

3. If the household fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the CWA shall send the household a notice explaining that no payment or an insufficient payment was received. The notice shall inform the household that it may contact the CWA to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the CWA is contacted to discuss renegotiation of the payment schedule, the allotment of a currently participating household against which a claim has been established may be reduced without a notice of adverse action.

i. If the household responds to the notice, the CWA shall take one of the following actions as appropriate:

(1) If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;

(2) If the household requests renegotiation of its payment schedule, the CWA will attempt to renegotiate a new payment schedule. If a settlement cannot be reached or if the CWA believes that the household's economic circumstances have not changed enough to warrant the requested settlement, the CWA shall invoke allotment reduction against the participating household.

ii. If a currently participating household against which a claim has been established fails to respond to the notice, the CWA shall invoke allotment reduction.

(d) Allotment reduction: The CWA shall collect payments for claims from households currently participating in the program by reducing the household's food stamp allotment.

1. Prior to reducing the household's monthly allotment, the CWA shall advise the household of the appropriate formula to be used to determine the amount of food stamps to be recovered each month, the effect on the coupon allotment and the availability of other methods of repayment. If the household does not select another method of repayment, the CWA shall determine the amount to be recovered each month as follows:

i. Inadvertent household and administrative error: The household's food stamp allotment shall be reduced by the greater of 10 percent of the monthly allotment or \$10.00. The allotment may be reduced by a greater amount if the household so chooses.

ii. Intentional program violation claims: The household's food stamp allotment shall be reduced by the greater of 20 percent of the household's entitlement or \$10.00. The allotment may be reduced by a greater amount if the household so chooses.

(1) Entitlement refers to the amount of food stamps the household would be entitled to receive if the disqualified individual were not disqualified.

iii. The provision for a \$10.00 minimum benefit for one or two member households shall apply to the allotment before reduction.

iv. If the household has multiple claims against it, only one intentional program violation claim and one inadvertent household or administrative error claim may be collected at one time without client consent.

(e) Receipt and transmittal of collections: The CWA shall instruct the household to submit checks or money orders payable to the respective CWA.

1. Receipt: The CWA shall issue a lawful receipt for any repayment which is accepted. Payments received shall be deposited in the CWA Clearing Account and a record of the receipt of the payment maintained on a separate section of the Clearing Account Subsidiary Ledger.

2. Transmittal of payments to the DFD: At the end of each calendar month a check shall be drawn, payable to "Treasurer, State of New Jersey", for the total amount of such funds received during that month and transmitted to the DFD.

i. Form FSP-965: Along with the consolidated check, the CWA shall submit a Form FSP-965, "Claims Accounts" indicating the case number, the household's name, amount of claim, current payment, amount paid to date and balance due. Separate schedules shall be submitted for Claims Paid in Full, Partial Payments and New Claims and Payments for Ongoing Accounts.

(f) Accounting procedures: Each CWA shall be responsible for maintaining an accounting system for monitoring claims against households. The accounting system shall be designed to accomplish the following:

1. Document circumstances: Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

2. Identify unrestored benefits: Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

3. Identify households failing to make payments: Identify those households that have failed to make installment payments on their claims.

4. Document collections: Document how much money was collected and how much was submitted to the DFD.

(g) Claims discharged through bankruptcy: The CWA shall act on behalf of, and as, FNS in any bankruptcy proceeding against any bankrupt households owing food

stamp claims. The CWA shall possess rights, priorities, interests, liens or privileges, and shall participate in any distributions of assets, to the same extent as FNS. Acting as FNS, the CWA shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to the DFD as provided in (d) above.

(h) Other collection action: The CWA may also pursue other collection actions, as appropriate, to obtain restitution of a claim against any household which fails to respond to a written demand letter for repayment of a claim.

(i) CWAs are prohibited from commencing or continuing the collection of a food stamp claim against an overissued household which is awaiting the outcome of a bankruptcy court petition.

Amended by R.1979 d.422, effective October 18, 1979.
See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

Amended by R.1983 d.224, effective May 31, 1983.

See: 15 N.J.R. 633(a), 15 N.J.R. 1034(a).

Originally adopted as an Emergency Rule, R.1983 d.117 eff. March 31, 1983, operative April 1, 1983. The amendments are pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Text formerly at 10:87-11.28; rules greatly expanded.

Amended by R.1984 d.68, effective March 19, 1984.

See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

(a)7, other collection action, added.

Amended by R.1985 d.346, effective July 1, 1985.

See: 17 N.J.R. 883(a), 17 N.J.R. 1659(a).

(a)3ii(5) added.

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

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

Recodified from 11.29 and substantially amended.

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

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

Added new Subsection (I).

