. Pursuant to requirements established by the Department of Human Services, each county AFDC/FDP entity must establish methods and procedures for the collection of co-payment, and may vary the period of collection for different fee levels.

3. Individuals who fail to cooperate in paying the required co-payment will, subject to appropriate notice and hearing requirements, lose eligibility for transitional child care benefits for so long as back co-payments are owed, unless satisfactory arrangements are made to make full payment.

(i) A mandatory FDP participant may refuse available appropriate transitional child care if the participant can arrange other child care or can show that such refusal will not prevent or interfere with employment.

1. Refusal of transitional child care may be inferred if the participant does not request transitional child care benefits, that is, fails to respond to FDP notification Benefit Letter by the end of the first month of AFDC ineligibility; does not provide the information necessary for determining eligibility and fee amount, including verification of earnings; does not sign a FDP Agreement for the period of transitional child care; or does not report participation in post-AFDC FDP employment.

(j) Provision of transitional child care benefits is subject to timely and adequate notice and hearing requirements at N.J.A.C. 10:81-6 and 7, and N.J.A.C. 10:86-6.

1. Timely and adequate notice must be given if transitional child care benefits are reduced, discontinued or suspended due to nonpayment of the co-payment; or if a change in the manner of payment results in a discontinuance, suspension, reduction or termination of benefits; or forces a change in child care arrangements.

2. Timely and adequate notice is not required for a change in the manner of payment that does not result in an action in (j)1 above.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee and substituted "transitional" for "post-AFDC" and "FDP transitional child care benefits" for "Post-AFDC FDP benefits" throughout; in (a), substituted "transitional" for "post-AFDC extended"; in (b), substituted "county based" for "lead"; in (d)1, inserted "child care" preceding "benefits and for"; in (d)3, substituted "transitional" for "extended"; in (e), inserted "child care" preceding "period"; and in (e)1 and (e)2, inserted "child care".

#### 10:86-10.6 Co-payment scales

(a) The FDP transitional child care co-payment scales, based on the family size and gross income of the AFDC eligible unit at case closing, are used to determine the co-payment. Once assessed, the co-payment is deducted from the amount to be paid to the provider by the FDP up to the maximum FDP rates. This assessed co-payment for child care services is then paid directly to the parent to the provider of care. Any balance remaining (up to the maximum FDP rates) is paid by the FDP for the total cost of care. The FDP transitional child care co-payment policy and procedures are applicable for all types of care arrangements delineated at N.J.A.C. 10:86-10.4, available through the FDP and approved by the appropriate child care evaluating agency.

(b) The co-payment scales are as follows:

1. The amount of the required co-payment is based on the family's income level, family size, number of children, and number of children in care. There are two co-payment scales:

- i. Co-payment scale Table I—Full-Time Care; and
- ii. Co-payment scale Table II—Part-Time Care

2. Assessed co-payments are apportioned weekly and are due for the entire 52-week period that subsidized child care assistance is received. Holidays, emergency closings, and absences do not exclude or reduce the required fee co-payment.

Table I  
CHILD CARE CO-PAYMENT SCHEDULE  
FULL TIME CARE\*

Weekly Full Time Co-Payment		Monthly Full Time Co-Payment**		Percent of State 1989 Median Family Income	Family Size and Annual Income****					
First Child	Second Child***	First Child	Second Child***		1 or 2	3	4	5	6	0
\$0	\$0	\$0	\$0	0%						
\$1.10	\$0.55	\$4.76	\$2.38	1%-5%	1- 1,768	1- 2,184	1- 2,600	1- 3,016	1- 3,432	
\$4.40	\$2.20	\$19.05	\$9.53	6%-10%	1,769- 3,536	2,185- 4,368	2,601- 5,200	3,017- 6,031	3,433- 6,863	
\$6.60	\$3.30	\$28.58	\$14.29	11%-15%	3,537- 5,304	4,369- 6,552	5,201- 7,799	6,032- 9,047	6,864-10,295	
\$9.90	\$4.95	\$42.87	\$21.43	16%-20%	5,305- 7,071	6,553- 8,735	7,800-10,399	9,048-12,063	10,296-13,727	
\$12.10	\$6.05	\$52.39	\$26.20	21%-25%	7,072- 8,839	8,736-10,919	10,400-12,999	12,064-15,079	13,728-17,159	
\$15.40	\$7.70	\$66.68	\$33.34	26%-30%	8,840-10,607	10,920-13,103	13,000-15,599	15,080-18,094	17,160-20,590	
\$19.80	\$9.90	\$85.73	\$42.87	31%-35%	10,608-12,375	13,104-15,287	15,600-18,198	18,095-21,110	20,591-24,022	
\$24.20	\$12.10	\$104.79	\$52.39	36%-40%	12,376-14,143	15,288-17,471	18,199-20,798	21,111-24,126	24,023-27,454	
\$29.70	\$14.85	\$128.60	\$64.30	41%-45%	14,144-15,911	17,472-19,655	20,799-23,398	24,127-27,141	27,455-30,885	
\$35.20	\$17.60	\$152.42	\$76.21	46%-50%	15,912-17,679	19,656-21,839	23,399-25,998	27,142-30,157	30,886-34,317	
\$40.70	\$20.35	\$176.23	\$88.12	51%-55%	17,680-19,446	21,840-24,022	25,999-28,597	30,158-33,173	34,318-37,749	
\$47.30	\$23.65	\$204.81	\$102.40	56%-60%	19,447-21,214	24,023-26,206	28,598-31,197	33,174-36,188	37,750-41,180	
\$55.00	\$27.50	\$238.15	\$119.08	61%-65%	21,215-22,982	26,207-28,390	31,198-33,797	36,189-39,204	41,181-44,612	
\$62.70	\$31.35	\$271.49	\$135.75	66%-70%	22,983-24,750	28,391-30,574	33,798-36,397	39,205-42,220	44,613-48,044	
\$67.10	\$33.55	\$290.54	\$145.27	71%-75%	24,751-26,518	30,575-32,758	36,398-38,996	42,221-45,236	48,045-51,476	

