

(1) Access to case records shall be granted by the LAB, through the director of welfare, only to the following persons: employees of the MWD acting in an official capacity; representatives of another recognized public or private health or welfare agency, organization or institution for the purpose of obtaining information relevant to providing service to a current or former recipient of general assistance or to a member of his or her family; the client or his or her representative, in accordance with N.J.A.C. 10:87-7.3(b)5; and authorized representatives of the DFD relevant to State audits and quality control review, (see also N.J.A.C. 10:85-1.5(b)).

(2) As a matter of policy, only the director of welfare or the LAB, by formal action and for a just cause, shall authorize the removal of a case record from the office.

(3) Information may be released to authorized persons for statistical purposes but shall not bear the name of the public assistance recipient or any other indication of his/her identity.

ii. Assurance of nondiscrimination: Responsibility is vested in the LAB to safeguard the applicants for and/or recipients of public assistance from discrimination by MWD employees and vendors who provide services to clients. Any discrimination based upon race, color, sex, religious creed, national origin, marital or birth status, political beliefs or disability is unlawful and subject to appropriate action (see N.J.A.C. 10:85-1.4).

(h) Nothing in this section shall be construed so as to allow access to confidential information beyond that authorized in N.J.A.C. 10:85-1.5(a).

(i) In Faulkner Act municipalities where no LAB exists, the authority, duties and responsibilities of the LAB are assumed by the municipal governing body except as specifically indicated in this chapter. Functions of the Secretary of the LAB are assumed by the municipal clerk.

As amended, R.1980 d.11, effective February 1, 1980.

See: 11 N.J.R. 506(b), 12 N.J.R. 86(a).

(c): Changed form title.

As amended, R.1980 d.505, effective November 19, 1980.

See: 12 N.J.R. 584(b), 13 N.J.R. 17(c).

(d)3ii add (1) "The prohibitions . . . acting directors." Renummer (1) as (2) and added "The prohibitions . . . appointment." Renummer (2) as (3).

As amended, R.1981 d.98, effective April 9, 1981.

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

(c) "Certification to . . . BLO:" added.

(c)1 and 2: "BLO" was "BMS".

As amended, R.1982 d.61, effective March 15, 1982.

See: 13 N.J.R. 301(a), 14 N.J.R. 281(b).

Section substantially amended.

As amended, R.1982 d.492, effective January 17, 1983.

See: 14 N.J.R. 1144(a), 15 N.J.R. 92(b).

Deleted language which inappropriately granted that DPW authority to approve or disapprove continuation in office of a local assistance

board member when a replacement has not been appointed within 30 days.

As amended, R.1983 d.328, effective July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).

Originally adopted as an Emergency Re-adoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.

N.J.A.C. citation corrected.

Correction: (d)6i had missing text.

See: 19 N.J.R. 307(b).

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).

Alternate designated under Faulkner Act represents the LAB; State funds 100 percent of administrative costs; posting of after-hours information required.

Amended by R.1994 d.591, effective December 5, 1994.

See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).

Case Notes

Faison v. Green, 171 N.J.Super. 341, 346, 409 A.2d 282 (App. Div. 1979).

Elected officials prohibited from administering general assistance program. State v. Malone, 164 N.J.Super. 47, 53 (Ch. Div. 1978).

10:85-2.3 Appointment of employees

Employees for the MWD shall be appointed by the governing body in accordance with municipal ordinances and in numbers adequate for the proper administration of the general assistance program. While the LAB shall appoint the director of welfare, the municipal governing body is responsible for the appointing of department staff.

10:85-2.4 Establishment of public assistance trust fund account

(a) The governing body of the municipality shall establish a bank account titled "Public Assistance Trust Fund Account", with the municipal treasurer or other designated official as custodian. (See N.J.A.C. 10:85-6.3.)

(b) The governing body of the municipality may, at the request of the LAB, establish a Public Assistance Petty Cash Fund Account. Such fund shall be established and operated in accordance with N.J.A.C. 10:85-6.6.

(c) The municipal welfare director shall arrange for a duplicate check to be issued within five working days of receipt of notification from the client that his or her assistance check has been lost or stolen, unless extraordinary circumstances are present and a longer period of time is approved by the Division of Family Development. The client shall complete an affidavit stating that he or she did not receive or endorse the check. The agency shall file a stop payment order with the bank.

As amended, R.1979 d.281, effective October 1, 1979.

See: 11 N.J.R. 247(c), 11 N.J.R. 383(d).

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

10:85-2.5 (Reserved)

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

Repealed by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).

Text on Request for State Administration deleted.

10:85-2.6 Fraudulent receipt of assistance

(a) To protect the local assistance agency and the public, it is essential to exercise appropriate controls against the commission of fraud. Likewise, the individual's rights must be protected on the basis that a person is presumed innocent until proven guilty.

1. Applicant/recipient suspected of fraud: Resolution of the question of possible fraud requires the cooperation of the recipient to protect his/her own interest; failure or refusal to cooperate is grounds for denial or termination of assistance.

i. Recipient: If the recipient continues to cooperate with the MWD in its investigation regarding eligibility, assistance shall be continued while the suspected fraud is under review by the agency or law enforcement authority.

ii. Applicant: If substantial evidence of fraud appears during investigation of an application for assistance, disposition of the application shall be deferred pending resolution of the issue.

2. Criteria for identifying cases of possible fraud:

i. Definition of fraud: Fraud is defined as obtaining or attempting to obtain payments of assistance to which an individual is not entitled, by means of willful misrepresentation or by intentional concealment of a relevant fact. There are three basic elements which must be established:

(1) The misrepresentation or concealment must have been deliberate and done knowingly. Fraud does not exist if the misrepresentation or concealment is the result of an unintentional act, a misunderstanding or mental incompetency. Distinction must also be made between intent to defraud by the individual and omission, neglect or error by the MWD in securing and recording information.

(2) The misrepresentation or concealment must have been undertaken for the express purpose of receiving or obtaining benefit from, or attempting to receive or obtain benefit from, a payment of assistance to which the individual was not entitled.

(3) If the misrepresentation or concealment, or attempt to misrepresent or conceal a relevant fact, had been known to the MWD, assistance would not have been granted or would have been granted in a lesser amount.

ii. Evidence of fraud: The evidence to establish these points must be factual and capable of being demonstrated in a court of law through the testimony of witnesses or by documentary evidence.

3. Limitations of MWD responsibility: The role of the municipal welfare agency is limited to responsibility for determining whether there is a basis in fact for believing that fraud may have been committed, so that referral to the county prosecutor or other proper law enforcement official for legal action is justified. The action taken by the law enforcement official following referral determines what further legal action shall be pursued. Whether or not fraud has actually occurred is a question for the court.

4. Recoupment of overpayments for willful withholding of information or when fraud has been proven through the courts shall be performed in accordance with N.J.A.C. 10:85-3.6(a)1.

Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).

Recoupment reference added at (a)4.

Case Notes

Faison v. Green, 171 N.J.Super. 341, 346 (App. Div. 1979).

10:85-2.7 Reporting criminal offenses to law enforcement authorities

(a) Investigation of new applications or investigations for redetermination of eligibility may indicate to the municipal welfare department that a crime may have been committed. Allegations of the suspected commission of a crime may also be made known through various other sources, for example, phone calls, written communications, verbal communications from individuals, etc. In matters of reporting of criminal offenses, the municipal welfare agency shall, at all times, maintain full compliance with the provisions of N.J.A.C. 10:85-1.5, dealing with basic principles for safeguarding of information.

1. Nature of offenses which must be reported are:

i. To local authorities: Arson, manslaughter, murder or any crimes which constitute crimes of the third, second and first degrees, such as atrocious assault and battery, carnal abuse, incest or rape. (Refer to legal counsel for additional information identifying crimes of the third, second and first degrees.)

ii. To the Division of Youth and Family Services—If any of the following conditions appear to exist regarding a child, the case shall immediately be referred to the Division of Youth and Family Services (DYFS) for appropriate action. The MWD shall provide DYFS with available information and will cooperate as necessary.

(1) Physical or sexual abuse or cruel treatment.

Change in eligibility from children under 21 if attending school to children under 19, if attending secondary school. Reflects Federal change in AFDC standards.

As amended, R.1983 d.328, eff. July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).

Originally adopted as an Emergency Re-adoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.

Internal citations corrected throughout text.

As amended, R.1984 d.16, effective February 6, 1984.

See: 15 N.J.R. 1629(a), 16 N.J.R. 245(a).

Clarification of unrelated persons functioning as households.

Amended by R.1985 d.168, effective April 15, 1985 (operative May 1, 1985).

See: 17 N.J.R. 37(a), 17 N.J.R. 968(a).

(b)2ii added; old 2ii recodified to 2iii with substantial changes.

Correction: (a)1 and 2 missing from text.

See: 18 N.J.R. 307(b).

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

Amended by R.1992 d.260, effective June 15, 1992.

See: 24 N.J.R. 926(a), 24 N.J.R. 2263(a).

In (b)2: deleted text regarding household size in the determination of GA allowances.

Recodified existing 3 as 2, with no change in text.

Amended by R.1992 d.503, effective December 21, 1992.

See: 24 N.J.R. 3075(a), 24 N.J.R. 4538(a).

Outpatient costs excluded at (a)1i; inpatient references deleted; only certain U.S. citizens or lawful permanent residents eligible for service; employability defined.

Amended by R.1993 d.382, effective August 2, 1993.

See: 25 N.J.R. 1714(a), 25 N.J.R. 3466(a).

Amended by R.1994 d.591, effective December 5, 1994.

See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).

Case Notes

Former regulation (cited as General Assistance Manual § 2.300A(III)(4)) invalid as contrary to statute in providing for distinction between recipients unemployable because of a disability and those unemployable because of lack of job availability. *Pascucci v. Vagott*, 71 N.J. 40, 362 A.2d 566 (1976).

Alcoholism not good cause for failing to perform worksite assignment. *Township of Union, Department of Human Services v. M.B.*, 92 N.J.A.R.2d (DEA) 28.

10:85-3.2 Application process

(a) The application process begins with an individual's initial contact with the agency and includes determination of eligibility, verification of the applicant's statements and decision by the municipal welfare department regarding issuance of assistance. Both the applicant and the MWD have responsibility in verifying and documenting eligibility (see subsection (e) of this section).

1. Initial contact with agency: An individual's initial contact with the municipal welfare department may be in form of an inquiry, a referral or an application for public assistance.

i. Inquiry: Any request for information about assistance programs which does not result in an application. A record is necessary only when the inquiry requires follow-up action.

ii. Referral: A request from a public or private agency or individual for assistance on behalf of a person who has indicated need of such help. All

referrals must be recorded, including appropriate facts and action taken.

iii. Application: A written request for General Assistance by an individual who wishes to apply for him/herself and his/her dependent, if any, or a request from an authorized agent acting on behalf of such an individual (see (c)2 below).