Amended by R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Rewrote (c) and (d).

10:87-11.32 Interstate claims collection

(a) A household which relocates from another State into an area under the jurisdiction of New Jersey shall be subject to claims collection for any overissuance the household incurred while receiving food stamp benefits.

(b) Prior to initiating action to collect an overissuance which occurred in another State, the CWA shall contact the State agency which overissued the benefits to ascertain their intention to pursue prompt collection. The State agency which overissued the benefits shall have the first opportunity to collect an overissuance.

(c) The CWA should initiate action to collect the overissuance if the State agency which overissued benefits fails or is unwilling to take prompt collection action. Claims collected shall be retained by DFD in accordance with current fiscal procedures.

New Rule, R.1989 d.121, effective February 21, 1989.

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

10:87-11.33 CWA reporting requirements for incorrect issuances

(a) Each CWA shall report information concerning individuals disqualified for intentional program violation, including those individuals disqualified based on the determination of an administrative disqualification hearing official or a court of appropriate jurisdiction and those individuals disqualified as a result of signing either a waiver of right to a disqualification hearing or a disqualification consent agreement. This information shall be submitted to the Division of Family Development no later than 10 days after the date the disqualification either took effect or would have taken effect. The data submitted will be made available for use by other county and State welfare agencies.

(b) The CWA may determine the eligibility of program applicants to those cases where the agency believes that a household member is subject to disqualification in another jurisdiction. This procedure does not restrict CWAs from screening all program applicants prior to certification or periodically matching the entire list of disqualified individuals against current caseloads.

(c) The CWA shall submit a report to purge the data file of information relating to a disqualification in cases where the IPV is reversed by a court of appropriate jurisdiction.

New Rule, R.1989 d.121, effective February 21, 1989.

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

SUBCHAPTER 12. TABLES

Subchapter Historical Note

Public Notice: Change in standards for food stamp income eligibility. See: 23 N.J.R. 3030(a). Public Notice: Change in food stamp income eligibility, deduction, and coupon allotment standards. See: 29 N.J.R. 4346(a). See annotations at the section level for further amendments.

10:87-12.1 Income deductions

(a) The Standard Deduction shall be that calculated by the United States Department of Agriculture pursuant to 7 CFR 273.9(d)(7), published annually in the Federal Register, pursuant to 7 CFR 273.9(d)(1), and effective October 1 of each year.

(b) The Shelter Deduction shall be that calculated by the United States Department of Agriculture pursuant to 7 CFR 273.9(d)(8), published annually in the Federal Register, pursuant to 7 CFR 273.9(d)(5), and effective October 1 of each year.

(c) The Uniform Telephone Allowance shall be calculated by totaling the New Jersey Bell Telephone Company highest regional Flat Rate Service charge, the FCC subscriber line charge, applicable Federal Tax and the AT&T monthly leasing charge for a touch-tone telephone. As required by 7 CFR 273.9(d)(6), DFD shall review and adjust the Uniform Telephone Allowance on July 1, to be effective October 1 of each year.

(d) The Standard Utility Allowance shall be recalculated annually by DFD effective October 1, in accordance with 7 CFR 273.9(d) and the "Texas" methodology described in USDA Notice No. 79-47, issued May 25, 1979 and shall be the sum of the following:

1. The Major Non-Heating Utility component shall be calculated by collecting data from food stamp households in 1977 and 1978 to ascertain the non-heating utility expenses which those households incurred. The data shall be arranged to project what the 95th percentile of such monthly costs are, thus arriving at a Base Period amount of \$49.00 per month. The Base Period amount shall be updated to reflect projected non-heating major utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "Fuels" item for the New York/Northern New Jersey and Philadelphia metropolitan regions to create an average "New Jersey Consumer Price Index" (NJ CPI-U) which represents major non-heating utility costs incurred in New Jersey urban areas. The 12 NJ CPI-U statistics representing July of the previous year through June of the current year shall be trended (straight line, least squares method) to project the average non-heating index amounts for November of the current year to October of the following year. The comparison of this average to that which existed in 1977 shall produce an inflation adjustment factor to be applied to the average monthly non-heating base cost figure of \$49.00.

2. The Minor Non-Heating Utility component (representing sewerage, garbage, water, and trash) shall be calculated by collecting data from food stamp households in 1977 and 1978 to ascertain the minor non-heating utility expenses which those households incurred. The data shall be arranged to project what the 95th percentile of such costs are, thus arriving at a Base Period amount of \$1.34 per month. The Base Period amount shall be updated to reflect projected minor non-heating utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "All Items" item for the New York/Northern New Jersey and Philadelphia metropolitan regions to create an average "New Jersey Consumer Price Index" (NJ CPI-U) which represents minor non-heating utility costs incurred in New Jersey urban areas. The 12 NJ CPI-U statistics representing July of the previous year through June of the current year shall be trended (straight line, least squares method) to project the average minor utility index amounts for November of the current year to October of the following year. The comparison of this average to that which existed in 1977 shall produce an

inflation adjustment factor to be applied to the average monthly minor non-heating Base Period amount of \$1.34.

