

2. Parents, children, spouse or sibling: In no event shall boarder status be granted to children or siblings residing with elderly or disabled parents or siblings or to those individuals or groups of individuals described in N.J.A.C. 10:87-2.2(c).

3. Paying reasonable compensation and boarder status: To determine if an individual qualifies for boarder status, it is necessary to determine if the individual is paying reasonable compensation for meals and lodging. Only that amount paid for meals shall be used in determining reasonable payment provided that the amount paid for meals is distinguished from the amount paid for lodging. A reasonable monthly payment shall be either of the following:

i. Boarders whose board arrangement is for more than two meals per day shall pay an amount which equals or exceeds the maximum coupon allotment (MCA) for the appropriate size of the boarder household; or

ii. Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds the MCA for the appropriate size of the boarder household.

4. Paying less than reasonable compensation: Boarder status shall not be extended to an individual who is furnished both meals and lodging by a household but is paying compensation of less than a reasonable amount (as specified in (b)3 above). Such individual shall be considered a member of the household which provides the meals and lodging and shall have his or her income and resources counted in determining the eligibility and benefits of the household with whom the individual boards.

5. Income and resources of persons having boarder status: None of the income and resources of individuals determined to be boarders and who are not members of the household providing boarder services shall be considered available to such household. However, the amount of the payment that a boarder gives to a household shall be treated as self-employment income to the household in accordance with N.J.A.C. 10:87-5.4(a)3.

6. Foster children cannot be required to be included in the household with whom they reside. The household has the option of including foster children in the household, but if it elects not to do so, then the foster children shall be treated as boarders.

(c) Excluded household members: The following individuals residing with a household shall be excluded from the household when determining the household's size for the purpose of assigning a benefit level to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of an excluded household member shall be considered available to the remaining household members in accordance

with N.J.A.C. 10:87-7.14. Excluded household members may not participate in the program as separate households.

1. Intentional program violation: Individuals disqualified for intentional program violation (see N.J.A.C. 10:87-11.1 through 11.5);

2. Social Security number: Individuals disqualified for failure to obtain or refusal to provide a Social Security number (see N.J.A.C. 10:87-3.15);

3. Ineligible alien or citizenship status: Individuals who do not attest to or meet the citizenship or eligible alien status requirements of N.J.A.C. 10:87-3.6, 3.7, and 3.8 or the eligible sponsored alien requirements of N.J.A.C. 10:87-7.18; or

4. Individuals disqualified for noncompliance with the work registration, employment and training program, or voluntary quit provisions at N.J.A.C. 10:87-10.

Amended by R.1981 d.97, effective April 9, 1981.

See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)5: new text substituted for old.

(a)6: delete disqualification of college students for failure to meet school year work registration requirements.

Amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981) exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, eff. December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a)2i: "or" deleted after "spouse" and "or parents" added; "or to either parents . . . of age or older."

Amended by R.1983 d.72, effective February 28, 1983.

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by an emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. The definition of "boarders" has been amended and language has been added to clarify inclusion of income and resources of disqualified individuals.

Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an emergency Rule R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Language concerning disqualified individuals changed to excluded household members. Emergency Rule, R.1987 d.202, effective April 3, 1987 (expires June 2, 1987).

See: 19 N.J.R. 649(a).

(c)5 added.

Readoption of Emergency Rule and Concurrent Proposal, R.1987 d.261, effective July 6, 1987.

See: 19 N.J.R. 649(a), 19 N.J.R. 1207(b).

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

Amended by R.1990 d.270, effective May 21, 1990.

See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Stylistic revisions in (c)4 correcting reference to N.J.A.C. 10:87-2.21(b).

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

Deleted (a)2ii regarding individuals disqualified for noncompliance with various work and/or training requirements.

Revised such text at (c)4 for excluded household members.