  

Weekly Full Time Co-Payment		Monthly Full Time Co-Payment**		Percent of State 1989 Median Family Income	Family Size and Annual Income****					
First Child	Second Child***	First Child	Second Child***		7	8	9	10	11	12
\$0	\$0	\$0	\$0	0%						
\$1.10	\$0.55	\$4.76	\$2.38	1%-5%	1- 3,510	1- 3,588	1- 3,666	1- 3,744	1- 3,822	1- 3,900
\$4.40	\$2.20	\$19.05	\$9.53	5%-10%	3,511- 7,019	3,589- 7,176	3,667- 7,332	3,745- 7,488	3,823- 7,644	3,901- 7,800
\$6.60	\$3.30	\$28.58	\$14.29	11%-15%	7,020-10,529	7,177-10,763	7,333-10,997	7,489-11,231	7,645-11,465	7,801-11,699
\$9.90	\$4.95	\$42.87	\$21.43	16%-20%	10,530-14,039	10,764-14,351	10,998-14,663	11,232-14,975	11,466-15,287	11,700-15,599
\$12.10	\$6.05	\$52.39	\$26.20	21%-25%	14,040-17,548	14,352-17,939	14,664-18,329	14,976-18,719	15,288-19,109	15,600-19,499
\$15.40	\$7.70	\$66.68	\$33.34	26%-30%	17,549-21,058	17,940-21,527	18,330-21,995	18,720-22,463	19,110-22,931	19,500-23,399
\$19.80	\$9.90	\$85.73	\$42.87	31%-35%	21,059-24,568	21,528-25,114	21,996-25,660	22,464-26,206	22,932-26,752	23,400-27,298
\$24.20	\$12.10	\$104.79	\$52.39	36%-40%	24,569-28,077	25,115-28,702	25,661-29,326	26,207-29,950	26,753-30,574	27,299-31,198
\$29.70	\$14.85	\$128.60	\$64.30	41%-45%	28,078-31,587	28,703-32,290	29,327-32,992	29,951-33,694	30,575-34,396	31,199-35,098
\$35.20	\$17.60	\$152.42	\$76.21	46%-50%	31,588-35,097	32,291-35,878	32,993-36,658	33,695-37,438	34,397-38,218	35,099-38,998
\$40.70	\$20.35	\$176.23	\$88.12	51%-55%	35,098-38,606	35,879-39,465	36,659-40,323	37,439-41,181	38,219-42,039	38,999-42,897
\$47.30	\$23.65	\$204.81	\$102.40	56%-60%	38,607-42,116	39,466-43,053	40,324-43,989	41,182-44,925	42,040-45,861	42,898-46,797
\$55.00	\$27.50	\$238.15	\$119.08	61%-65%	42,117-45,625	43,054-46,641	43,990-47,655	44,926-48,669	45,862-49,683	46,798-50,697
\$62.70	\$31.35	\$271.49	\$135.75	66%-70%	45,626-49,135	46,642-50,229	47,656-51,321	48,670-52,413	49,684-53,505	50,698-54,597
\$67.10	\$33.55	\$290.54	\$145.27	71%-75%	49,136-52,645	50,230-53,816	51,322-54,986	52,414-56,156	53,506-57,326	54,598-58,496

\* Full time care is defined as six (6) or more hours of care per day.

\*\* The monthly co-payment is calculated by multiplying the weekly co-payment by 4.33.

\*\*\* The co-payments listed are for the first and second child of the family receiving care. The co-payment for the second child receiving care is calculated at one-half of the full co-payment for that child. No additional co-payment is charged for the third or subsequent child(ren) in the family receiving care.

\*\*\*\* Families with a maximum gross income for their family size in excess of their scale will be assessed an additional weekly fee of \$1.00 (\$2.00 for a Bi-weekly fee) for each \$1,000 of gross income above their scale.