3. The Uniform Telephone Allowance described at N.J.A.C. 10:87-12.1(c) shall be a component of the SUA.

(e) The Heating Utility Allowance shall be recalculated annually by DFD effective October 1, in accordance with 7 CFR 273.9(d) and the "Texas" methodology described in USDA Notice No. 79-47, issued May 25, 1979 and shall be the sum of the following:

1. The Major Heating Utility component shall be calculated by collecting data from food stamp households in 1977 and 1978 to ascertain the heating utility expenses which those households incurred. The data shall be arranged to project what the 75th percentile of such monthly costs are, thus arriving at a winter Base Period amount of \$128.00 to represent November through April monthly utility costs, and a summer Base Period amount of \$44.00 to represent May through October monthly utility costs. Each base period amount shall be updated to reflect heating utility costs by using the U.S. Bureau of Labor Statistics' Consumer Price Indices-Urban "Fuels" item for the New York/Northern New Jersey and Philadelphia metropolitan regions. The six NJ CPI-U statistics for July through December of the previous year shall be trended (straight line, least squares method) to project the average heating index amounts for November of the current year through April of the following year. The six NJ CPI-U statistics for January through June of the following year shall be trended (straight line, least squares method) to project the average heating index amounts for May through October of the following year. Each amount shall be compared to the 1977 base data, thus creating an inflation adjustment factor. Each inflation adjustment factor shall be applied to the appropriate winter or summer Base Period amount. The totals shall be averaged to arrive at the annual Heating Utility component.

2. The Minor Non-Heating Utility component described at N.J.A.C. 10:87-12.1(d)2 shall be included in the HUA.

3. The Uniform Telephone Allowance described at N.J.A.C. 10:87-12.1(c) shall be a component of the HUA.

(f) The Homeless Shelter Allowance shall be that amount prescribed by the United States Department of Agriculture, as defined at 7 CFR 273.9(d)(5)(i).

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1979 d.387, effective October 1, 1979.

See: 11 N.J.R. 448(a), 11 N.J.R. 559(a).

Amended by R.1979 d.477, effective January 1, 1980.

See: 12 N.J.R. 42(a).

Standard Deduction was \$70.00

Amended by R.1980 d.154, effective May 1, 1980.

See: 12 N.J.R. 278(d).

Utility Allowance was \$189.00.

Amended by R.1980 d.418, effective November 1, 1980.

See: 12 N.J.R. 663(b).