(b) Rules concerning responsibilities of the agency are:

1. Initial contact: Upon initial contact, the municipal welfare department is responsible for informing the individual of the following:

i. The general requirements of the application process, including the necessity of contacting certain relatives and of making certain other collateral contacts; the right of the applicant to confidentiality and to be the primary source of information; an explanation of the blanket consent statement; and the fact that the applicant is, by signing this form, consenting to have the MWD contact others (except the Social Security Administration which releases information only upon written consent of the client).

ii. The availability of the Food Stamp Program to eligible nonpublic assistance households, with instructions about where to apply.

iii. Other programs (services and assistance) which are appropriate and for which the individual may be eligible. (See subchapter 8 of this chapter.)

2. Decision to apply: The agency shall determine whether or not the individual does indeed wish to apply, with his/her full understanding of the MWD's need to verify essential eligibility factors and of the requirement for a personal interview.

3. Immediate application: When the individual indicates his or her decision to apply for General Assistance, an application shall be taken immediately.

4. Referral to CWA:

i. When, during the initial contact, it appears that potential eligibility for AFDC exists, the municipal welfare department shall immediately refer the individual(s) to the county welfare agency to make application.

ii. When such referral is made at a time other than the normal business hours of the county welfare agency or when, in the opinion of the municipal welfare director, the individual cannot reasonably be expected to reach the CWA offices before the end of the business day, general assistance may be granted on an emergency basis only, in accordance with N.J.A.C. 10:85-4.6.

(1) When immediate need exists (see N.J.A.C. 10:85-3.3(a)1), such emergency grant shall be made in an amount sufficient to provide for the family's immediate needs from the date of application until

the reopening of the CWA office. (See N.J.A.C. 10:85-4.2(a)3 for method of prorating allowance.)

(c) Rules concerning taking applications are:

1. Application/affidavit: Any person who indicates a wish to apply for General Assistance shall be recognized as an applicant. Such individual will be assisted by an MWD worker in completing the application (Form GA-1). He or she shall then be required to sign under oath the attached affidavit attesting to the correctness of his or her statements.

i. Form GA-1 (Application and Affidavit for General Assistance) shall be used in every case for the initial application. The director of welfare or MWD caseworker is empowered to receive the oath and witness the applicant's signature or the signature of an authorized agent acting in situations described in (c)2 below.

ii. When application is being made for more than one person, it must be signed by all persons for whom assistance is requested except dependent children under age 18.

iii. The following procedures apply at the time of application:

(1) All applicants shall be required to sign two copies of Form GA-51 (Important Reminder of Your Obligation to Report Changes). The applicant shall retain one copy and the original shall be filed in the case record. The MWD shall explain to the applicant(s) that it is his or her obligation to promptly report changes in income, resources or other circumstances.

(2) All applicants shall be provided with a copy of Form GA-197, Your Rights and Responsibilities in the General Assistance Program. The MWD shall provide any oral explanations the applicant(s) may request.

iv. Upon request, the MWD shall provide the applicant(s) with a copy of the completed GA-1 form.

2. Authorized agent:

i. A legally appointed guardian shall always be recognized as an authorized agent to initiate an application to establish eligibility for General Assistance.

ii. In General Assistance, an individual who wishes to apply may be confined at home or at an institution, or may be subject to a critical illness or injury which impedes action on his/her own behalf. Consequently, the MWD shall accept any one of the following, in the order of priority as listed, as an authorized agent for the purpose of initiating an application:

(1) A relative by blood or marriage;

(2) A staff member of a public or private welfare agency of which the person is a client, who has been designated by the agency to so act;

(3) A physician or attorney of whom the person is respectively a patient or client;

(4) A staff member of an institution or facility in which a person is receiving care, who has been designated by the institutional facility to so act.

3. Binding upon eligible unit: The application and affidavit is binding upon the individual(s) signing this document and upon any other member(s) of the eligible unit for whom he/she is applying. An authorized agent is obliged to complete the application to the best of his/her knowledge.

4. Personal interview: The application shall be taken at a personal interview with the client unless an authorized agent is acting on behalf of a client in accordance with (c)2 above. The interview may occur at the welfare office or in the client's home (or hospital or other institution, if necessary).

5. Social Security number: The Social Security number of every recipient of General Assistance must be recorded on the application form (Form GA-1) and elsewhere in the record as may be appropriate to the facts of the case. Any person who has a number and whose number is not disclosed and recorded is not eligible for assistance.

i. When assistance is requested for a person who does not have a Social Security number, the MWD will make referral (using Referral for Services Form PA-14) to the appropriate district office of the Social Security Administration. Form PA-14 shall explain that the purpose of the referral is to make application for a Social Security number. The MWD will grant assistance while issuance of the number is pending if the person is otherwise eligible. Failure to apply for a number or to cooperate with the Social Security Administration in those things necessary for issuance of a number renders the applicant ineligible for assistance.

ii. The MWD will maintain appropriate follow-up of the referral.

6. If at the time of application a client indicates on Form GA-1, Application and Affidavit for General Assistance, that he or she is not a United States citizen, he or she shall be required to provide the MWD documentation from the Immigration and Naturalization Service (INS) which indicates his or her alien status. Additionally, the appropriate corresponding Alien Registration Number shall be made available as soon as possible but no later than 10 calendar days from the date of application. If the applicant, who is otherwise GA eligible, cannot provide documentation concerning alien status because he or she is awaiting receipt of that information, assistance shall not be withheld pending the receipt of the information. A copy of such documentation shall be retained in the case file. Information about the applicant/recipient's alien status shall not be used to violate the individual's right to confidentiality by the MWD or INS, except in instances of fraudulent activity committed by the individual to establish eligibility for GA.

i. Upon receipt of alien status documentation, the MWD shall complete and submit (faxed or mailed) Form GA-26 (Alien Verification Form), incorporated herein by reference as Appendix D, Exhibit 1, to the Division of Family Development, Bureau of Integrity Control, CN 716, Trenton, New Jersey 08625. Information supplied in the GA-26 shall be used for verification purposes through an INS automated system in the Bureau of Integrity Control (BIC).

ii. When the information has been verified, the BIC will fax or mail that information to the MWD.

iii. When the INS system indicates that additional verification is required, the MWD will be so advised on the returned Form GA-26 (Alien Verification Form) and the MWD shall be required to complete and submit INS Form G-845 (Document Verification Request) to the Regional INS office.

iv. All information concerning alien status shall be kept confidential and secure in the case file.

v. Requests for alien verification shall at no time be made for anyone who is not an applicant or current recipient of GA.

7. All applicants/recipients (except nursing facility applicants/recipients) are required to participate in the fingerprinting process at the time of application and at other times when the MWD deems it necessary to positively establish the identity of the client.

i. Fingerimages will be completed on the left and right index finger of the client.

ii. All MWDs without automated worksites for fingerprinting shall mail the fingerprint cards, with the accompanying reference data, to DFD within 24 hours after obtaining the fingerprint.

iii. When immediate need is apparent, a grant shall be issued in an amount sufficient to assure that the applicant is provided with food, shelter and clothing, pending verification of the results of fingerprinting. Refer to N.J.A.C. 10:85-4.2 for periods for which assistance may be granted.

iv. Applicants/recipients refusing to participate in the fingerprinting process shall be deemed ineligible for GA. Clients currently receiving GA shall be terminated immediately (see N.J.A.C. 10:85-7.2 regarding timely notices) and shall be ineligible for GA until participation in the fingerprinting process occurs.

v. Recipients found in receipt of duplicate assistance from more than one MWD will be ineligible for GA benefits for a period of 90 days beginning with the month subsequent to the month in which the benefit infraction was identified (see N.J.A.C. 10:85-1.1(g)2).

vi. The data collected and maintained through the use of the fingerprinting identification program shall be

used for the sole purpose of preventing multiple enrollments in the General Assistance program and shall only be disclosed to those directly connected with the administration of the General Assistance program who need access to the data for the purpose of preventing multiple enrollments in the General Assistance program.

8. Registration and case number: The application shall be immediately registered and a number assigned.

(d) Rules concerning immediate need are:

1. Assistance granted: When immediate need is apparent, the director of welfare shall grant such assistance as may be necessary to ensure that the applicant is provided with food, shelter and clothing pending further verification of the case.

2. Prompt verification: Verification shall be initiated promptly and in accordance with the regulations in subsection (e) of this section.

(e) Rules concerning verification and sources of evidence are:

1. Applicant's statements:

i. The client's statements regarding his or her eligibility are evidence. For purposes of public assistance, the client's statements must be consistent, and certain facts must be verified and documented, such as, but not limited to, client identity, residence, and ownership of resources. The applicant will be informed that the municipal welfare department is required to document the facts regarding certain eligibility criteria and that this process will include contacting collateral sources as necessary.

ii. Applicants are usually able to help select the most likely sources for corroboration of essential eligibility information. If they are not willing either to have the necessary inquiries made or to secure the required information from such sources themselves, it shall be explained that the municipal welfare department will be unable to grant assistance. This choice and the consent statement printed on the application which allows others to be contacted will be explicitly explained.

2. Limitations in seeking evidence:

i. Only evidence to corroborate facts essential to eligibility shall be sought. In determining the relative validity of evidence, the agency should bear in mind the type and source of the document.

ii. Affidavits shall be used only when other sources have failed or have produced inconclusive data. Documentation obtained in the manner shall be taken under oath from a person who has factual knowledge of the relevant circumstances. The affidavit shall show the circumstances under which this person has known the applicant, as well as the factual basis of his/her state-

ments relating to this applicable eligibility requirements.

3. Sources of evidence:

i. Public records are preferred evidence, and investigation of these sources shall be exhausted before other sources are used.

ii. Sources of collateral evidence to establish eligibility include but are not limited to the following: Birth, death and marriage certificates, church records, immigration and naturalization papers, census records, school records, military service record, court records, employment records, records of public or private welfare agencies, voting records, medical records, personal records and affidavits from knowledgeable persons.

iii. While it is usually desirable to obtain evidence in written form, personal inspection of records by the agency personnel, where permission can be secured, is an acceptable practice and is often quicker and simpler. See (e)5 below for recording of such information.

4. Verification of income and resources:

i. Earned income: The worker will verify, either through examination of pay stubs or with the client's employer, the amount of gross income received.

(1) MWD staff shall make telephone contact with DFD's Bureau of Integrity Control to elicit available wage match information for every new applicant within 30 days of the application date and shall document such information in the case file.

ii. Unearned income: All unearned income shall be verified by examination of benefit check or by contact with the company or agency granting such benefit.

(1) MWD staff shall make telephone contact with DFD's Bureau of Integrity Control to elicit available Unemployment Insurance Benefit (UIB) or Temporary Disability Insurance Benefit (TDI) information for every new applicant within 30 days of the application date and shall document such information received in the case file. For situations of incomplete or inconsistent information about Unemployment/Disability Insurance benefits from the client himself or herself, or, where the agency experiences difficulty in securing verification, the MWD may send Form PA-24 (Verification of Unemployment/Disability Insurance) to the DFD, Att: Bureau of Integrity Control.

iii. Previous support: Previous sources of support shall be explored with the client.

iv. Resources: All resources shall be evaluated and, where appropriate, a plan for their liquidation developed and undertaken by client. (See N.J.A.C. 10:85-3.4(d).)

v. Legally responsible relatives: Relatives who are responsible for one or more members of the eligible unit shall be contacted and their ability to contribute support evaluated. However, assistance shall not be withheld pending this evaluation. See N.J.A.C. 10:85-92.(a) regarding support as countable income.