Table II  
CHILD CARE CO-PAYMENT SCHEDULE  
PART-TIME CARE\*

Weekly Part-Time Co-Payment		Monthly Part-Time Co-Payment**		Percent of State 1989 Median Family Income	Family Size and Annual Income****					
First Child	Second Child***	First Child	Second Child***		1 or 2	3	4	5	6	0
\$0.00	\$0.00	\$0.00	\$0.00	0%						
\$2.20	\$1.10	\$9.53	\$4.76	1%-5%	1- 1,768	1- 2,184	1- 2,600	1- 3,016	1- 3,432	
\$3.30	\$1.65	\$14.29	\$7.14	6%-10%	1,769- 3,536	2,185- 4,368	2,601- 5,200	3,017- 6,031	3,433- 6,863	
\$4.40	\$2.20	\$19.05	\$9.53	11%-15%	3,537- 5,304	4,369- 6,552	5,201- 7,799	6,032- 9,047	6,864-10,295	
\$5.50	\$2.75	\$23.82	\$11.91	16%-20%	5,305- 7,071	6,553- 8,735	7,800-10,399	9,048-12,063	10,296-13,727	
\$7.70	\$3.85	\$33.34	\$16.67	21%-25%	7,072- 8,839	8,736-10,919	10,400-12,999	12,064-15,079	13,728-17,159	
\$9.90	\$4.95	\$42.87	\$21.43	26%-30%	8,840-10,607	10,920-13,103	13,000-15,599	15,080-18,094	17,160-20,590	
\$12.10	\$6.05	\$52.39	\$26.20	31%-35%	10,608-12,375	13,104-15,287	15,600-18,198	18,095-21,110	20,591-24,022	
\$14.30	\$7.15	\$61.92	\$30.96	36%-40%	12,376-14,143	15,288-17,471	18,199-20,798	21,111-24,126	24,023-27,454	
\$17.60	\$8.80	\$76.21	\$38.10	41%-45%	14,144-15,911	17,472-19,655	20,799-23,398	24,127-27,141	27,455-30,885	
\$19.80	\$9.90	\$85.73	\$42.87	46%-50%	15,912-17,679	19,656-21,839	23,399-25,998	27,142-30,157	30,886-34,317	
\$23.10	\$11.55	\$100.02	\$50.01	51%-55%	17,680-19,446	21,840-24,022	25,999-28,597	30,158-33,173	34,318-37,749	
\$27.50	\$13.75	\$119.08	\$59.54	56%-60%	19,447-21,214	24,023-26,206	28,598-31,197	33,174-36,188	37,750-41,180	
\$30.80	\$15.40	\$133.36	\$66.68	61%-65%	21,215-22,982	26,207-28,390	31,198-33,797	36,189-39,204	41,181-44,612	
\$33.00	\$16.50	\$142.89	\$71.45	66%-70%	22,983-24,750	28,391-30,574	33,798-36,397	39,205-42,220	44,613-48,044	
				71%-75%	24,751-26,518	30,575-32,758	36,398-38,996	42,221-45,236	48,045-51,476	

Weekly Part-Time Co-Payment		Monthly Part-Time Co-Payment **		Percent of State 1989 Median Family Income	Family Size and Annual Income****					
First Child	Second Child***	First Child	Second Child***		7	8	9	10	11	12
\$0	\$0	\$0	\$0	0%	0	0	0	0	0	0
\$0.00	\$0.00	\$0.00	\$0.00	1%-5%	1- 3,510	1- 3,588	1- 3,666	1- 3,744	1- 3,822	1- 3,900
\$2.20	\$1.10	\$9.53	\$4.76	6%-10%	3,511- 7,019	3,589- 7,176	3,667- 7,332	3,745- 7,488	3,823- 7,644	3,901- 7,800
\$3.30	\$1.65	\$14.29	\$7.14	11%-15%	7,020-10,529	7,177-10,763	7,333-10,997	7,489-11,231	7,645-11,465	7,801-11,699
\$4.40	\$2.20	\$19.05	\$9.53	16%-20%	10,530-14,039	10,764-14,351	10,998-14,663	11,232-14,975	11,466-15,287	11,700-15,599
\$5.50	\$2.75	\$23.82	\$11.91	21%-25%	14,040-17,548	14,352-17,939	14,664-18,329	14,976-18,719	15,288-19,109	15,600-19,499
\$7.70	\$3.85	\$33.34	\$16.67	26%-30%	17,549-21,058	17,940-21,527	18,330-21,995	18,720-22,463	19,110-22,931	19,500-23,399
\$9.90	\$4.95	\$42.87	\$21.43	31%-35%	21,059-24,568	21,528-25,114	21,996-25,660	22,464-26,206	22,932-26,752	23,400-27,298
\$12.10	\$6.05	\$52.39	\$26.20	36%-40%	24,569-28,077	25,115-28,702	25,661-29,326	26,207-29,950	26,753-30,574	27,299-31,198
\$14.30	\$7.15	\$61.92	\$30.96	41%-45%	28,078-31,587	28,703-32,290	29,327-32,992	29,951-33,694	30,575-34,396	31,199-35,098
\$17.60	\$8.80	\$76.21	\$38.10	46%-50%	31,588-35,097	32,291-35,878	32,993-36,658	33,695-37,438	34,397-38,218	35,099-38,998
\$19.80	\$9.90	\$85.73	\$42.87	51%-55%	35,098-38,606	35,879-39,465	36,659-40,323	37,439-41,181	38,219-42,039	38,999-42,897
\$23.10	\$11.55	\$100.02	\$50.01	56%-60%	38,607-42,116	39,466-43,053	40,324-43,989	41,182-44,925	42,040-45,861	42,898-46,797
\$27.50	\$13.75	\$119.08	\$59.54	61%-65%	42,117-45,625	43,054-46,641	43,990-47,655	44,926-48,669	45,862-49,683	46,798-50,697
\$30.80	\$15.40	\$133.36	\$66.68	66%-70%	45,626-49,135	46,642-50,229	47,656-51,321	48,670-52,413	49,684-53,505	50,698-54,597
\$33.00	\$16.50	\$142.89	\$71.45	71%-75%	49,136-52,645	50,230-53,816	51,322-54,986	52,414-56,156	53,506-57,326	54,598-58,496