SUA amended to winter rate of \$259.00
 Amended by R.1980 d.558, effective January 1, 1981.
 See: 13 N.J.R. 100(e).
 Standard deduction was \$75.00: "Dependent" care was "child" care, \$90.00.
 Amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.
 See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).
 Standard utility allowance increased from "\$259.00" to "\$333.00."
 Amended by R.1982 d.318, effective September 1, 1982.
 See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).
 Uniform Telephone Allowance changed from \$7.96 to \$8.36, reflecting cost increase. Standard Utility Allowance changed from \$333.00 to \$179.00 reflecting summer decreases in heating costs.
 Amended by R.1982 d.442, effective December 1, 1982.
 See: 14 N.J.R. 1170(a), 14 N.J.R. 1463(a).
 Originally filed as an emergency adoption (R.1982 d.365) on October 1, 1982. Readopted as R.1982 d.442. Updated standard utility allowance; from \$179.00 to \$286.00.
 Amended by R.1983 d.72, effective February 28, 1983.
 See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).
 Originally filed as an emergency adoption (R.1983 d.503) on December 30, 1982. Readopted as R.1983 d.72. Standard utility allowance and housing utility allowance separated and telephone allowance increased.
 Amended by R.1983 d.579, effective November 29, 1983.
 Originally filed as an emergency amendment R.1983 d.460, effective September 26, 1983, operative October 1, 1983.
 See: 15 N.J.R. 1774(a), 15 N.J.R. 2170(c).
 Standard deduction and child care/shelter deduction increased; JUA and HUA decreased by annualization.
 Emergency Amendment, R.1984 d.465, effective September 28, 1984 (operative October 1, 1984, expires November 27, 1984).
 See: 16 N.J.R. 2844(a).
 Increased income deductions.
 Readopted, R.1984 d.567, effective November 28, 1984.
 See: 16 N.J.R. 2844(a), 16 N.J.R. 3450(a).
 Previously emergency rule R.1984 d.465.
 Emergency Amendment, R.1985 d.526, effective September 26, 1985 (operative October 1, 1985, expires November 25, 1985).
 See: 17 N.J.R. 2564(a).
 Income Deduction Table revised.
 Readoption, R.1985 d.647, effective November 26, 1985.
 See: 17 N.J.R. 2564(a), 17 N.J.R. 2978(a).
 Emergency Amendment, R.1985 d.713, effective December 27, 1985 (operative January 1, 1986), expires February 24, 1986.
 See: 18 N.J.R. 214(a).
 Added "Standard Utility Allowance/Vendor" and "Heating Utility Allowance/Vendor" to Table 1.
 Emergency Amendment, R.1986 d.191, effective April 29, 1986 (operative May 1, 1986, expires June 30, 1986).
 See: 18 N.J.R. 1108(a).
 Shelter deduction raised from \$139.00 to \$147.00.
 Readopted Emergency Amendment and Concurrent Proposal, R.1986 d.301, effective June 30, 1986.
 See: 18 N.J.R. 1108(a), 18 N.J.R. 1464(b).
 Emergency Amendment, R.1986 d.436, effective September 29, 1986 (operative October 1, 1986, expires November 28, 1986).
 See: 18 N.J.R. 2137(a).
 Adoption of Concurrent Proposal, R.1987 d.5, effective November 26, 1986.
 See: 18 N.J.R. 2137(a), 19 N.J.R. 129(a).
 Emergency Amendment, R.1987 d.431, effective October 1, 1987 (expires November 30, 1987).
 See: 19 N.J.R. 1916(a).
 Adopted concurrent proposal, R.1987 d.529, effective November 30, 1987.
 See: 19 N.J.R. 1916(a), 19 N.J.R. 2402(c).
 Emergency Amendment, R.1988 d.512, effective September 30, 1988 (operative October 1, 1988, expires November 29, 1988).
 See: 20 N.J.R. 2591(b).
 Raise in income deductions.

Adoption of concurrent proposal, R.1989 d.1, effective November 29, 1988.
 See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).
 Provisions of emergency amendment R.1988 d.512 readopted without change.
 Emergency Amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).
 See: 21 N.J.R. 3316(a).
 Income deductions raised to conform to Federal requirements.
 Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989. See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b). Provisions of emergency amendment R.1989 d.533 readopted without change.
 Amended by R.1990 d.437, effective September 4, 1990.
 See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).
 Deleted Table I and added new text from (a)-(e).
 Public Notice: Income deductions revised to conform to Federal requirements.
 See: 21 N.J.R. 3316(a).
 Maximum allowable gross income raised to conform to Federal requirements.
 Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.
 See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).
 Provisions of emergency amendment R.1989 d.533 readopted without change.
 Amended by R.1990 d.437, effective September 4, 1990.
 See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).
 Deleted Table IV, replacing with text explaining annual calculation and publishing schedule.
 Public Notice: Maximum allowable gross income revised to conform to Federal requirements.
 See: 24 N.J.R. 3769(b).
 Public Notice: Maximum allowable gross income, effective October 1, 1993.
 See: 25 N.J.R. 5365(a).
 Public Notice: Maximum allowable gross income, effective October 1, 1994.
 See: 26 N.J.R. 3901(a).
 Public Notice: Income deductions, effective October 1, 1995.
 See: 27 N.J.R. 4919(b).
 Public Notice: Income deductions, effective December 1, 1995.
 See: 28 N.J.R. 200(a).
 Public Notice: Income deductions, effective October 1, 1996.
 See: 28 N.J.R. 4677(b).
 Public Notice: Income deductions, effective January 1, 1997.
 See: 29 N.J.R. 947(c).
 Amended by R.1998 d.498, effective October 5, 1998.
 See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).
 In (c), substituted a reference to touch-tone telephones for a reference to rotary dial telephones.

Case Notes

Emergency adoption of regulation cited as example of timely regulation amendment. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.2 Maximum coupon allotment

The Maximum Coupon Allotment shall be that calculated by the United States Department of Agriculture, pursuant to 7 CFR 273.10(e)(4), published annually in the Federal Register, pursuant to 7 CFR 273.9(e)(4), and effective October 1 of each year.

Amended by R.1979 d.234, effective July 1, 1979.
 See: 11 N.J.R. 346(e).
 Amended by R.1979 d.477, effective January 1, 1980.
 See: 12 N.J.R. 42(a).
 Increased Maximum Coupon Allotment.
 Amended by R.1980 d.296, effective July 1, 1980.
 See: 12 N.J.R. 482(b).