5. Recording of verification: All information upon which verification is based, whether written or oral, shall be recorded in the case record, including sources from which it was obtained and methods utilized.

i. Incomplete information in the case record may, at the time of State review, be considered insufficient evidence to substantiate eligibility.

(f) Resident defined: A resident of a municipality is a person who maintains a permanent customary home in the municipality, a person who is in the municipality with intention to remain, or a person who enters a New Jersey long-term care facility from out-of-State and qualifies as a resident in accordance with (f)1i below. No time intervals are relevant so long as the home is not established for a temporary purpose such as for a visit or vacation. A resident may live in his or her own home, a rented home or apartment, the home of a friend or relative, in a boarding home or in a residential medical facility.

1. When the last municipality of residence was not in New Jersey and the person qualifies in accordance with (f)1i below, that person shall be considered a resident of the municipality in which the medical facility is located.

i. Whenever an individual enters this State in order to receive medical care, and applies for General Assistance to meet all or a portion of the costs of such care, the fact that the immediate purpose of the move was to secure medical care does not, in and of itself, have the effect of making the person ineligible for the General Assistance program. It is the responsibility of the MWD to evaluate all such cases and to make an eligibility determination, considering carefully all of the following criteria.

(1) Whether the move is a temporary one, being solely for the purpose of receiving medical care for a limited time;

(2) Whether the move is part of a carefully conceived social service plan which would serve to meet other requirements of the individual in addition to purely physical needs, for example, a person moves to a nursing home in order to be closer to relatives who are interested in the person's welfare;

(3) Whether there is a clear expression of intent on the part of the individual to remain permanently in this State;

(4) Whether there is objective evidence that the individual has, in fact, abandoned or not abandoned residence in the state from which he or she came;

(5) Whether the state in which the individual previously resided recognizes him or her as having continuing eligibility in that jurisdiction under the Medicaid program or any other program providing payment for medical care.

ii. If, after full consideration of the factors in (f)1i above, the MWD is satisfied that the individual has become a resident of this State, then the person shall be considered a resident of the municipality in which the person is present.

2. Nonresidents/transients: Persons in a municipality who are neither residents nor medical facility patients by the above definitions shall, if otherwise eligible, be granted assistance while in the municipality according to the same standards as for residents.

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

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

(2) Assistance for travel purposes in any amount over \$100.00 shall be granted only with prior approval from the DFD.

3. College students: An individual age 18 or over who is attending school or college may be found eligible for General Assistance only when all of the following conditions are present:

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

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

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

iii. He or she is registered with the State Employment Service, in accordance with (g) below; is available for and agrees to accept employment offered through that agency or by any other source.

(1) The MWD shall caution the individual that a bona fide offer of employment may, at any time, interrupt his/her course of studies.

(2) See (g) below regarding refusal to register for work.

iv. A college student shall not be eligible for General Assistance while residing out-of-State in order to attend school.

4. Absence from State: The MWD shall not be obligated to provide assistance to persons who leave the State for more than seven consecutive days or who regularly leave the State for three or more days each week, unless such absence is required by the individual's employment.

(g) Work requirement: Eligibility for public assistance in New Jersey is directly related to an individual's willingness to work when he or she is able to do so. It is, therefore, a part of the application process to explain the work requirement to the applicant and to record in the case file the reasons for any exemption from this requirement. If not exempt from the work training requirement, GA recipients shall participate in the work requirements of this subsection or N.J.A.C. 10:86 which delineates the Family Development Program (FDP), which replaces the requirements of this subsection in those counties that have been phased into that enhanced work/training initiative.

1. For persons who are registered in accordance with (g)2i below, the case folder must contain copies of the requisite forms demonstrating that registration was current throughout all periods covered by grants of assistance. Those MWDs receiving lists of GA clients registered for work must keep these lists in a central location and make them available to State staff.

2. Elements of the work requirement: Unless specifically exempt, all employable recipients of General Assistance benefits shall comply with all parts of this section unless participating in the FDP in accordance with N.J.A.C. 10:86:

i. Maintain current registration with the New Jersey Division of Employment Services. No employable person who is subject to this requirement shall be eligible for any General Assistance payment until after he or she has completed Form NJES-1A and submitted it to the MWD. The MWD will, within one working day thereafter, submit the form to the appropriate Special Programs Office of the New Jersey Division of Employment Services. Once registered, a GA recipient remains registered as long as he or she remains on assistance.

ii. Report to the Employment Service office upon request, providing all required information.

iii. Report for employment interviews as scheduled by the Employment Service.

iv. Accept employment or better employment if and when offered. This requirement is not limited to offers made through or on referral of the Employment Service.

v. In the absence of employment, accept training for employment as offered.

vi. Continue in employment or training unless good cause for discontinuance exists.

3. Exemptions from work requirement: An individual shall be exempt from the work requirement if any of the following exists:

i. The individual is participating in a lawful strike or is locked-out because of a labor dispute. Participation in an unlawful strike, a "sympathy" strike, or walkout or refusal to cross a picket line is, however, a voluntary cessation of work and is to be processed in accordance with (g)7 below;

ii. The individual is under age 16 or is under age 18 and is a full-time student; or

iii. The individual is applying for or is receiving medical benefits only without maintenance payments; or

iv. The individual is receiving inpatient hospital care and treatment; or

v. The individual is determined to be unemployable. See N.J.A.C. 10:85-3.1(a)5 for those groups of individuals that are considered to be "unemployable."

4. Action in situations of exemption:

i. Action by MWD:

(1) The MWD will record dates and reasons for all determinations of exemption.

(2) When an exemption is authorized for any reason which is subject to change, the MWD will make redeterminations at appropriate intervals.

(3) When appropriate, the MWD will make referral of the recipient to the Division of Vocational Rehabilitation Services (see N.J.A.C. 10:85-8.4(g)) and/or to the Social Security Administration for RSDI and/or SSI benefits (see N.J.A.C. 10:85-8.3(c)).

ii. Action by Recipient:

(1) In accordance with the signed application, the recipient will provide all information required for determination of exemption or continuing exemption and will provide cooperation in obtaining any necessary information from others.

(2) The recipient will report as referred for medical services and/or rehabilitation for purposes of restoring or improving employability and will cooperate in efforts to that end.

5. Project Activity: Employable recipients for whom the Employment Service is unable to locate immediate employment shall be assigned to work projects in accordance with the provisions of subchapter 10 of this chapter. Persons who fail or refuse to perform in such assignments shall be subject to penalty as prescribed in that subchapter and subparagraph 7i of this subsection. The MWD will provide all necessary cooperation with the Employment Service.

6. Good cause: For individuals involved in worksites supervised by the Special Programs Office of the New Jersey Employment Service, that agency will make the good cause determination. For interim worksites supervised by the MWD, the MWD will make the determination (see N.J.A.C. 10:85-10.7). The failure or refusal to accept or retain employment for good cause is established when any of the following exists:

i. No bona fide offer of employment was received by the individual.

ii. Rates offered or paid were less than an applicable minimum wage established by law.

iii. The individual was physically unable to engage in the employment in question.

iv. No reasonable means of transportation to work was available.

v. Working conditions were hazardous to health or safety.

vi. An offered job was available solely because of a strike or walkout of other employees of the employer or organization offering employment.

vii. The job required membership in a union which the recipient did not wish to join.

7. Failure to comply: Employable persons who are not exempt (see (g)3 above) and who fail or refuse without good cause (see (g)6 above) to comply with applicable parts of this work requirement section are considered to be unwilling to work and are subject to penalty as indicated in (g)7ii below.

i. In an eligible unit of more than one, when a person incurs a penalty of ineligibility, the grant will be reduced by the penalized person's pro rata share.

ii. Penalties:

(1) Any employable person who fails or refuses without good cause to comply with any part of (g)2i through vi above or who voluntarily ceases employment without good cause or who has been involuntarily terminated from employment for reasons attributable to his or her own negligence, shall be considered unwilling to work for a period of 90 days which shall commence at the end of the month during which the person last received GA benefits. The MWD shall terminate (with notice) all assistance to or for such person for the 90 day period.

8. MWDs must notify the Special Programs Office of the termination of assistance to any client registered for employment services. Such notification shall be by use of Form NJES-1A or a monthly listing giving the name, Social Security number and case number of the applicable client(s).

9. Travel costs: For an individual who is eligible for maintenance payments in the General Assistance Program, the MWD shall authorize payment, not to exceed \$40.00 per month, for costs of local travel by the least expensive feasible mode of transportation when the travel is for training for employment when such training has been approved by the MWD, for the seeking of employment at times and places approved by the MWD, or for participation in project activity in accordance with N.J.A.C. 10:85-10. Local travel shall be construed to mean travel within the area of normal commutation for employment from the home of the individual. No payment shall be authorized under this section to or for any person for whom disregards of earned income (N.J.A.C. 10:85-3.3(c)4) were applied in the calculation of the most recent grant of assistance. No payment shall be made under the authority of this section for travel which is available without charge to the recipient or for travel costs available from any other source.

(h) Persons released from an institution (see also N.J.A.C. 10:85-3.1(f)):

1. Place of referral: Referral will be made to the municipal welfare director as follows:

i. If the patient is under care in the institution and is to be discharged or released to return to his/her home or the home of relatives, or is already in such home, referral will be made to the director of the municipality where the home is located.

ii. If the patient is currently under the institutional Interim Assistance-Trial Placement program, but is to be discharged or released from that program to return to his/her home or the home of relatives, referral will be made to the director of the municipality where the patient is to live.

iii. If the patient to be discharged or released from Interim Assistance-Trial Placement has no other home and wishes to remain in the Trial Placement boarding home, referral will be made to the director of the municipality where such Trial Placement boarding home is located.

iv. If the patient is either under care in the institution proper or in Interim Assistance-Trial Placement and plans must be made to locate to a suitable home for him/her, referral will be made to the municipality where patient was living at the time he/she entered the institution, and the responsibility for establishing a suitable living arrangement will rest with that municipal welfare department.

(1) However, in the event the patient expresses a specific desire to establish him/herself in a certain locality, referral shall be made to such municipality.

2. Methods of referral: Referrals for general assistance of persons released or about to be released from State institutions or V.A. hospitals may be made to the MWD by the Bureau of Field Services, Division of Developmental Disabilities, by the Disability Determination Review Section (DDRS) of the Division of Mental Health and Hospitals, or by the institution or hospital itself.

i. When the referral is made directly by the State institution, it will be requested to prepare and send to the municipal welfare director Form PA-12, Referral by State Mental Institution to Public Assistance Agency.

ii. A Veterans Administration hospital will send the following, in writing and with knowledge and consent of the veteran, to the municipal welfare director:

(1) Identifying data;

(2) Anticipated date of discharge;

(3) Description of any known or tentative living arrangement following discharge.