\* Part-time care is defined as less than six (6) hours of care per day.

\*\* The monthly co-payment is calculated by multiplying the weekly co-payment by 4.33.

\*\*\* The co-payments listed are for the first and second child of the family receiving care. The co-payment for the second child receiving care is calculated at one-half of the full co-payment for that child. No additional co-payment is charged for the third or subsequent child(ren) in the family receiving care.

\*\*\*\* Families with a maximum gross income for their family size in excess of their scale will be assessed an additional weekly fee of \$.50 (\$1.00 for a Bi-weekly fee) for each \$1,000 of gross income above their scale.

(c) The criteria for determination and re-determination of the co-payment are as follows:

1. The criteria for determining the amount of the co-payment are family size and family annual gross income.

i. Family size consists of all members of the AFDC eligible unit at the time the AFDC case is closed.

ii. Family income includes all gross earned and unearned income, as defined at N.J.A.C. 10:82-4, received by all members of the AFDC eligible unit. The gross amount of family income must be verified by wage stubs or similar documentation, as a condition of receiving transitional child care benefits.

2. The co-payment is determined by the number of hours child care services are being provided to the child.

i. Full-time care is defined as care for 30 hours or more per week.

ii. Part-time care is defined as care for less than 30 hours per week.

iii. In no case may the co-payment exceed the cost of care.

3. Once the co-payment is determined, it will remain unchanged for the duration of the eligibility period for the 12-month transitional child care period, unless there is an increase in family size, or a reduction in gross family income. The participant must notify the CWA or designee pursuant to Federal regulations or any such changes occurring in the family. AFDC/FDP case management or designee pursuant to Federal regulation shall determine any changes in the co-payment based on reporting circumstances affecting co-payment calculation.

(d) The process for co-payment assessment is as follows:

1. The process for co-payment assessment is based on up to two children in care in a family. If more than two children in a family are in care, no co-payment is required for the third and subsequent children. The co-payment is determined on a per week basis.

2. The weekly co-payment is based on whether the care is full-time or part-time care, on the number of children (up to two per family) in the family needing such care through the program, and on the family's annual gross income level.

3. If only one child is in care, the weekly co-payment is the payment which results from Table I or Table II in (b) above. That co-payment is assessed on that family's size, the family's annual gross income, and whether the care is full-time or part-time care for that child, resulting in the co-payment from Table I or Table II.

4. If two or more children in the family receive child care services through the Program, the weekly co-payment amount is a composite total payment for up to two children in the family receiving such service.

i. The weekly co-payment sum equals the full co-payment assessed for the first child from Table I or Table II plus one-half of the full assessed co-payment for the second child in care from Table I or Table II. The two children are selected for determination of the co-payment from all children in the family in care, based first, on the number of children in the family in full-time care arrangements.

(1) If two or more children in the family are in full-time care arrangements, the full co-payment amount is assessed on two children in full-time care. A full co-payment amount is assessed for the first child in full-time care from Table I; to that co-payment amount is added one-half of the full co-payment amount for the second child in full-time care from Table I. The resulting composite co-payment equals one and one-half of the full-time co-payment amount from Table I based on the family's size and annual income level.

(2) If at least one child in the family is in a full-time care arrangement and the second and subsequent children are in part-time care arrangements, the full weekly co-payment amount is assessed from Table I on the first child in full-time care; to that co-payment amount is added one-half of the part-time co-payment amount from Table II for the second child in part-time care. The resulting composite co-payment equals the full-time co-payment assessed amount from Table I plus one-half of the part-time co-payment amount from Table II.

(3) If all children in the family are in part-time care arrangements, the full weekly co-payment amount is based on up to two children in care and is one and one-half times the part-time co-payment amount from Table II for the family's size and income amount.