Amended to reflect the Federal adjustment in maximum allowance monthly coupon allotments.

Amended by R.1980 d.558, effective January 1, 1981.

See: 13 N.J.R. 100(e).

Substantially amended.

Amended by R.1982 d.442, effective December 1, 1982.

See: 14 N.J.R. 1170(a), 14 N.J.R. 1463(a).

Originally filed as an emergency adoption (R.1982 d.365) on October 1, 1982. Readopted as R.1982 d.442. Increase in monthly coupon allotment.

Amended by R.1983 d.579, effective November 29, 1983.

Originally filed as an emergency amendment R.1983 d.460, effective September 26, 1983, operative October 1, 1983.

See: 15 N.J.R. 1774(a), 15 N.J.R. 2170(c).

\$1 or \$2 increase in most coupon allotments:

Emergency Amendment, R.1984 d.465, effective September 28, 1984 (operative October 1, 1984).

See: 16 N.J.R. 2844(a).

Increase in coupon allotments.

Readopted, R.1984 d.567, effective November 1, 1984.

See: 16 N.J.R. 2844(a), 16 N.J.R. 3450(a).

Previously emergency rule R.1984 d.465. Maximum coupon allotment changed.

Emergency Amendment, R.1985 d.526, effective September 26, 1985 (operative October 1, 1985, expires November 25, 1985).

See: 17 N.J.R. 2564(a).

Coupon allotment revised.

Readoption, R.1985 d.647, effective November 26, 1985.

See: 17 N.J.R. 2564(a), 17 N.J.R. 2978(a).

Emergency Amendment, R.1986 d.436, effective September 29, 1986 (operative October 1, 1986, expires November 28, 1986).

See: 18 N.J.R. 2137(a).

Adoption of Concurrent Proposal, R.1987 d.5, effective November 26, 1986.

See: 18 N.J.R. 2137(a), 19 N.J.R. 129(a).

Emergency Amendment, R.1987 d.431, effective October 1, 1987 (expires November 30, 1987).

See: 19 N.J.R. 1916(a).

Adopted concurrent proposal, R.1987 d.529, effective November 30, 1987.

See: 19 N.J.R. 1916(a), 19 N.J.R. 2402(c).

Emergency Amendment, R.1988 d.512, effective September 20, 1988 (operative October 1, 1988, expires November 29, 1988).

See: 20 N.J.R. 2592(a).

Raised minimum coupon allotment.

Adoption of concurrent proposal, R.1989 d.1, effective November 29, 1988.

See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).

Provisions of emergency rule R.1988 d.512 readopted without change.

Emergency Amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).

See: 21 N.J.R. 3316(a).

Maximum coupon allotments raised to conform to Federal requirements.

Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.

See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).

Provisions of emergency amendment R.1989 d.533 readopted without change.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Deleted Table II, replacing with text explaining annual calculation and publishing schedule.

Public Notice: Maximum Coupon Allotment (MCA) revised to conform with Federal requirements.

See: 24 N.J.R. 3769(b).

Public Notice: MCA, effective October 1, 1993.

See: 25 N.J.R. 5365(a).

Public Notice: MCA, effective October 1, 1994.

See: 26 N.J.R. 3901(a).

Public Notice: Maximum coupon allotment, effective October 1, 1995.

See: 27 N.J.R. 4919(b).

Public Notice: Maximum coupon allotment, effective October 1, 1996.

See: 28 N.J.R. 4677(b).

Case Notes

Emergency adoption of regulation cited as example of timely regulation amendment. *Eherenstorfer v. Div. of public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.3 Maximum allowable net income standards

The Maximum allowable net income standards shall be those calculated by the United States Department of Agriculture and published annually in the Federal Register, pursuant to 7 CFR 273.9(a) and effective October 1 of each year.

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1980 d.296, effective July 1, 1980.

See: 12 N.J.R. 483(b).

Amended by R.1981 d.400, effective October 1, 1981.

See: 13 N.J.R. 500(a), 13 N.J.R. 772(a).

Net income standard increased.

Amended to reflect the Federal adjustment in maximum allowable net income standards.

Amended by R.1982 d.318, effective September 2, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Increases in maximum allowable net income reflect annual Federal adjustment for cost of living.

Amended by R.1983 d.382, effective August 30, 1983.

See: 15 N.J.R. 1185(a), 15 N.J.R. 1583(b).

Net income standards increased.

Amended by R.1984 d.413, effective September 17, 1984.

See: 16 N.J.R. 1935(a), 16 N.J.R. 2442(a).