3. Application interview: Upon receipt of a referral, the municipal welfare director or caseworker will arrange for an interview with the referred individual (and the family member who is the head of the household if patient is to return to relatives) as promptly as possible but in any event within two working days, to be held at a mutually convenient place.

4. Notice of eligibility: The referring agency or institution shall be advised promptly, in writing, whether or not the individual is eligible to receive general assistance and, if eligible, the date on which assistance will be available.

5. Responsibility for transportation: A necessary transportation of individuals from the institution to a community living arrangement shall be provided by the institution.

6. Continuing service to recipient of General Assistance: The social service staff of the agency or institution may continue to visit and consult with client as arranged between the social worker and the client. If a question of the client's mental condition or adjustment comes to the attention of either social worker or the MWD worker, there shall be consultation and joint planning for appropriate action.

7. Notice of change of status: The institution will promptly notify the municipal welfare director of any change in status of an individual receiving general assistance while on convalescent leave or extended visit (that is, return to institution, transfer to family care, or official discharge).

i. The director shall promptly notify the institution in the event that a client becomes ineligible for general assistance and the reason therefore.

(i) Procedures for individuals released from a State psychiatric hospital are:

1. If the individual is under care in the institution and plans are to be made to locate a placement for him or her, prior to discharge to the community, the DDRS in the Division of Mental Health and Hospitals (DMHH) will have the responsibility to contact the municipality where the person was living at the time he/she entered the institution.

i. In the event the person indicates that he or she wishes to locate in a specific municipality, DDRS will make referral to that municipality.

ii. In any event, placement in the community will be the responsibility of the DDRS worker.

iii. Under the contractual agreement between the United States Department of Health and Human Services and the State of New Jersey, DMHH may be reimbursed for interim assistance it grants to individuals while eligibility for SSI is being determined. If the individual is receiving such interim assistance, the DDRS will not refer the individual for GA until notified by the Social Security Administration that the client's application for SSI has been denied. The DDRS worker will notify the MWD that interim assistance is being terminated and GA is now required.

2. The DDRS worker will fully complete Form GA-1 (Application and Affidavit for General Assistance), prior to discharge, for the person needing assistance.

3. The DDRS worker will arrange for completion of a Social Service Plan and a physician's report or medical abstract and will forward both together with the PA-7 (Report of Findings by Psychiatric Diagnostic Group), PA-12 (Referral by State Mental Institution to Public Assistance Agency) and GA-18 (Certification of Need for Patient Care in Facility Other than Public or Private General Hospital), if applicable, to the MWD.

4. The municipal welfare director or an authorized case worker will receive the material, review it for completeness and determine eligibility for assistance as soon as possible, but shall, in any event, make a decision within 30 days of receipt of such material, pursuant to N.J.A.C. 10:85-7.1(c).

i. If the individual has been referred for SSI by DMHH/DDRS but is not receiving interim assistance from that agency, prior to granting GA the municipal welfare director or authorized case worker shall ensure that the applicant has signed Form GA-30 in accordance with the procedures outlined in N.J.A.C. 10:85-6.5(c).

5. If placement must be made before a final decision as to eligibility can be rendered by the MWD, or DDRS worker is not in a position to have the appropriate material prepared and submitted before discharge to the community, both agencies will retain their respective responsibilities as defined above and shall keep the other agency fully informed of any action taken on behalf of the discharged persons. However, in accordance with N.J.A.C. 10:85-3.3(a), no person shall be denied assistance if in immediate need, if he or she is otherwise apparently eligible, because necessary material identified above as coming from the DDRS has not been completed and submitted.

6. The provision of social services incident to discharge of individuals from the State institution shall be the responsibility of the DDRS social worker, at least until such time as a decision with respect to SSI eligibility is made or eligibility for GA is determined. Thereafter, either the CWA or MWD will provide social services independently or in conjunction with DDRS staff.

7. All disputes shall be referred to the Division of Family Development, General Assistance Program (GAP) Unit (DFD/GAP Unit) field representative assigned to the specific area wherein the dispute occurs for appropriate resolution. The field representative shall render a decision and notify the DDRS and MWD within five working days after the dispute has been referred.

As amended, R.1978 d.169, effective June 1, 1978.

See: 10 N.J.R. 151(a), 10 N.J.R. 256(a).

As amended, R.1978 d.171, effective June 1, 1978.

See: 10 N.J.R. 150(a), 10 N.J.R. 258(b).

As amended, R.1979 d.197, effective July 1, 1979.

See: 11 N.J.R. 184(a), 11 N.J.R. 283(c).

As amended, R.1979 d.280, effective September 1, 1979.

See: 11 N.J.R. 247(a), 11 N.J.R. 383(c).

As amended, R.1979 d.326, effective September 1, 1979.

See: 11 N.J.R. 345(a), 11 N.J.R. 449(a).

As amended, R.1979 d.496, effective December 14, 1979.

See: 11 N.J.R. 507(b), 12 N.J.R. 43(b).

(g)6iii(2): Added sentences 4 through 6.

As amended, R.1980 d.11, effective February 1, 1980.

See: 11 N.J.R. 506(b), 12 N.J.R. 86(a).

Amended form in (c)1i and (g)4ii and iii.

As amended, R.1980 d.92, effective April 1, 1980.

See: 12 N.J.R. 29(c), 12 N.J.R. 193(d).

(c)1iii: Changed cross reference from 5.2(g)2 to 5.2(f)2.

(c)4: Added last (parenthetical) sentence.

Added (f)1ii and codified (f)1i separately from (f)1.

As amended, R.1980 d.116, effective March 19, 1980.

See: 11 N.J.R. 507(a), 12 N.J.R. 194(a).

(h)1ii-iv: "Interim Assistance-Trial Placement" was "Family Care".

(h)2: Replaced BLO/ISS of DPW with Bureau of Transitional Services.

Added subsection (i).

Amended by R.1980 d.122, effective March 19, 1980.

See: 12 N.J.R. 122(a), 12 N.J.R. 195(b).

(g): Added paragraph 1.

(g)1i: Renumbered as (g)2i, deleted requirement for renewal every 90 days.

(g): Renumbered paragraphs 2 through 7 as 3 through 8.

Amended by R.1980 d.152, effective April 11, 1980.

See: 12 N.J.R. 121(a), 12 N.J.R. 278(b).

(a)1iii: Added "or a request . . . of this subsection".

(c)1i: Added "or the signature . . . of this subsection".

(c): Added paragraph 2.
 (c)2: Renumbered as 3 and added last sentence.
 (c)3: Renumbered as 4 and added "unless an . . . of this subsection".
 (c): Renumbered paragraphs 4 and 5 as 5 and 6.
 Amended by R.1980 d.153, effective May 1, 1980.
 See: 12 N.J.R. 121(b), 12 N.J.R. 278(c).
 (g): Substantially amended.
 Amended by R.1980 d.245, effective July 1, 1980.
 See: 12 N.J.R. 191(a), 12 N.J.R. 418(b).
 (f) amended to include persons entering a New Jersey medical facility from out-of-state in the definition of municipal resident.
 (f)1 amended to include current exception and sentence immediately following.
 (f)1iii added.
 Amended by R.1980 d.252, effective July 1, 1980.
 See: 12 N.J.R. 275(c), 12 N.J.R. 419(a).
 (f)1i: Exception language added.
 Amended by R.1980 d.514, effective January 1, 1981.
 See: 12 N.J.R. 584(c), 13 N.J.R. 18(a).
 (c)1iv amended to provide applicant with pamphlet and oral explanations. (c)1v added.
 Amended by R.1981 d.160, effective June 4, 1981.
 See: 13 N.J.R. 145(a), 13 N.J.R. 363(b).
 (g)4i(3): cross-references added.
 Amended by R.1982 d.103, effective April 5, 1982 (operative May 1, 1982).
 See: 13 N.J.R. 927(b), 14 N.J.R. 344(c).
 (g)3ii deleted-v. deleted and replaced with new (g)3ii through (g)3v9(D).
 Amended by R.1982 d.104, effective April 5, 1982 (operative May 1, 1982).
 See: 13 N.J.R. 929(a), 14 N.J.R. 344(d).
 (g)7 substantially amended.
 Amended by R.1982 d.418, effective December 6, 1982.
 See: 14 N.J.R. 956(a), 14 N.J.R. 1398(a).
 Information regarding verification of Unemployment/Disability Insurance added.
 Amended by R.1983 d.160, effective May 16, 1983.
 See: 15 N.J.R. 314(a), 15 N.J.R. 807(a).
 Medical evidence of mental or physical disability or impairment added as necessary proof of unemployability.
 Amended by R.1983 d.328, effective July 25, 1983.
 See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).
 Originally adopted as an Emergency Re-adoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.
 Internal N.J.A.C. citation form corrected throughout text.
 Amended by R.1983 d.374, effective September 6, 1983.
 See: 15 N.J.R. 313(a), 15 N.J.R. 1476(a).
 Determination of municipal responsibility added.
 Amended by R.1983 d.622, effective January 17, 1984.
 See: 15 N.J.R. 1630(a), 16 N.J.R. 145(b).
 Clear directives added routing forms from General Assistance offices to N.J. Division of Employment Services.
 Amended by R.1984 d.506, effective November 5, 1984 (operative December 1, 1984).
 See: 16 N.J.R. 2219(b), 16 N.J.R. 3031(c).
 (f)2: deleted old text and inserted new.
 Amended by R.1985 d.692, effective January 21, 1986 (operative February 1, 1986).
 See: 17 N.J.R. 2338(a), 18 N.J.R. 192(b).
 N.J.A.C. 10:85-3.2(g)(7)ii terminating general assistance recipients from welfare for a 90-day period if they are discharged because of their negligence held invalid as not in furtherance of legislative policy. *Newark Div. of Public Welfare v. Ragin*, 197 N.J.Super. 225 (App. Div. 1984).
 Correction: (e)4ii(1) omitted from text.
 See: 19 N.J.R. 307(b).
 Amended by R.1987 d.409, effective October 5, 1987.
 See: 18 N.J.R. 2183(a), 19 N.J.R. 1812(a).
 (g) substantially amended.
 Amended by R.1988 d.425, effective September 6, 1988.
 See: 20 N.J.R. 879(a), 20 N.J.R. 2292(c).
 Added (g)9.
 As amended by R.1989 d.161, effective March 20, 1989.
 See: 20 N.J.R. 2968(a), 21 N.J.R. 764(b).
 Residency of person in health care facility clarified.