10:87-2.4 Residents of institutions and homeless individuals defined

(a) Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution's normal services. Residents of institutions are not eligible for participation in the Food Stamp Program, with the following exceptions:

1. Federal subsidized housing for the elderly: Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act;

2. Narcotic addicts or alcoholics: Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or an alcohol treatment and rehabilitation program, reside at a facility or treatment center as described in N.J.A.C. 10:87-2.7(e);

3. Group living arrangements: Blind and/or disabled individuals who meet the definition of N.J.A.C. 10:87-2.38 and who reside in a public or private nonprofit group living arrangement that serves no more than 16 residents (see N.J.A.C. 10:87-2.7(f));

4. Shelters for battered women and children: Women or women with their children temporarily residing in a shelter for battered women and children shall be considered individual household units for the purpose of applying for and participating in the program.

i. Shelters for battered women and children defined: A shelter for battered women and children shall be defined as a public or private nonprofit residential facility that serves battered women and their children and which may be authorized by FNS to accept and redeem food coupons. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children.

ii. The CWA shall maintain a list of shelters which meet the definition in (a)4i above and document the basis of this determination. Shelters having FNS authorization to redeem coupons through wholesalers shall be deemed as meeting the above definition.

5. Residents of public or private nonprofit shelters for homeless persons.

(b) Homeless individual means an individual who lacks a fixed and regular nighttime residence or whose primary nighttime residence is:

1. A supervised shelter designed to provide temporary accommodations, such as a welfare hotel or congregate shelter;

2. A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

3. A temporary accommodation in the residence of another individual; or

4. A place not designed for, or ordinarily used, as regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

Amended by R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Added, group living arrangements and shelters for battered women.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a)3, revised definition of who qualifies for food stamp benefits in an institution.

10:87-2.5 Boarding home/house

(a) Residents of commercial boarding homes/houses are not eligible for program benefits. For program purposes, a boarding home/house shall be defined as an establishment which is licensed as a commercial enterprise which offers meals and lodging for compensation. In areas without licensing requirements, a boarding home/house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders shall not be used to determine if a boarding home/house is a commercial enterprise.

(b) Boarding home/house proprietor: The household of the proprietor of a boarding home/house may participate in the Program separate and apart from the residents of the boarding home if that household meets all of the eligibility requirements for program participation.

10:87-2.6 Head of household

(a) The household shall designate an adult member to be head of household, except that for purposes of failure to comply with work registration, work and training requirements and voluntary quit provisions, the head of household shall be determined in accordance with (b) below.

(b) For purposes of failure to comply with work registration, work and training requirements, and voluntary quit provisions, the head of household shall be considered to be the principal wage earner.

1. Principal wage earner: The principal wage earner shall be the household member (including excluded members, see N.J.A.C. 10:87-2.3(c)) who has the greatest source of earned income in the two months prior to the month of the work registration, work or training requirement or voluntary quit violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours.

4. Receives federally or State-administered supplemental benefits under section 212(a) of P.L. 93-66;

5. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act;

6. Is a veteran with service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;

7. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;

8. Is a surviving spouse of a veteran and considered by the DVA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;

9. Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

10. Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled, based upon the criteria used under Title XVI of the Social Security Act; or

11. Receives medical assistance benefits as a disabled individual under:

- i. Medicaid Only (Aged, Blind, and Disabled);
- ii. AIDS Community Care Alternatives Program;
- iii. Community Care Program for the Elderly and Disabled;
- iv. Model Waivers I, II, or III (Medicaid Community/Home Care Waivers);
- v. Home Care Expansion Program;
- vi. Medically-Needy Program; or
- vii. New Jersey Care Program.

R.1983 d.72, eff. February 28, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1983 d.38) on February 22, 1983. Readopted as R.1983 d.72.

Amended by R.1985 d.707, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2521(b), 18 N.J.R. 193(b).

Deleted "Licenses" and substituted "Is certified for".

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Repealed old text and substituted new.

Amended by R.1990 d.270, effective May 21, 1990.

See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Stylistic revisions and added new (a)11.

10:87-2.39 Categorically eligible GA households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive GA benefits shall be considered categorically eligible for the Food Stamp Program. In addition, households comprised entirely of AFDC, SSI and/or GA recipients shall be categorically eligible for food stamp benefits.

(b) No individual shall be included as a member of an otherwise categorically eligible GA household if that individual is:

1. An ineligible alien, as defined at N.J.A.C. 10:87-3.9;
2. A student that does not meet the criteria at N.J.A.C. 10:87-3.14;
3. Disqualified for failure to provide or apply for a Social Security Number, as required by N.J.A.C. 10:87-3.15;
4. A household member not the household head, disqualified for failure to comply with a work registration requirement;
5. Disqualified for Intentional Program Violation; or
6. A resident of a non-exempt institution.