Net income standards increased.

Emergency Amendment, R.1984 d.371, effective June 24, 1985 (operative July 1, 1984 expired, August 23, 1985).

See: 17 N.J.R. 1793(a).

Maximum Allowable Income raised.

Readoption, R.1985 d.480, effective August 26, 1985.

See: 17 N.J.R. 1793(a), 17 N.J.R. 2273(b).

Emergency Amendment and Concurrent Proposal, R.1986 d. 297, effective June 30, 1986 (operative July 1, 1986).

See: 18 N.J.R. 1490(a).

Maximum Allowable Income raised.

Readopted Concurrent Proposal, R.1986 d.395, effective October 6, 1986.

See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).

Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).



See: 19 N.J.R. 1331(a).
 Adoption of Concurrent Proposal as R.1987 d.375, effective August 24, 1987.
 See: 19 N.J.R. 1331(a), 19 N.J.R. 1738(b).
 Provisions of emergency amendment R.1987 d.304 readopted without change.
 Emergency adoption, R.1988 d.512, effective September 30, 1988 (operative October 1, 1988, expires November 29, 1988).
 See: 20 N.J.R. 2592(a).
 Raised maximum allowable net income.
 Adoption of concurrent proposal R.1989 d.1, effective November 29, 1988.
 See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).
 Provisions of emergency rule R.1988 d.512 readopted without change.
 Emergency amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).
 See: 21 N.J.R. 3316(a).
 Maximum allowable net income raised to conform to Federal requirements.
 Adopted concurrent proposal R.1989 d.606, effective November 21, 1989.
 See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).
 Provisions of emergency amendment R.1989 d.533 readopted without change.
 Amended by R.1990 d.437, effective September 4, 1990.
 See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).
 Deleted Table III, replacing with text explaining annual calculation and publishing schedule.
 Public Notice: Maximum Allowable Net Income revised to conform to Federal requirements.
 See: 24 N.J.R. 3769(b).
 Public Notice: Maximum allowable net income, effective October 1, 1993.
 See: 25 N.J.R. 5365(a).
 Public Notice: Maximum allowable net income, effective October 1, 1994.
 See: 26 N.J.R. 3901(a).
 Public Notice: Maximum allowable net income, effective October 1, 1995.
 See: 27 N.J.R. 4919(b).
 Public Notice: Maximum allowable net income, effective October 1, 1996.
 See: 28 N.J.R. 4677(b).

Law Review and Journal Commentaries

Food Stamps. Steven P. Bann, 137 N.J.L.J. No. 15, 83 (1994).

Case Notes

Adoption of amendments to regulation cited as example of swift rulemaking by Division of Public Welfare. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.4 Maximum allowable gross income standards

The Maximum allowable gross income standards shall be those calculated by the United States Department of Agriculture and published annually in the Federal Register, pursuant to 7 CFR 273.9(a) and effective October 1 of each year.

Amended by R.1979 d.234, effective July 1, 1979.
 See: 11 N.J.R. 346(e).
 Amended by R.1979 d.477, effective January 1, 1980.
 See: 12 N.J.R. 42(a).
 Increased Coupon allotments.
 Amended by R.1980 d.296, effective July 1, 1980.
 See: 12 N.J.R. 482(b).

Amended to reflect the Federal adjustment in maximum allowable net income standards, monthly coupon allotments and allowable gross income limits for tax dependents.

Amended by R.1980 d.558, effective January 1, 1981.

See: 13 N.J.R. 100(e).

Old text entirely deleted and replaced with new text.

Emergency Amendment, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.

See: 13 N.J.R. 769(a).

Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Table concerning "Monthly Coupon Allotment" deleted and replaced with "Maximum Allowable Gross Income Standards."

Amended by R.1982 d.318, effective September 2, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Increases in maximum allowable gross income reflect annual Federal adjustments for cost of living.

Amended by R.1983 d.382, effective August 30, 1983.

See: 15 N.J.R. 1185(a), 15 N.J.R. 1583(b).

Gross income standards increased.

Amended by R.1984 d.413, effective September 17, 1984.

See: 16 N.J.R. 1935(a), 16 N.J.R. 2442(a).

Gross income standards increased.

Emergency Amendment R.1985 d.371, effective June 24, 1985 (operative July 1, 1985, expires August 23, 1985).

See: 17 N.J.R. 1793(a).

Maximum Allowable Income raised.

Readoption R.1985 d.480, effective August 26, 1985.

See: 17 N.J.R. 1793(a), 17 N.J.R. 2273(b).

Emergency Amendment and Concurrent Proposal, R.1986 d.297, effective June 30, 1986 (operative July 1, 1986).