See: 21 N.J.R. 1147(a).
 Correction: Erroneously entered text at N.J.A.C. 10:85-3.2(e)3.iii(1) deleted.
 Amended by R.1989 d.398, effective August 7, 1989.
 See: 21 N.J.R. 835(a), 21 N.J.R. 2384(a).
 Stipulation of 30 consecutive day residency time frame deleted.
 Amended by R.1990 d.33, effective January 16, 1990.
 See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).
 Stylistic changes.
 Administrative change to (g)2.
 See: 23 N.J.R. 1412(a).
 Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).
 See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).
 Verification requirements and definition of resident clarified.
 Amended by R.1992 d.368, effective September 21, 1992 (operative October 1, 1992).
 See: 24 N.J.R. 2160(b), 24 N.J.R. 3356(a).
 Text at (g) amended to conform to Family Development Program requirements.
 Amended by R.1992 d.503, effective December 21, 1992.
 See: 24 N.J.R. 3075(a), 24 N.J.R. 4538(a).
 Application procedures revised and clarified; text conformed to penalty at N.J.S.A. 44:8-114.
 Amended by R.1993 d.382, effective August 2, 1993.
 See: 25 N.J.R. 1714(a), 25 N.J.R. 3466(a).
 Amended by R.1994 d.591, effective December 5, 1994.
 See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).
 Amended by R.1995 d.383, effective July 17, 1995.
 See: 27 N.J.R. 864(a), 27 N.J.R. 2689(a).
 New (c)7 is added and old (c)7 is redesignated as (c)8.

Case Notes

Public assistance to strikers. *Super Tire Engineering Co. v. McCorkle*, 412 F. Supp. 192 (D.N.J. 1976) affirmed 550 F.2d 903, certiorari denied 98 S.Ct. 106, 434 U.S. 827, 54 L.Ed.2d 86, rehearing denied 98 S.Ct. 753, 434 U.S. 1025, 54 L.Ed.2d 773.

Tardiness to work did not indicate unwillingness to work. *Robinson v. New Jersey Dept. of Human Services, Div. of Family Development*, 270 N.J.Super. 191, 636 A.2d 1066 (A.D.1994).

Regulation terminating general assistance recipients from welfare for a 90-day period if they are discharged from work because of that negligence is invalid as it does not further legislative intent (also cited as N.J.A.C. 10:85-2.2). *Newark Div. of Public Welfare v. Ragin*, 197 N.J.Super. 225, 484 A.2d 716 (App.Div.1984).

Immediate application. *Faison v. Green*, 171 N.J.Super. 341, 344, 409 A.2d 282 (App. Div. 1979).

Money for school-related expenses disregarded. *J.C. v. New Brunswick City Welfare Department*, 92 N.J.A.R.2d (DEA) 41.

Domicile of Alzheimer's patient changed by operation of law. *A.S. v. Dumont Municipal Welfare Agency*, 92 N.J.A.R.2d (DEA) 30.

Alcoholism not good cause for failing to perform worksite assignment. *Township of Union, Department of Human Services v. M.B.*, 92 N.J.A.R.2d (DEA) 28.

Failure to comply with work requirement as basis for general assistance ineligibility. *J.B. v. Newark Div. of Public Welfare*, 5 N.J.A.R. 493 (1979).

10:85-3.3 Financial eligibility

(a) Rules concerning immediate need are as follows.

1. Definition: Immediate need is the condition in which the available resource of an applicant are insufficient to meet current living expenses.

2. Immediate assistance: When immediate need is apparent and the applicant provides affirmative evidence

of eligibility by a written application signed under oath (Form GA-1), the director of welfare shall issue a grant, effective as of the date of application, in an amount sufficient to assure that the applicant is provided with food, shelter and clothing pending further verification of the case. Refer to N.J.A.C. 10:85-4.2 for periods for which assistance may be granted. (See N.J.A.C. 10:85-3.2(e) regarding verification and sources of evidence.)

(b) Rules concerning countable income are as follows.

1. Requirement: All income from whatever source must be considered in establishing the applicant's eligibility and in computing the grant.

2. Definition: Income is countable when it is in cash or in some other form readily available to meet the needs of the eligible unit.

i. "Some other form" means income-in-kind, such as shelter or food provided at no cost to the client. See (c)3 and (e)4 below.

ii. Income which is not readily available is considered a resource and will be counted only when it actually becomes available. See N.J.A.C. 10:85-3.4 for regulations regarding resources.

3. Availability of income: For purposes of determining immediate need either at the time of initial application or at any point prior to completion of verification, moneys which may have been received in the past, even though recently, and which the applicant has already spent cannot be counted as available so long as he/she provides reasonable explanation or evidence of such expenditures.

i. Having provided for immediate need, the MWD shall determine financial eligibility for continuing assistance on a monthly or weekly basis (see N.J.A.C. 10:85-4.2), in accordance with (c), (d) and (e) below.

4. Demand deposits: Funds which are available to the applicant(s) or any member(s) of the eligible unit upon demand, i.e., signature authority, are to be considered fully available for purposes of eligibility determination. This includes funds in joint accounts regardless of the source of the funds when the applicant or eligible unit member may make unrestricted withdrawals, i.e., "or" account. When use of funds is restricted by the need for the signature of a person(s) who is/are not a member(s) of the eligible unit, i.e., "and" account(s), a pro rata share of the funds shall be considered available unless a demonstration is made that actual ownership is in a different proportion. Such different proportion shall then be recognized. If it is demonstrated that funds in such an account are totally inaccessible, they shall not be considered. Information relating to accessibility or the lack of it must be verified.

(c) Rules concerning earned income are as follows.

1. Definition: Earned income is income earned by an individual through the receipt of wages, salaries or commissions from activities in which he/she is engaged as an employee or from his/her self-employment. It includes earnings over a period of time for which settlement is made in one payment, as in the sale of farm crops.

2. Self employment: Earned income from self-employment is the total income from a trade, business or enterprise adjusted by deducting business expenses or the cost of producing the income. Personal expenses, income tax payments, lunches, transportation, child care, and so forth, are not classified as business expenses for this purpose.

i. Persons who are self-employed shall be required to submit evidence of business receipts and expenditures as the basis for determining earned income. A reliable, accurate accounting system or the method utilized in reporting to the Internal Revenue Services shall be acceptable for determining net income.

ii. An individual who is providing extensive personal services together with room and board accommodation to an adult other than a relative shall be considered self-employed. Any income from this arrangement in excess of the room and board cost figure as given in (e)2 below shall be recognized as earned income.

(1) "Extensive personal services" means care given an ill or aged person, such as feeding, bathing and dressing.

(2) "Relative" in this section includes spouse, child, parent, grandparent, brother or sister.

3. Shelter or food as part of wages: When an individual is provided with shelter and/or food without charge in return for performing work duties, the monetary value shall be counted as gross earned income. Such value shall not exceed \$55.00 per month for shelter and/or \$45.00 per month for food; however, a lesser amount may be counted where warranted by conditions. (See (e)4 below for other income-in-kind situations.)

4. Disregards: Certain earnings shall be disregarded in determining the amount of countable income.

i. A standard disregard of \$60.00 per month (\$14.00 per week) for each employed member of the eligible unit engaged in either full or part-time employment shall be deducted from gross earned income. This amount represents mandatory payroll deductions and all other expenses of employment.

ii. In addition, after initial eligibility has been established (see (d) below), one-third of the total remaining earned income of all employed members of the eligible unit shall be disregarded.

iii. When the earnings of an individual are less than \$60.00 per month or \$14.00 per week, the entire amount of such earnings shall be disregarded.

5. Monthly earnings: Monthly gross earnings are established by multiplying the client's weekly gross earnings by $4\frac{1}{2}$.

6. Irregular earnings: When earnings are irregular, the weekly gross earnings for the four weeks preceding the date the grant becomes effective shall be averaged to determine a weekly amount for the purpose of grant computation.

i. When the client has been employed less than four weeks prior to the determination, the average shall be based on the actual employment period of one, two or three weeks.

(1) Example: New employment began three weeks ago, with wages (gross earnings) in amounts of \$80.00, \$62.00 and \$68.00. Average weekly earnings are \$70.00.

ii. The weeks must be identified in the case record and the amounts of earnings utilized in determining the average documented therein.

7. Change in earned income: Any change in employment circumstances, such as change in base pay, change to full or part-time work or to a different job, must be reported to the MWD immediately and a recalculation of earned income promptly made. If this change has occurred less than four weeks prior to the date the new determination is made and the earnings are irregular, an average shall be determined only for the period since the change occurred. (See example in (c)6 above.)

8. Contract income: Earnings payable under the terms of a renewable contract, e.g., earnings of school teachers, are to be prorated over the stated term of the contract only.

9. Income from tips: When the client is employed in a position where tipping is customary, a daily log or other acceptable documentation of tips received shall be used for income calculation. Tip income calculation shall not be based on the estimated tips information as reported on W-2 forms.

(d) Initial eligibility must be established for all persons who have earned income and are applying for assistance.

1. Determination: To determine initial eligibility, an initial disregard of \$60.00 shall be deducted from the total monthly gross earnings or the net earned income from self-employment. When the resultant amount is less than the applicable allowance standard, according to Schedule II, financial eligibility exists.

i. When initial eligibility has been established, the income shall be computed in accordance with (c)4 above to determine the amount of assistance to which the eligible unit is entitled.

2. Continuing eligibility: A continuing case remains financially eligible so long as the income as computed on

Form GA-19 is less than the applicable allowance standard.

3. Eligibility for excessive medical costs: When computation of initial eligibility or of the grant results in a surplus (income exceeds assistance standard), eligibility for excessive medical costs may nevertheless exist, subject to provisions of subsection (g) of this section. Any such surplus, as determined on Form GA-19, shall be subtracted from applicant's total medical costs and payment provided for the remaining unpaid medical bills.

(e) Rules concerning unearned income are:

1. Definition: Unearned income includes net income from roomers, roomer-boarders (except as in (c)2ii above,) table-boarders, rental of apartments or house-keeping units, returns from capital investments such as dividends and interest, benefits and pensions, annuities, contributions from relatives or others, compensation payment and so forth.

i. All unearned income which is actually being received during the period for which assistance is being provided shall be counted in determining eligibility and in computing the grant. When available unearned income can be increased by action of an applicant/recipient, e.g., terminate a voluntary tax deduction, the applicant/recipient must, as a condition of eligibility, take such action.

ii. Income in the form of benefits, grants or earnings received from any Federal bureau or agency must be applied in computing the amount of the eligible unit's grant.

2. Income from roomers, roomer-boarders and table-boarders: The presence of roomers, roomer-boarders, or boarders in the eligible unit's home constitutes a business arrangement. Moneys received from such arrangements shall be considered gross unearned income to the eligible unit. (Note that income from provision of extensive personal services is earned income. See (c)2ii above.)

i. The monthly cost figures to be used in determination of net income are as follows:

(1) Roomer	\$ 40.00;
(2) Table-boarder	\$ 80.00;
(3) Roomer-boarder	\$120.00.

ii. To determine the net income, subtract the appropriate monthly cost figure from the monthly amount paid to the eligible unit. The difference is net unearned income.

iii. If the roomer, table-boarder or roomer-boarder pays an amount less than the applicable monthly cost figure, no countable income shall be recognized. However, the eligible unit shall be advised that it is in fact subsidizing such person and urged to request a more equitable payment.