(e) The requirements for a provider's receipt of co-payment are as follows:

1. The composite co-payment is paid to only one provider of care based on the care arrangements of the family. That is, the composite co-payment amount is paid in total to the provider of the highest cost of care arrangement (that is, either the full-time care provider or the provider with the highest reimbursement rate per category of care). The following situations may result and the co-payment is distributed as follows:

i. When one child is receiving child care services through the FDP, the full assessed co-payment from Table I or Table II is made by the recipient to that provider of care.

ii. If one child is receiving child care services through the FDP but more than one provider is involved in giving care, the co-payment from Table I or Table II is paid by the recipient to that child care provider who provides the highest cost of care arrangements.

iii. When two children are receiving child care services from the same provider, the composite co-payment amount is determined in accordance with (d) above, and the sum total is paid by the recipient to that provider of care. The composite total is based on the respective type of care (full-time or part-time) provided

each child; the full assessed co-payment fee from Table I or Table II for the first child is added to one-half of the full assessed fee from Table I or Table II for the second child in care with the provider, for the total co-payment amount.

iv. When both children are receiving different child care services from separate providers, the child care provider providing either full-time care or who receives the highest reimbursement rate per category of care will receive from the recipient the full amount of the composite co-payment assessed for both children from Table I and Table II based on the respective type of care provided (full-time or part-time care) for both children.

v. When both children are receiving the same child care services but from different providers (for example both receiving full-time care), the provider assessed at the highest cost of care arrangement receives the full composite assessed co-payment from the recipient.

vi. No co-payment shall be assessed for the third and additional children in a family receiving child care service program benefits.

vii. Fees shall be rounded down to the nearest dollar.

(f) The requirements for refunds of co-payments are as follows:

1. Refunds are made to the participant by the FDP as a lump sum payment when:

- i. A fair hearing decision results in a reduced co-payment; or
- ii. An error in co-payment computation has resulted in overcharges to the participant.

2. Overcharges are refunded by the FDP within 30 days of the fair hearing decision or discovery of the error.

Amended by R.1993 d.396, effective August 16, 1993.

See: 25 N.J.R. 1692(a), 25 N.J.R. 3772(b).

Amended by R.1994 d.206, effective April 18, 1994.

See: 26 N.J.R. 296(a), 26 N.J.R. 1636(a).

Administrative Correction.

See: 26 N.J.R. 2098(a).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Substituted "transitional" for "post-AFDC" throughout; and in (c)3, inserted references to designee.

### 10:86-10.7 Co-payment determination, collection and monitoring

(a) This section sets forth procedures for determining the amount of a FDP participant's co-payment toward the cost of transitional child care, for the collection of the co-payment, monitoring payment (and nonpayment) of the co-payment, and for notification of nonpayment of co-payments and termination of transitional child care benefits for continued nonpayment of co-payments.

1. The procedures are listed according to the entities involved in the co-payment determination and collection process: the county welfare agency income maintenance staff, the county AFDC/FDP case management staff, the provider of child care, and the county FDP county based child care entity.

2. Counties are responsible for the entire co-payment determination and collection process and functions, according to the standard procedures detailed in this section. Counties may adapt the procedures to local operations and may reassign functions among the entities listed below. However, counties must make sure that the tasks are completed, benefits are processed in a timely manner that affords participants maximum benefits, co-payments are accurately determined, and participants are not denied benefits they are otherwise eligible to receive.

(b) Procedures for determining FDP transitional child care co-payments are as follows:

1. CWA income maintenance (IM) or designee pursuant to Federal regulation functions are as follows:

i. When the AFDC recipient becomes employed, he or she must report employment to the CWA and provide documentation to verify employment—the start date and amount of earnings—as a condition of eligibility for FDP transitional child care benefits for one year and extended post-AFDC FDP Medicaid coverage for 24 months.

ii. When the IM worker receives the documentation referenced in (b)1i above, the worker will determine if the family will continue to be eligible for AFDC based on income.

iii. If earned income received or expected to be received renders the family ineligible for AFDC, the IM worker or designee pursuant to Federal regulation shall initiate AFDC case closing and the processing of post-AFDC FDP benefits, including extended Medicaid benefits and transitional child care.

(1) The IM worker or designee pursuant to Federal regulations shall do the following:

(A) Determine the amount of verified earnings at the time action is taken to close the AFDC case. These earnings will be used to compute the co-payment that the participant must pay toward cost of transitional child care, if the participant elects to apply for such benefits.

(B) Send out Form PA-15, Notification Form, advising of the termination of AFDC benefits and effective date;

(C) Send out the FDP Benefit Letter (or similar locally developed notification) advising the participant of:

(I) The availability of post-AFDC/FDP benefits—extended Medicaid and transitional child care;

(II) The requirement to pay a co-payment toward the cost of transitional child care; and

(III) The need to apply for transitional child care by contacting (by phone, mail or in-person) the FDP case manager or designee pursuant to Federal regulation listed at the bottom of the FDP Benefit Letter; and

(D) Forward one copy of FDP Benefit Letter to AFDC/FDP case management or designee pursuant to Federal regulation.

(2) If the participant has not provided verification of earnings at time of case closing, the IM worker shall notify the participant of the need to provide such verification of earnings as a condition of eligibility for the extended benefits.

iv. To the extent possible, the IM worker or designee pursuant to Federal regulation should complete the AFDC case closing, income verification process and mailing of FDP Benefit Letter before the AFDC case is closed. This will ensure that participants receive child care benefits in a timely and uninterrupted manner, and ensure that providers receive payment of co-payments and FDP voucher payments. If this is not possible, the process should be completed as soon as possible after the AFDC case is closed, during the first month of AFDC ineligibility.

v. The eligibility period for transitional child care benefits will be computed in accordance with N.J.A.C. 10:86-10.5(d).