See: 18 N.J.R. 1490(a).

Maximum Allowable Income raised.

Readopted Concurrent Proposal, R.1986 d.395, effective October 6, 1986.

See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).

Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).

See: 19 N.J.R. 1331(a).

Adoption of Concurrent Proposal as R.1987 d.375, effective August 24, 1987.

See: 19 N.J.R. 1331(a), 19 N.J.R. 1738(b).

Provisions of emergency amendment R.1987 d.304 readopted without change.

Emergency amendment, R.1988 d.512, effective September 20, 1988 (operative October 1, 1988, expires November 29, 1988).

See: 20 N.J.R. 2592(a).

Raised maximum allowable gross income.

Adoption of concurrent proposal R.1989 d.1, effective November 29, 1988.

See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).

Provisions of emergency rule R.1988 d.512 readopted without change.

Emergency amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).

See: 21 N.J.R. 3316(a).

Maximum allowable gross income raised to conform to Federal requirements.

Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.

See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).

Provisions of emergency amendment R.1989 d.533 readopted without change.

Amended by R.1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

Deleted Table IV, replacing with text explaining annual calculation and publishing schedule.

Public Notice: Maximum allowable gross income revised to conform to Federal requirements.

See: 24 N.J.R. 3769(b).

Public Notice: Maximum allowable gross income, effective October 1, 1993.

See: 25 N.J.R. 5365(a).

Public Notice: Maximum allowable gross income, effective October 1, 1994.

See: 26 N.J.R. 3901(a).
Public Notice: Maximum allowable gross income, effective October 1, 1995.
See: 27 N.J.R. 4919(b).
Public Notice: Maximum allowable gross income, effective October 1, 1996.
See: 28 N.J.R. 4677(b).

Case Notes

Adoption of amendments to regulation cited as example of swift rulemaking by Division of Public Welfare. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

10:87-12.5 Food stamp allotment proration

(a) In accordance with 7 CFR 273.10(a)(1)(iii), the formula for determining food stamp proration is as follows:

$$\frac{\text{Full month's benefits} \times (31 \text{ minus date of application})}{30} = \text{prorated allotment}$$

1. The computation in (a) above is to be carried out in the following sequence:

- i. Subtract the date of application from 31;
- ii. Multiply the result in setup (a)li above by the full month's benefit; and
- iii. Divide the result in step (a)lii above by 30.

(b) After using the formula in (a) above to determine the allotment, the CWA shall round the product down to the nearest lower whole dollar if it ends in 1 through 99 cents;

(c) If the computation results in an allotment of less than \$10.00, then no issuance shall be made for the initial month.

Amended by R.1979 d.234, effective July 1, 1979.

See: 11 N.J.R. 346(e).

Amended by R.1979 d.477, effective January 1, 1980.

See: 12 N.J.R. 42(a).

Increased Gross Income limits.

Amended by R.1980 d.296, effective July 1, 1980.

See: 12 N.J.R. 482(b).

Amended to reflect the Federal adjustment in maximum Gross Income Limits allowable for tax dependency.

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

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

Section concerning tax dependency and allowable gross income limits repealed.

Emergency new rule, R.1981 d.398, effective September 30, 1981 (Operative October 1, 1981), expired November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Amended by R.1983 d.121, effective April 4, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

Amended by R.1984 d.20, effective February 6, 1984.

See: 15 N.J.R. 1918(a), 16 N.J.R. 246(b).

Proration formula revised to eliminate downward bias.

Amended by R. 1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

In (a), included Federal citation in text.

10:87-12.6 Monthly coupon allotment

(a) In accordance with 7 CFR 273.10(e)(2)(ii), the formula for determining the monthly coupon allotment is as follows:

1. Benefit determination without the tables: To determine the benefit households shall receive:

i. Multiply the net monthly food stamp income by 30 percent; then

ii. Round the product up to the next dollar if it ends in cents; then

iii. Subtract the result from the maximum coupon allotment for that size household; then

iv. If the computation results in an allotment of \$1.00, \$3.00 or \$5.00, round up to \$2.00, \$4.00 or \$6.00, respectively when determining initial month's benefits.

v. If the allotment is for a one or two-person household and is less than \$10.00, round up to the minimum monthly allotment of \$10.00 except when determining initial month's benefits;

vi. If the calculation of benefits for an initial month would result in an allotment of less than \$10.00 for the household, no benefits shall be issued to the household for the initial month.

Emergency New Rule, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981.

See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, effective December 31, 1981.

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

Amended by R.1982 d.318, effective September 2, 1982.

See: 14 N.J.R. 757(d), 14 N.J.R. 1057(a).

Rounding up prohibited in determining initial month's benefits.