3. Income from rental or apartment or housekeeping unit: When payment is received for rental of an apartment or housekeeping unit in the eligible unit's home, the countable net income shall be determined by deducting the cost of operation and maintenance from the gross income received.

i. Monthly cost figure: The monthly cost figure per room for operation and maintenance are as follows:

(1) With no utilities—\$23.00;

(2) Including one major utility such as heat or electricity—\$29.00;

(3) Including two or more (or all) utilities—\$34.00.

ii. To determine the total cost, multiply the monthly cost figure by the number of rooms in each apartment or housekeeping unit, excluding any room used solely as a bathroom.

iii. Deduct the total cost from the amount of rental income received by the eligible unit. The difference is the net unearned income.

4. Income-in-kind: Income or benefits received in the form of goods, services or via third party payments, rather than cash, are to be treated in accordance with the provisions below. Cash contributions, however, made to or for a client, are to be treated as countable unearned income, except those income items specifically identified in (e)5 below.

i. Shelter/utilities: When shelter and/or utilities are provided without charge or to a third party by an individual who is under an obligation to make the contribution, it shall be recognized as income-in-kind. Deduct 25 percent of the applicable allowance standard for shelter only and 30 percent when utilities are included. When shelter and/or utilities are provided without charge or to a third party by an agency or organization or by an individual who is not under an obligation to make contribution, the value of such shelter and/or utilities shall not be considered in the determination of eligibility or in the calculation of grants of assistance.

ii. Hospital services: When grants are being continued under the provisions for shelter continuity (see (f)5 below), an adjustment in grant computations shall be used to accommodate for the absence of the individual from his or her home if inpatient hospital services continued for more than 30 days. The amount for employable persons is \$17.00 monthly; for unemployable persons, \$25.00 monthly.

iii. Other items: No deductions will be made for other income items, except for wages as described in (c) above and contributions by an LRR in accordance with N.J.A.C. 10:85-9.5.

5. Income exclusions: The following shall not be counted when determining financial eligibility:

i. Excess value of food stamps: For any household participating in the Federal Food Stamp Program, the value of the coupon allotment.

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

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

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

iii. Subsidization of adoption: Any income received through the subsidized adoption program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 thru 49 (P.L. 1973 c.81).

iv. Foster care payments: The regular monthly payment and clothing allowance paid by DYFS for care of children shall be considered as equal to the cost of providing the care. Extra payments for special services shall, however, be considered as earned income from self-employment.

v. Occasional gifts and contributions of nominal amount or value, such as those received on birthdays, Christmas or other holidays.

vi. HUD payments: Any HUD (Housing and Urban Development) vendor payments made on behalf of recipients.

vii. Payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers, grandparents, senior health aides, senior companions, volunteers under Title I (VISTA) or Public Law 93-113, persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any programs under Titles II and III of the Domestic Volunteer Service Act of 1973 (Public Law 93-113) shall be disregarded.

viii. Personal loans: Personal loans are exempt when such loans are evidenced by a document, signed by the client and the lender, which states the amount of the loan and terms of repayment. (See also (e)5ix below for student loans.)

ix. Student income: Loans, grants, scholarships and income from work-study programs which may be received by full time undergraduate students are to be disregarded in computing eligibility or the amount of General Assistance to be granted. Stipends provided for living expenses, however, are not to be disregarded. (See also N.J.A.C. 10:85-3.2(f)3 on eligibility of college students.)

x. Relocation payments: Payments made under the authority of the New Jersey Relocation Assistance Act (Chapter 362, Laws of 1971, N.J.S.A. 20:4-1 et seq.).

xi. Energy Assistance payments and credits made under the Home Energy Assistance (HEA) Program, the Lifeline Assistance Program (LAP) and the Tenants Lifeline Assistance Program (TLAP).

xii. Unemployment Insurance Benefits for which a check(s) was/were issued, endorsed by the payee, and returned to the issuing agency in repayment of an overpayment. Verification shall be by examination of Employment Service Form B-65, Receipt for Refund of Benefits, a copy of which shall be retained in the case record.

xiii. Agent Orange payments: Money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to "Agent Orange".

(f) Assistance allowance standards are as follows:

1. An allowance standard is the total amount of need recognized for a particular eligible unit for a specified period of time, other than payment for medical needs, homemaker service, travel costs or such emergency grants as may be deemed necessary under N.J.A.C. 10:85-4.6.

2. Allowance schedules: Schedules I and II at N.J.A.C. 10:85-4.1 have been established under the authority in N.J.S.A. Title 44 and give the standards, in monthly amounts, to be used as the basis for granting assistance.

i. The eligible unit represents the person(s) applying for and eligible to receive General Assistance (see N.J.A.C. 10:85-3.1(b)1).

ii. Assistance allowance standards as given in Schedule I apply only to persons who, because of physical, mental, or emotional disabilities, are unable to accept employment.

iii. In all situations when the eligible unit includes at least one individual who is employable, Schedule II shall be used.

iv. If assistance is required for a period of less than one month, the allowance standard as given in Schedules I or II shall be prorated as necessary.

v. To prorate, divide the monthly allowance by 30 (regardless of the actual number of days in that particular month) to determine the per diem amount. Multiply the per diem amount by the number of days for which the grant is to be made.

vi. The payment granted for any period shall be determined from the applicable monthly allowance standard less any countable income (see N.J.A.C. 10:85-4.2).

3. Recognized for State aid: State aid will be provided in accordance with the appropriate allowance standard when payments, as related to the periods of time described in N.J.A.C. 10:85-4.2, adhere to the standards and regulations in this manual.

i. A MWD providing additional amounts of assistance in any given month (other than for homemaker service, travel costs, emergency assistance or medical care) will receive no State aid for the amount in excess of the applicable standard.

4. Room and board living arrangements: When an individual is purchasing a room and board living arrangement, the following shall apply:

i. Residential health care facility: When an individual who is in need of extensive personal services on a regular and continuous basis is purchasing a room and board living arrangement in a residential health care facility: (licensed by the N.J. Department of Health for purposes other than the care or treatment of drug or alcohol abuse), the monthly assistance payment including a personal allowance, shall not exceed the rate approved by the New Jersey Department of the Treasury, less any countable income. When a rate increase is approved, a public notice to that effect will be published in the New Jersey Register. Information about the current rate may also be obtained by contacting the Division of Family Development. However, the cost of purchasing such living arrangement shall not exceed the minimum amount which the establishment customarily charges to or for other guests not dependent on public assistance, for the same accommodations and/or services.

ii. Other boarding homes: When an individual is purchasing room and board in a group facility or a boarding home (including a private home) other than a Residential Health Care Facility as in (f)4i above, or a center for treatment of drug or alcohol abuse as in (f)4iv below, the total monthly allowance shall be the amount for a single individual as given in Schedule I or Schedule II, as appropriate, less any countable income.

(1) The spouse of a boarding home operator when living in the same home is also considered a boarding home operator. Neither the spouse nor a child under age 18 of a boarding home operator may be considered a boarder there.

iii. Long-term care facilities: See N.J.A.C. 10:85-5.3(e) regarding care in skilled nursing home and intermediate care facilities.

iv. Drug and alcohol treatment centers: When an individual is receiving room and board in a residential center for the treatment of drug or alcohol abuse, whether or not the center is licensed by the New Jersey Department of Health, the total allowance shall not exceed the amount to which the individual would be entitled as an eligible unit of one as given in Schedule I or Schedule II, as appropriate. Of that amount, \$25.00 shall be considered as an allowance for personal incidentals and the remainder as the room and board payment to the center. (Note: Licensure of the center by the New Jersey Department of Health as a medical institution will not affect the payment rate.)

v. Maternity homes: When an eligible individual has been found by the Division of Family Development, General Assistance Program (GAP) Unit (DFD/GAP Unit) to be in need of the services provided by a maternity home approved by the Division of Youth and Family Services (DYFS) and the individual is receiving such services, the monthly allowance shall be the rate established by DYFS. The MWD may obtain current rate information by communicating with the DFD/GAP Unit. However, the MWD shall not accept responsibility for payment at that rate prior to receipt of a report of affirmative findings from the DFD/GAP Unit. Until the report is received, the allowance shall be that for a single individual as given in Schedule I or II, as appropriate, less any countable income. For the DFD/GAP Unit approved cases, the DYFS rate shall apply with retroactive adjustment, if necessary, from the date of application or the date of admission to the maternity home, whichever is later.

(1) The submittal to the DFD/GAP Unit may be in any appropriate form or format. It shall consist of the objective recommendation of the MWD with supporting documentation. The DFD/GAP Unit will consider the individual's age, mental and physical health, family circumstances, and other conditions peculiar to the situation. Form PA-5 (Examining Physician's Report) and/or Form PA-6 (Medical-Social Information Report) may be used in presenting the documentation.

5. Shelter continuity: When a person who had been living alone and is otherwise eligible for General Assistance is hospitalized for more than 30 days, grants of assistance may be continued for up to 60 additional days for the purpose of retaining shelter to which the person can return.

(g) Medical care: Persons found eligible for General Assistance maintenance payments in accordance with the procedures and standards established in this subchapter (N.J.A.C. 10:85-3) are likewise eligible for medical care (see N.J.A.C. 10:85-5 regarding provision of medical care). In addition, certain other individuals and families are eligible for medical assistance from the MWD or for referral to the county welfare agency.

1. Medically needy: Individuals and families who are ineligible for General Assistance, AFDC, the Refugee Resettlement Program or SSI, because their income exceeds the standards established for the applicable program may apply to the MWD on a monthly basis for assistance in paying excessive medical costs. The provisions of this subsection are not applicable to the payment of bills for inpatient or outpatient hospitalization or for medical services rendered to an inpatient or outpatient by a hospital or hospital clinic. The MWD shall refer to the county welfare agency those persons who appear to be potentially eligible for the Medically Needy Program administered by that agency. Except as stated in (g)1i below, any person found eligible under the provisions of that program is not eligible for benefits under this subsection.

i. Elderly, blind or disabled individuals who are ineligible for the SSI Program, because their income exceeds the SSI standard, will be referred to the Medically Needy Program as in (g)1 above. That program, however, does not provide payment for prescribed drugs. Therefore, individuals not entitled to receive assistance in meeting the cost of drugs from any other source may apply to the MWD on a monthly basis for assistance in meeting such costs.

ii. "Excessive" defined: When an individual's or family's income over and above the appropriate income level as explained in (g)1iii below has been used to pay medical bills, any additional medical costs are considered excessive.

iii. Income levels: For the purpose of determining excessive medical costs, the total available monthly income (see (g)1iv below) of individuals, couples, or families with children is measured against the appropriate allowance standard. (See N.J.A.C. 10:85-3.1(b) regarding eligible unit concept.) For elderly, blind, or disabled persons, the Medically Needy Program standard applies. For families with children, the AFDC (C and F) standard applies. (See N.J.A.C. 10:82-1.2 for current AFDC standard.) For all others, the General Assistance standard (Schedule I or II as appropriate) applies. Information about the standards may be obtained by contacting the Division of Family Development.

iv. Computing total income: Form GA-19 will be used to determine income and the amount of excessive medical costs. Monthly earned income is adjusted by deducting \$60.00 plus any child care necessary for employment of the parent(s) and/or court ordered support payments; no further disregards are recognized. This adjusted amount added to any unearned income equals the total monthly income available to the eligible unit.

v. Payment determination: When the appropriate standard ((g)liii above) is subtracted from the total available income, the difference or "surplus" is the amount of medical expenses the client is expected to pay him/herself. When the client has proof of paid medical bills in the amount of the "surplus", the MWD shall provide payment for any unpaid medical costs in excess of the "surplus", in accordance with the regulations and rates set forth in N.J.A.C. 10:85-5.

vi. Application required: N.J.A.C. 10:85-3.2(c), (e) and (f) shall constitute the application process relevant to the medically needy. See also N.J.A.C. 10:85-3.5(a) regarding redeterminations.