2. FDP case management or designee pursuant to Federal regulation functions are as follows:

i. Upon receipt of the FDP Benefit Letter copy from IM, AFDC/FDP case management or designee pursuant to Federal regulation shall monitor the form to see if the FDP participant contacts case management or designee pursuant to Federal regulation.

ii. The date the FDP participant contacts case management or designee pursuant to Federal regulation in response to the FDP Benefit Letter will be considered the date of application for FDP transitional child care benefits. In order to begin receiving payments for transitional child care, the participant must make a complete application, which includes providing verification of earnings.

iii. The period of eligibility for transitional child care benefits is computed according to N.J.A.C. 10:86-10.5(d). A FDP participant will begin receiving transitional child care benefits when a complete application is received, computed according to (b)2iii(1) and (2) below:

(1) If the participant submits a complete application within 30 days of the effective date of AFDC case closing, that is, by the end of the month for which the case was closed, the participant will start receiving transitional child care benefits as of the effective date of case closing. The benefit period will be 12 months.

(2) If the participant submits a complete application after the AFDC case has been closed for one calendar month, the participant will start receiving transitional child care benefits commencing with the date the complete application was received by the CWA. The benefit period will be the balance of the 12-month period. In such situations, transitional child care benefits will not be retroactive to the first day of the month the complete application was received.

iv. Upon receipt of a response from a participant requesting FDP transitional child care benefits, the FDP case manager or designee pursuant to Federal regulation and the participant will discuss the child care arrangements, including the requirement to pay a co-payment toward the cost of care. The FDP case manager or designee pursuant to Federal regulation shall determine the amount of the participant's co-payment based on verified earnings, family size and the number of children in transitional child care. The case manager or designee pursuant to Federal regulation and participant will then complete a FDP Agreement for Supportive Services indicating the child(ren) for whom child care is to be provided, the duration of the child care benefits, the name(s) and address(es) of the child care provider(s), and the amount of the child care benefits.

(1) The case manager or designee pursuant to Federal regulation shall give the participant a copy of the Agreement and forward a copy of the FDP Agreement to the county based child care entity.

(2) Once the FDP Agreement is signed, case management or designee pursuant to Federal regulation will process the support agreement and mail out vouchers to the provider(s) listed in the FDP Agreement(s).

v. The case manager or designee pursuant to Federal regulation, in consultation with the FDP participant, shall complete FDP Form 20, Notification of FDP Transitional Child Care co-payment. FDP Form 20 is a four-part form which contains information about the FDP transitional child care co-payment arrangement. It sets forth the requirement of the FDP participant to pay a co-payment toward the cost of care and of the FDP to pay the balance of the approved cost of child care. It contains the amount(s) of co-payment(s) computed for the first and, if necessary, second child in care, the total co-payment to be paid. It provides instructions about co-payment arrangements, proof of

payment and accounting of co-payments collected. Form 20 specifies actions to be taken for nonpayment of the co-payment, including written notice from AFDC/FDP case management or designee pursuant to Federal regulation; and termination of all transitional child care benefits for continued nonpayment (with a right to a fair hearing). FDP Form 20 is signed by the FDP case manager or designee pursuant to Federal regulation, and may be signed by additional agency representatives.

(1) The purposes of FDP Form 20 are to:

(A) Provide the participant receiving FDP transitional child care benefits with written documentation of his or her co-payment obligation;

(B) Establish the responsibilities of the participant and the provider; and

(C) Establish a basis for monitoring compliance with the FDP transitional child care co-payment policy.

(2) FDP Form 20 is to be completed and signed for each child for whom a fee is assessed.

(3) Case management or designee pursuant to Federal regulation must immediately send copies of FDP Form 20 to the participant, child care provider(s), county based child care entity, and must retain one copy.

vi. The biweekly FDP child care voucher process will be used to report transitional child care co-payment collection and nonpayment. Case management (or other entity designated by the county AFDC/FDP to process its AFDC/FDP child care vouchers) shall issue the voucher biweekly listing the name(s) of the FDP transitional child care participant's child(ren). AFDC/FDP case management or the county entity shall ensure that a method for recording payment or nonpayment of the fee is included in this voucher issuance. Acceptable methods include a separate form attached to the voucher, a computer-printed message on the voucher, or any other method approved in writing by the county's DFD representative.

3. Child care service provider functions are as follows:

i. Upon receipt of the FDP Form 20, from AFDC/FDP case management or designee pursuant to Federal regulation, the participant and the provider must negotiate the frequency of co-payments and collection (either weekly or biweekly), and date or day of co-payment. Frequency and day of co-payment can be based on individual circumstances, including the participant's source and frequency of income and the co-payment procedures already established by the provider, but the co-payment must be paid by the last day of the voucher service period. Collection periods must coincide with the periods covered by the FDP transitional child care voucher.

(1) The voucher service period is the two-week period listed on the FDP voucher for which FDP child care services are provided.

ii. The provider should implement a system designed to ensure an efficient, error-free method of recording and accounting for all co-payment collections. The county based child care entity is available to provide technical assistance to providers in establishing such a system. The provider may wish to adapt recordkeeping systems used in the Social Services Block Grant (SSBG) system, such as the One-Write Fee Collection System or a comparable method.