(c) A household shall not be considered as GA categorically eligible if:

1. It refuses to cooperate in providing information to the CWA which is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility;
2. The household is disqualified because the head of household failed to comply with a work registration requirement;
3. The household is ineligible under the striker provisions; or
4. The household is ineligible because it knowingly transferred resources for the purpose of qualifying or attempting to qualify for the Food Stamp Program.

(d) In determining whether a household is categorically eligible, the CWA shall verify that each member receives AFDC, SSI, or GA benefits, and that it includes no individuals who have been disqualified as described at (b) above. The CWA shall also verify household composition if it is

questionable in order to determine that the household meets the definition of a household at N.J.A.C. 10:87-2.2.

(e) When determining the eligibility of a GA categorically eligible household, all Food Stamp Program requirements shall apply except the following:

1. None of the provisions of N.J.A.C. 10:87-4 (Financial Eligibility Resources) apply to categorically eligible households, with the exception of N.J.A.C. 10:87-4.1(b) (categorical eligibility provision) and 4.14 through 4.20 (transfer of resources). The provision at N.J.A.C. 10:87-6.8 shall not be applied to categorically eligible households;

2. With the exception of N.J.A.C. 10:87-5.1(b), none of the provisions of N.J.A.C. 10:87-5.1 (gross and net income limits) apply to categorically eligible households;

3. The provision at N.J.A.C. 10:87-6.5(c) which allows the CWA to deny the application of a household which is program eligible, but is entitled to no benefit because its net income exceeds the level at which benefits are issued, shall not be applied to categorically eligible households. The provisions at N.J.A.C. 10:87-6.20 shall be applied to categorically eligible households that are entitled to no benefit; and

4. Sponsored alien information, which otherwise is required under N.J.A.C. 10:87-2.20(b) and 7.18(f).

New Rule, R.1993 d.62, effective February 1, 1993.
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

SUBCHAPTER 3. ELIGIBILITY FACTORS OTHER THAN NEED

10:87-3.1 Applicability

Nonfinancial eligibility factors in this section shall apply equally to all applicant households (see N.J.A.C. 10:87-2.20 and 2.21 for verification requirements).

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.
Amended by R.1990 d.270, effective May 21, 1990.
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).
Added "2.20" to N.J.A.C. 10:87 reference.

Case Notes

Determination of status as non-striker eligible for Food Stamp Program. A.R. v. Middlesex Cty. Welfare Agency, 5 N.J.A.R. 270 (1983).

10:87-3.2 Residency in the county

(a) A household must be a resident of the county in which it files an application for participation. No individual may participate as a member of more than one household, or more than one county, in any month except as provided for in this section.

(b) Residents of shelters for battered women and children: Residents of shelters for battered women and children may participate in the program as a member of more than one household or in more than one county as a separate household in any month if the previously certified household of which they were members also contains the person who subjected them to abuse.

1. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

Amended by R.1982 d.473, effective January 3, 1983.
See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).
Treatment of battered women and children.
Amended by R.1984 d.17, effective February 6, 1984.
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).
Reference to N.J.A.C. 10:87-9.8 deleted.
Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Substantially amended.

10:87-3.3 Determination of residency

(a) For purposes of the Food Stamp Program, a person shall be considered a resident in the place in which he or she actually lives, without regard to legal residence or intent to remain permanently. There shall be no requirement that a person reside in the county for a specified period of time prior to application. A fixed residence is not required; for example, migrant campsites satisfy the residency requirement.

1. The residency requirement shall be verified except in unusual cases such as homeless households, migrant farmworker households or households newly arrived to the project area where verification of residency cannot reasonably be accomplished.

(b) Vacationer excluded: A person temporarily visiting the county solely on a vacation shall not be considered a resident.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Added (a)1.

10:87-3.4 Recording applicant's address

The county welfare agency shall be responsible for recording the applicant's correct address, or location where the applicant may be contacted, in the case record. The CWA shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

Amended by R.1989 d.121, effective February 21, 1989.
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).
Substantially amended.

10:87-3.5 Citizenship or permanent alien status

To receive program benefits, the applicant shall be either a United States citizen or an eligible alien.