2. Medicaid Special: Certain low income persons under age 21 and certain low income pregnant women, regardless of age, may be eligible for Medicaid even though they may or may not be living with parents, may or may not be eligible for General Assistance, and may not be eligible for cash assistance from a county welfare agency.

i. The MWD will, via Form PA-14, refer all GA recipients under age 21 and all pregnant recipients to the county welfare agency for Medicaid Special. Referral of those who have income marginally above GA eligibility standards is also indicated. The CWA will advise as to the eligibility determination made.

ii. Persons found eligible for Medicaid Special are not thereby disqualified for grants of General Assistance but the MWD will make no medical payments for such persons.

As amended, R.1977 d.291, effective September 1, 1977.

See: 9 N.J.R. 277(a), 9 N.J.R. 434(c).

As amended, R.1977 d.444, effective December 1, 1977.

See: 9 N.J.R. 432(a), 10 N.J.R. 15(a).

As amended, R.1977 d.488, effective December 29, 1977.

See: 10 N.J.R. 64(c).

As amended, R.1977 d.445, effective January 1, 1978.

See: 9 N.J.R. 433(a), 10 N.J.R. 15(b).

As amended, R.1977 d.446, effective January 1, 1978.

See: 9 N.J.R. 471(b), 10 N.J.R. 15(c).

As amended, R.1979 d.197, effective July 1, 1979.

See: 11 N.J.R. 184(a), 11 N.J.R. 283(c).

As amended, R.1979 d.366, effective September 13, 1979.

See: 11 N.J.R. 378(b), 11 N.J.R. 520(a).

As amended, R.1979 d.365, effective October 1, 1979.

See: 11 N.J.R. 378(a), 11 N.J.R. 519(f).

As amended, R.1979 d.446, effective November 13, 1979.

See: 11 N.J.R. 515(a), 11 N.J.R. 627(a).

As amended, R.1979 d.448, effective November 13, 1979.

See: 11 N.J.R. 516(b), 11 N.J.R. 627(c).

As amended, R.1979 d.447, effective January 1, 1980.

See: 11 N.J.R. 516(a), 11 N.J.R. 627(b).

As amended, R.1980 d.11, effective February 1, 1980.

See: 11 N.J.R. 506(b), 12 N.J.R. 86(a).

(g)2i: "Referral for Services" was "Interagency referral".

As amended, R.1980 d.29, effective February 1, 1980.

See: 11 N.J.R. 556(b), 12 N.J.R. 86(d).

(g)liii: Amended cross-references.

As amended, R.1980 d.84, effective May 1, 1980.

See: 12 N.J.R. 30(a), 12 N.J.R. 127(d).

(c): Added paragraph 8.

As amended, R.1980 d.310, effective August 1, 1980.

See: 12 N.J.R. 85(b), 12 N.J.R. 483(a).

(f)4iv: Reference to Schedules I and II added.

As amended, R.1980 d.311, effective August 1, 1980.

See: 12 N.J.R. 123(a), 12 N.J.R. 483(b).

(f)4ii substantially amended.

As amended, R.1980 d.388, effective November 1, 1980.

See: 12 N.J.R. 469(d), 12 N.J.R. 599(f).

(b)4 added.

As amended, R.1980 d.466, effective December 1, 1980.

See: 12 N.J.R. 534(c), 12 N.J.R. 704(a).

(g)2i, ii, and "note" deleted and replaced with new material.

As amended, R.1980 d.486, effective December 1, 1980.

See: 12 N.J.R. 534(b), 12 N.J.R. 724(a).

(a)1 amended by redefining "immediate need".

As amended, R.1980 d.547, effective February 1, 1981.

See: 12 N.J.R. 622(c), 13 N.J.R. 100(a).

(f)4i and ii amended from "Licensed Board Home for Sheltered Care" to "Residential Health Care Facility"; (f)4i "\$40" was "up to \$30"; "\$369" was "\$339".

As amended, R.1981 d.46, effective February 5, 1981.

See: 13 N.J.R. 16(b), 13 N.J.R. 147(a).

(c)8: old text requiring 12-month prorating deleted; new text requiring prorating over the "stated term of the contract only" substituted therefor.

As amended, R.1981 d.263, effective July 9, 1981.

See: 13 N.J.R. 225(a), 13 N.J.R. 433(a).

(e)5i: deleted after "allotment"; "in excess of the amount paid by the household for such allotment."

As amended, R.1982 d.53, effective March 1, 1982.

See: 13 N.J.R. 879(a), 14 N.J.R. 235(d).

(f)4i: Deleted "of \$40 per month"; "\$408.50" was "\$360.00".

As amended, R.1982 d.98, effective April 5, 1982 (operative May 1, 1982).

See: 13 N.J.R. 930(a), 14 N.J.R. 345(a).

(e)4ii added and existing ii renumbered as iii.

(f)5 added.

As amended, R.1982 d.185, effective June 21, 1982.

See: 14 N.J.R. 270(a), 14 N.J.R. 659(b).

(e)4: added "Contributions . . . in-kind income"; (e)4ii: Deleted "these percentages . . . different amount".

As amended, R.1982 d.375, effective November 1, 1982.

See: 14 N.J.R. 893(b), 14 N.J.R. 1216(a).

Defined who may be considered a boarder.

As amended, R.1983 d.105, effective April 4, 1983.

See: 14 N.J.R. 894(a), 14 N.J.R. 550(a).

Maximum monthly assistance payment, for person in RHCF, increased from \$408.50 to \$430.20.

As amended, R.1983 d.328, effective July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).

Originally adopted as an Emergency Readoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.

At (e)5vii, references to other volunteers added to that of VISTA.

At (e)5xi, energy assistance payments added. At (f)4v, maternity homes added. At (g)3, references to inpatient hospitalization added.

As amended, R.1984 d.111, effective April 2, 1984.

See: 16 N.J.R. 119(a), 16 N.J.R. 729(a).

Amount of \$430.20 replaced by "the rate approved by the New Jersey Dept. of the Treasury. . . ."

As amended, R.1984 d.403, effective September 17, 1984 (operative October 1, 1984).

See: 16 N.J.R. 683(a), 16 N.J.R. 2441(a).

Text in (f)4v, deleted and replaced with new text.

As amended, R.1984 d.507, effective November 5, 1984 (operative December 1, 1984).

See: 16 N.J.R. 2056(a), 16 N.J.R. 3032(a), 16 N.J.R. 3063(c).

Effective October 1, 1984, rate for General Assistance has been increased from \$461.97 to \$464.05.

Amended by R.1985 d.81, effective March 4, 1985.

See: 16 N.J.R. 3165(a), 17 N.J.R. 595(a).

Subsection (g) substantially amended.

Public Notice: General Assistance Rate has been increased from \$464.05 to \$475.05 monthly.

See: 17 N.J.R. 485(c).

Amended by R.1986 d.47, effective March 3, 1986.

See: 17 N.J.R. 2519(a), 18 N.J.R. 483(a).
(g) substantially amended.
Amended by R.1986 d.57, effective March 3, 1986 (operative April 1, 1986).

See: 17 N.J.R. 2849(a), 18 N.J.R. 482(a).
(e)xii added.
Public Notice: General Assistance Rate has been increased from \$475.05 to \$486.05 monthly.
See: 18 N.J.R. 712(b).
Amended by R.1986 d.299, effective July 21, 1986 (operative August 1, 1986).

See: 18 N.J.R. 928(b), 18 N.J.R. 1464(a).
(f)2vii added.
Amended by R.1986 d.319, effective August 4, 1986.
See: 18 N.J.R. 1056(b), 18 N.J.R. 1595(b).
(c)9 added.
Correction: (f)4ii and (g)2i and ii omitted from text.
See: 19 N.J.R. 307(b).

Public Notice: In accordance with N.J.A.C. 10:85-3.3(f)4i, the Department of Human Services announces that the rate to be paid for General Assistance recipients in Residential Health Care Facilities has been increased from \$486.05 to \$490.05 monthly. This change is effective January 1, 1987 and is the same in both the amount and effective date as the change in the rate for the same service paid to recipients under the Federal program of Supplemental Security Income.
See: 19 N.J.R. 570(c).
Amended by R.1987 d.177, effective April 20, 1987.
See: 19 N.J.R. 32(b), 19 N.J.R. 645(b).
(e)5xiii added.
Amended by R.1988 d.425, effective September 6, 1988.
See: 20 N.J.R. 879(a), 20 N.J.R. 2292(c).
Added travel costs to (f)1 and 3.
Amended by R.1989 d.7, effective January 3, 1989.
See: 20 N.J.R. 2238(a), 21 N.J.R. 20(a).
Deleted old (e)4 and substituted new; deleted text from (f)5 "See N.J.A.C. 10:85-3.3(e)4ii . . .".
Amended by R.1989 d.138, effective March 20, 1989.
See: 20 N.J.R. 2688(b), 21 N.J.R. 765(a).
Payment for the cost of drugs to otherwise eligible persons added to N.J.A.C. 10:85-3.3(g)1.
Amended by Public Notice, effective July 3, 1989.
See: 21 N.J.R. 1914(b).
Rate paid for General Assistance recipients in Residential Health Care Facilities increased from \$504.05 to \$518.05 monthly.
Amended by R.1990 d.33, effective January 16, 1990.
See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).
Stylistic changes.
Public Notice: In accordance with N.J.A.C. 10:85-3.3(f)4i, General Assistance Rate in Residential Health Care Facilities raised from \$536.05 to \$557.05 monthly.
See: 23 N.J.R. 911(d).
Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).
See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).
Text regarding chargeback deleted.
Amended by Public Notice: In accordance with N.J.A.C. 10:85-3.3(f)4i, General Assistance Rate in Residential Health Care Facilities increased from \$557.05 monthly to \$572.05 monthly, effective January 1, 1992, as consistent with the rate for the same services paid to recipients under the Federal Supplemental Security Income program.
Amended by R.1992 d.260, effective June 15, 1992.
See: 24 N.J.R. 926(a), 24 N.J.R. 2263(a).
Deleted text at (f)2ii, (f)4ii, and (f)4ii(2) regarding household size and determination of children age 18 or over living in the home of a parent/operator of a boarding home, who is over age 60.
See: 24 N.J.R. 1645(b).
Amended by R.1992 d.503, effective December 21, 1992.
See: 24 N.J.R. 3075(a), 24 N.J.R. 4538(a).
Payment for inpatient services deleted at (g)3 and 4; text on illegal aliens deleted at (b)1i; hospital payment reference deleted.
Administrative Correction.
See: 26 N.J.R. 1658(a).
Amended by R.1994 d.591, effective December 5, 1994.