(1) Providers must establish procedures for the collection of the co-payment from the participant.

iii. The provider and FDP participant will then follow the terms of the FDP Form 20 notification. The provider shall collect the assessed co-payments from the participant during the voucher service period. The child care provider has the responsibility to make reasonable efforts to collect assessed co-payments from the FDP transitional child care participant.

iv. At the end of the voucher service period the provider shall complete the voucher indicating the child(ren)'s attendance, the amount of the FDP payment due for child care services provided and whether the FDP participant(s) has paid the required co-payment. The provider must return the voucher to obtain payment for FDP services provided, to document co-payments not paid and thereby to preserve his or her right to possible reimbursement for unpaid co-payments.

v. The income and co-payment information recorded on the FDP Form 20 notification is confidential. The provider, county based child care entity, and AFDC/FDP case manager or designee pursuant to Federal regulation are responsible for ensuring that access to this information is restricted to those individuals responsible for assessing and collecting co-payments.

4. FDP county based child care entity functions are as follows:

i. The county based child care agency is responsible for advising the provider at time of recruitment into FDP of the transitional child care co-payment requirements, including the requirement that the participant must pay a portion of the cost of care; training the provider in voucher completion; and providing assistance in co-payment collection and monitoring, as determined by the county;

ii. To maintain a file of the completed FDP Agreements for Support Services for all participants receiving transitional child care as part of the overall provision of child care services;

iii. To maintain a file of the completed FDP Form 20s for the same reason; and

iv. To offer technical assistance to child care providers as needed and when requested.

5. Reassignment of functions shall be accomplished as follows:

i. A county may opt to reassign functions set forth in this subsection to county entities other than those listed, for example, the county based child care agency, if, given the county's FDP operations, those functions would be more appropriately handled by that other entity. A county must obtain approval from the DFD representative prior to any reassignment.

(1) Functions that may not be reassigned to entities other than those listed in this subsection include: determining eligibility or ineligibility for FDP transitional child care benefits, or sending adverse action notices to the FDP participant advising of the termination of FDP transitional child care benefits, or involvement in the fair hearing process.

ii. A county must use the FDP Form 20 in its FDP post-AFDC operations. Each county must provide to the DFD a copy of its notice of co-payment payment and nonpayment that is completed by the provider and its notice of termination of FDP transitional child care benefits.

(c) Co-payment collection, monitoring, and procedures for late payment or nonpayment of co-payments and termination of FDP transitional child care benefits are as follows:

1. The following are provider functions:

i. It is the responsibility of the child care service provider to collect co-payments and report nonpayment of co-payments in accordance with the terms of the FDP notification.

ii. Whenever the FDP transitional child care co-payment has not been paid to the provider by the end of the voucher service period, the co-payment is considered unpaid.

iii. In the event of nonpayment of assessed co-payments by the participant, the provider will complete the voucher, indicate on the voucher the child(ren) for whom the participant(s) failed to pay the required co-payment, and return the voucher to the designated entity in the county FDP program. This action by the provider in conjunction with the FDP case manager or designee pursuant to Federal regulation will initiate the process for terminating FDP transitional child care benefits.

iv. The provider must continue to attempt to collect co-payments from the participant and must document such collection efforts.

v. Under no circumstances may the participant be charged a late co-payment penalty.

2. The county based child care entity will provide technical assistance to the provider in cooperation with AFDC/FDP case management as needed.

3. AFDC/FDP case management or designee pursuant to Federal regulation functions as follows:

i. It is the responsibility of AFDC/FDP case management or designee pursuant to Federal regulation to monitor co-payment collection by examining the completed FDP transitional child care vouchers returned by providers and responding to nonpayment of co-payments reported in the voucher.

ii. Following receipt of a FDP child care voucher from a provider indicating nonpayment of assessed co-payments by the participant, the FDP case manager or designee pursuant to Federal regulation shall:

(1) Determine the effective date that FDP transitional child care benefits will be terminated;

(2) Complete a letter notifying the participant of termination of FDP transitional child care services. A county may develop a letter specifically for this purpose or may amend an existing notification letter. The purpose of this notice is to provide written notice to:

(A) Advise the participant of a child receiving FDP transitional child care services of the amount of assessed co-payment which has not been paid;

(B) Advise the participant of the right to request and obtain a fair hearing;

(C) Serve as formal notice to the participant that FDP transitional child care services will be terminated by a specific date unless overdue co-payments are paid;

(D) Serve as written confirmation for the provider and county based child care entity that child care services will be terminated due to the late or nonpayment status of the FDP post-AFDC participant; and

(E) Advise the participant to pay the required co-payments and to contact the county FDP or designee pursuant to Federal regulation immediately if she or he has already paid the overdue co-payment(s) so that benefits may be continued; and

(3) Complete and sign four copies of the notification of termination. The FDP Case Manager or designee pursuant to Federal regulation shall:

(A) Send the original to the participant;

(B) Distribute copies to the provider and the county based child care entity; and

(C) Retain a copy for the participant's file.