See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).
Public Notice: General Assistance rate for Residential Health Care Facilities raised from \$596.05 to \$608.05 monthly.
See: 27 N.J.R. 1483(a).

Case Notes

Immediate need. *Faison v. Green*, 171 N.J.Super. 341, 345, 409 A.2d 282 (App. Div. 1979).

Income received from Federal bureau or agency to be applied in computing amount of grant. *Gilbert v. State*, 167 N.J.Super. 217, 400 A.2d 803 (App. Div. 1979).

Money for school-related expenses disregarded. *J.C. v. New Brunswick City Welfare Department*, 92 N.J.A.R.2d (DEA) 41.

Agency should have acted independently to verify financial eligibility. *A.S. v. Dumont Municipal Welfare Agency*, 92 N.J.A.R.2d (DEA) 30.

10:85-3.4 Resources

(a) Definition: For purposes of this manual, resources are defined as real or personal property which is within the control of one or more of the individuals applying for General Assistance or to which he or she (they) may have a valid claim; and certain other benefits and contributions of support which may become available.

1. Resources must be reported in full to the agency and a determination made as to status as either exempt or potential.

i. Medicare benefits must be utilized first before determining the amount of unpaid medical bills. (See N.J.A.C. 10:85-5.3(h)).

ii. No-fault auto insurance shall be utilized in the payment of medical expenses relative to auto accidents, hit and run accidents, and so forth.

2. No person shall be eligible for assistance within two years after having disposed of a resource for less than adequate consideration or after having abandoned a resource of value when such disposal or abandonment was made for the purpose of qualifying for assistance or of avoiding repayment of assistance. Any assistance granted by reason of nondisclosure during such two year period represents an overpayment and is to be processed accordingly.

i. There shall be an initial presumption, rebuttable, that the abandonment of any resource of value, exempt, or otherwise, or the disposal of any resource, exempt or otherwise, for less than adequate consideration, was made for the purpose of qualifying for assistance or of avoiding repayment of assistance.

ii. Any disposal or abandonment for reasons other than to qualify or to avoid repayment shall be reviewed by the MWD to determine whether or not recovery can be effected. If so, the matter is subject to the provisions of (d) below, potential resources. If recovery cannot be effected, the matter shall be disregarded in the determination of eligibility and computation of assistance grants.

(b) Each LRR shall be contacted unless it can be verified that the relative:

1. Is receiving public or private financial assistance; or
2. Has no source of support except fixed income, such as pension, retirement benefits or statutory benefits and there was no capacity to support at time of last evaluation; or
3. Is him/herself dependent upon a relative (other than the client) for support; or
4. Is receiving care in an institution for a mental or physical condition, or is in a penal institution and has no capacity to support; or
5. Cannot reasonably be anticipated to have experienced a change in income since the last evaluation which would affect his/her capacity to support.

(c) When a decision is made that it is not necessary to reevaluate capacity to support for one of the reasons in subsection (b) of this section, the justification for such decision shall be recorded in the case record with notation of any plan for making contact in the future.

(d) The MWD shall avoid making routine requests of other agencies to contact relatives for reevaluation of capacity to support. When, after careful evaluation of the need for such service, it is considered essential to request an interview, the letter of request shall clearly identify both the nature and the purpose of the desired service.

Correction: "of capacity to support. When after careful evaluation" was omitted from text in (d).
See: 18 N.J.R. 1414(a).

SUBCHAPTER 10. GENERAL ASSISTANCE EMPLOYABILITY PROGRAM

Subchapter Historical Note

The original text of this subchapter, entitled Legal Settlements, was repealed by R.1978 d.171, effective June 1, 1978. See: 10 N.J.R. 150(a), 10 N.J.R. 285(b). The current subchapter was filed on April 11, 1980 as R.1980 d.153 to become effective on May 1, 1980. See: 12 N.J.R. 121(b), 12 N.J.R. 278(c).

10:85-10.1 Work assignments: "Workfare"

(a) All employable recipients of General Assistance shall participate in work assignments, sometimes referred to as "workfare", in accordance with the provisions of this subchapter, unless participating in the work training requirements of the Family Development Program in accordance with N.J.A.C. 10:86. See N.J.A.C. 10:85-3.2(g) regarding registration.

1. "Workfare" definition: "Workfare" means the system by which certain persons perform work or engage in

various training or work preparation activities in exchange for their grants of assistance.

(b) Through the Employment Service/General Assistance Employability Program (ES/GAEP), the New Jersey Employment Service develops and supervises work activities and worksites to which employable General Assistance recipients are assigned by that agency. In addition, municipal welfare directors will establish worksites to which they will assign recipients, subject to final approval of ES/GAEP staff within 14 days of the initial assignment. Until such approval is received, such assignments shall be considered "interim worksite assignments". Placement of participants in "interim worksite assignments" is subject to the conditions of this section and section 2 of this subchapter.

Amended by R.1986 d.56, effective March 3, 1986 (operative April 1, 1986).

See: 17 N.J.R. 2849(a), 18 N.J.R. 483(b).

(a) substantially amended.

Amended by R.1992 d.368, effective September 21, 1992 (operative October 1, 1992).

See: 24 N.J.R. 2160(b), 24 N.J.R. 3356(a).

Text at (a) amended to conform to the provisions of the Family Development Program.

Law Review and Journal Commentaries

Unemployment Benefits. Judith Nallin, 137 N.J.L.J. No. 8, 58 (1994).

Case Notes

Recipient of general assistance aid who was injured while working at community organization while participating in required workfare program, was not a beneficiary of the work of the organization, and was one unconcerned in and unrelated to and outside the benefactions of organization, thus organization could not rely on charitable immunity statute to provide defense to action brought by worker, even though organization contended it had no need for welfare recipient's services, where when organization agreed with city Welfare Department to permit welfare recipients to work at its premises, it was not engaged in performance of the charitable objectives it was organized to advance, as set forth in its certificate of incorporation. *Manley v. YMCA of Plainfield*, 275 N.J.Super. 656, 646 A.2d 1163 (L.1994).

Claimant's participation in workfare program in return for public assistance grant could not be considered "employment" for purposes of requalifying claimant for unemployment compensation benefits, but rather was type of "unemployment work-relief or work-training program" explicitly excluded from statutory definition of "employment." *Costello v. Board of Review, Dept. of Labor*, 273 N.J.Super. 536, 642 A.2d 1034 (A.D.1994).

10:85-10.2 Municipal worksite agreements

(a) To insure State Workers' Compensation coverage for all worksite participants in interim assignments developed by MWDs, a Municipal Worksite Agreement (MWSA) must be signed by both the MWD and the worksite agent who is a paid employee of the agency for whom the worksite activity is being performed with authority for that agency for conducting onsite supervision of participants and maintaining time and attendance reports.

(b) The MWD will supply to the appropriate ES/GAEP office a MWSA for each worksite established. Employment

Service staff will notify the MWD of receipt of the MWSA by use of Form NJES-1A. No recipient of GA shall report to a worksite until the ES/GAEP staff has received the signed MWSA.

1. If more than one GA recipient is assigned to the same worksite, only one MWSA will be supplied to the ES/GAEP office.

2. For each GA recipient subsequently assigned to a previously agreed upon interim worksite, Form NJES-1A must be supplied to the ES/GAEP office before the recipient reports to the interim worksite. The NJES-1A must indicate that this recipient is reporting to a previously established worksite.

(c) Attendance and worksite activity for interim worksite assignments developed by municipal welfare directors will be monitored during the interim period of not more than 14 days by the welfare director or other appropriate municipal staff so designated by the Director of Welfare.

(d) The participant shall, at the time of initial assignment, be provided with an Individual Worksite Agreement (two copies) which will be prepared by the municipal welfare director for each worksite participant (see Appendix C). This notice will inform the participant of his/her worksite schedule, the wage rate used to determine this schedule (days of the week, hours of work), to whom to report on the worksite, and the address of the worksite. This notice will also advise the participant that assistance will be terminated upon failure or refusal to perform satisfactorily in the work project. One copy will be retained by the participant; the other will be kept in the participant's case folder.

(e) Interim worksite assignments developed by the municipal welfare director will be evaluated by the ES/GAEP staff within 14 days after the ES has received the MWSA. Evaluation will be based on the following criteria:

1. The individual assigned is capable of performing the duties involved at the worksite.

2. Working conditions are such that they do not represent a substantial risk to the individual's health and safety.

3. The participant has a reasonable means of transportation to the worksite assignment. "Reasonable" shall in this case mean at no extra cost to the participant.

(f) If any of the above criteria is not met, ES staff will inform the welfare director through use of Form NJES-1A that the participant is being reassigned immediately. Reassignment may include orientation, job search, active registrant pool, or another worksite assignment if such is available. The MWD will promptly notify the participant, advising that the current assignment is no longer in effect and that the assignment by the ES is effective immediately but that the performance requirement is still in effect. The MWD will confirm the assignment change and remind the participant of the performance requirement in writing.

1. Failure by the MWD to comply with the NJES reassignment notice will lead to the municipality's assumption of responsibility for liability coverage on that worksite.

Administrative change to (b)2.
See: 23 N.J.R. 1412(a).

Cross References

Workfare, failure to comply with Employment Service recommendations, assumption of coverage by municipality, see N.J.A.C. 12:35-1.4.

10:85-10.3 Location of worksite activity

(a) Worksite assignments may be established by the municipal welfare director to perform work for the municipality or for a non-profit agency or institution under contract to the municipality.

(b) Worksite assignments may be established by the Employment Service in the performance of work for county or State Agencies as well as municipal agencies, non-profit agencies and institutions. Assignment by the Employment Service to a General Educational Development (high school equivalency) course or any other training or occupational preparedness program will be considered a worksite assignment.

(c) Efforts by either the Employment Service or municipal welfare director will be made to develop worksites in the municipality where the employable GA recipient receives his/her public assistance grant.

(d) If the worksites are not available in the municipality where an employable GA recipient receives his/her public assistance grant, the municipal welfare director shall immediately notify the appropriate ES staff, and worksite development will become the responsibility of the Employment Service.

As amended, R.1982 d.104, effective April 5, 1982 (operative May 1, 1982).

See: 13 N.J.R. 929(a), 14 N.J.R. 344(d).

(b): Added "Assignment worksite assignment".

10:85-10.4 Scheduling worksite assignments

(a) Persons assigned to a worksite by either ES/GAEP or the MWD shall work only the number of hours equal to their grant divided by an hourly rate commensurate with beginning regular employees similarly employed. For this purpose, the MWD will supply to the ES/GAEP staff, on request, the amount and period of grant for persons working on GAEP supervised worksites.

(b) In such cases where there are no beginning regular employees similarly employed, the ES/GAEP or MWD will contact the local labor market analyst in the Department of Labor and Industry and determine the prevailing wage rate for that particular worksite assignment. This hourly wage rate shall be recorded as a part of the Municipal Worksite Agreement.