4. When transitional child care services are terminated due to nonpayment of co-payments, the participant of a child receiving FDP transitional child care services retains the right to request a fair hearing. If timely request (within 10 days) is made, the FDP or designee pursuant to Federal regulation will continue to make payment to the provider for the FDP portion of child care services rendered until a fair hearing is held, and a final determination is made.

i. In all cases where a fair hearing is requested, the procedures outlined in N.J.A.C. 10:81-6 and 7, and 10:86-6 are to be followed.

5. Reimbursement of unpaid co-payments shall be accomplished as follows:

i. If a FDP participant fails to pay assessed co-payments for care provided to her child(ren), the provider(s) may be reimbursed by the FDP program for the amount of unpaid co-payments subject to the following.

(1) Reimbursement by the FDP program or designee pursuant to Federal regulation will be made if all of the following conditions are met:

(A) The child's attendance at the provider's facility was documented on the FDP child care voucher;

(B) The provider has documented on the FDP voucher nonpayment of the co-payments for each voucher service period for which a claim of nonpayment is made; and

(C) The participant's FDP transitional child care benefits were actually terminated.

(2) Reimbursement of unpaid co-payments is limited to a maximum period of two months. Exceptions may be granted in extreme circumstances with prior written approval by the DFD.

(3) Reimbursement of unpaid co-payments to the provider must be paid from State FDP funds.

ii. If a participant whose transitional child care benefits have been terminated due to nonpayment of the co-payment reapplies for transitional child care benefits, the participant must reimburse the amount of the unpaid co-payments before eligibility for transitional child care benefits will be granted for the balance of the transitional child care period.

(1) If the county FDP has already paid the provider(s) for previous unpaid co-payments arrearages, the participant must reimburse the county for the full amount of co-payment arrearages due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county.

(2) If the county FDP program has not yet paid the provider(s) for previous unpaid co-payment ar-

rearages, the participant must reimburse the provider(s) for the full amount of co-payments due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county and the provider(s).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee and substituted references to county based entities for references to lead agencies or entities and references to transitional child care payments, benefits, or eligibility for references to post-AFDC child care payments, benefits, or eligibility throughout.

## SUBCHAPTER 11. RECOVERY OF OVERPAYMENTS

### 10:86-11.1 Overpayments of FDP supportive services (child care and PALS)

(a) This section applies to overpayments of supportive services, including FDP participant allowances (PALS), child care benefits and transitional child care benefits at N.J.A.C. 10:86-9 and 10, respectively.

1. An overpayment is a payment which exceeds the amount of FDP child care benefits, transitional child care benefits or FDP participant allowances for which the AFDC or GA FDP participant or service provider was eligible.

2. The amount of the overpayment subject to recovery is the difference between the amount actually paid to the AFDC or GA FDP participant or service provider and the amount for which the participant or service provider was eligible.

i. If the AFDC or GA FDP participant was ineligible for the benefits for the period for which the service was provided, the entire amount paid is an overpayment.

ii. If the service delivered by the service provider was not approved by the AFDC or GA FDP provider agency through FDP operating procedures, the entire amount paid is an overpayment.

(b) The AFDC or GA FDP provider entity or MWD (for GA transportation costs) shall take all reasonable steps necessary to promptly correct any overpayment of FDP child care benefits, transitional child care benefits or FDP participant allowances made to an AFDC or GA FDP participant or service provider. Recovery shall be attempted in the following circumstances:

1. In all cases of fraud;
2. In all cases involving current AFDC or GA recipients; and

3. In all cases where the overpayment amount would equal or exceed the costs of recovery.

(c) An overpayment to a family or provider currently receiving child care or supportive service benefits shall be recovered through repayment (in part or in full) by the family or provider responsible for the overpayment, or by recovering the overpayment through a benefit reduction in the amount payable to the family or provider.

1. In recovering overpayments from an AFDC or GA family, the family shall be permitted to retain, for any month, a reasonable amount of funds.

2. Overpayments to AFDC or GA individuals may be recovered as follows:

i. From the family unit which was overpaid;

ii. From individuals who were members of the AFDC or GA family when it was overpaid; or

iii. From AFDC or GA families which include members of a previously overpaid AFDC or GA family.

3. In cases of former AFDC or GA recipients or recipients who refuse to repay, recovery shall be made by appropriate action under State law against the income and resources of the overpaid individual or family.

4. Recovery of child care benefits may be made only from child care benefits, and recovery of transportation and related participant allowance payments may only be made from those FDP benefits.

5. Any recoveries of overpayments of child care or transportation and related participant allowance benefits may be made from the AFDC or GA grant only upon a voluntary request of the recipient family.

(d) Underpayments and overpayments may be offset against each other in correcting incorrect payments.

(e) The Department of Human Services may provide that an AFDC or GA FDP provider entity or designee pursuant to Federal regulation need not attempt recovery of overpayments from providers if obligated to make the full payment under the contracts. However, Federal financial participation for AFDC purposes may not be claimed for such overpayments.

(f) The AFDC or GA FDP provider entity or designee pursuant to Federal regulation shall collect and maintain information on the collection of overpayments.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a) and (b), substituted "transitional" for "post-AFDC"; and in (e) and (f), inserted reference to designee.