Amended by R.1982 d.442, effective December 1, 1982.

See: 14 N.J.R. 1170(a), 14 N.J.R. 1463(a).

Originally filed as an emergency adoption (R.1982 d.365) on October 1, 1982. Readopted as R.1982 d.442. Rounding up of the product if it ends in cents.

Amended by R.1983 d.121, effective April 14, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983. The Amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13).

Amended by R. 1990 d.437, effective September 4, 1990.

See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).

In (a): added Federal citation in text.

10:87-12.7 165 percent of poverty level

The 165 percent of poverty level amounts shall be that established and published annually as required by 7 U.S.C. 2014(c).

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

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

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

Amended by R.1983 d.382, effective August 30, 1983.

See: 15 N.J.R. 1185(a), 15 N.J.R. 1583(b).

Amended by R.1984 d.413, effective September 17, 1984.

See: 16 N.J.R. 1935(a), 16 N.J.R. 2442(a).

Poverty level income increased.

Emergency Amendment R.1985 d.371, effective June 24, 1985 (operative July 1, 1985, expires August 23, 1985).

See: 17 N.J.R. 1793(a).

Maximum Allowable Income raised.

Readoption R.1985 d.480, effective August 26, 1985.

See: 17 N.J.R. 1793(a), 17 N.J.R. 2273(b).
 Emergency Amendment and Concurrent Proposal, R.1986 d.297, effective June 30, 1986 (operative July 1, 1986).
 See: 18 N.J.R. 1490(a).
 Maximum Allowable Income raised.
 Readopted Concurrent Proposal R.1986 d.395, effective October 6, 1986.
 See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).
 Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).
 See: 19 N.J.R. 1331(a).
 Adoption of Concurrent Proposal as R.1987 d.375, effective August 24, 1987.
 See: 19 N.J.R. 1331(a), 19 N.J.R. 1738(b).
 Provisions of emergency amendment R.1987 d.304 readopted without change.
 Emergency amendment, R.1988 d.512, effective September 30, 1988 (operative October 1, 1988, expires November 29, 1988).
 See: 20 N.J.R. 2592(a).
 Adoption of concurrent proposal R.1989 d.1, effective November 29, 1988.
 See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).
 Provisions of emergency rule R.1988 d.512 readopted without change.
 Emergency amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).
 See: 21 N.J.R. 3316(a).
 Maximum allowable income raised to conform to Federal requirements.
 Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.
 See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).
 Provisions of emergency amendment R.1989 d.533 readopted without change.
 Amended by R.1990 d.437, effective September 4, 1990.
 See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).
 Deleted (a) and Table VII, replacing with text explaining annual amounts and publication schedule.
 Public Notice: Maximum allowable income revised to conform to Federal requirements.
 See: 24 N.J.R. 3769(b).
 Public Notice: Maximum allowable income, effective October 1, 1993.
 See: 25 N.J.R. 5365(a).
 Public Notice: Maximum allowable income, effective October 1, 1994.
 See: 26 N.J.R. 3901(a).
 Public Notice: 165 percent of poverty level amounts, effective October 1, 1995.
 See: 27 N.J.R. 4919(b).
 Public Notice: 165 percent of poverty level amounts, effective October 1, 1996.
 See: 28 N.J.R. 4677(b).

Case Notes

Adoption of amendments to regulation cited as example of swift rulemaking by Division of Public Welfare. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

SUBCHAPTER 13. NEW JERSEY STATE FOOD STAMP PROGRAM

Authority

N.J.S.A. 30:4B-2; Federal H.R. 1871 (Public Law 105-18, June 12, 1997), the 1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia; and the New Jersey State Food Stamp Program authorized by Governor Christine Todd Whitman.

Source and Effective Date

R.1997 d.505, effective October 28, 1997.
 See: 29 N.J.R. 4191(a), 29 N.J.R. 5063(b).

Subchapter Historical Note

Subchapter 13, New Jersey State Food Stamp Program, was adopted as Emergency New Rules by R.1997 d.402, effective August 29, 1997 (operative September 1, 1997; to expire October 28, 1997). See: 29 N.J.R. 4191(a). The concurrent proposal of Subchapter 13 was adopted as R.1997 d.505, effective October 28, 1997. See: Source and Effective Date.

10:87-13.1 Purpose

(a) The New Jersey State Food Stamp Program provides nutritional assistance to those categories of noncitizens who were rendered ineligible for the Federal Food Stamp Program by Section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (P.L. 104-193).

(b) The New Jersey State Food Stamp Program employs all Federal Food Stamp Program rules which are in effect in New Jersey under this chapter as amended by both Federal statute and policy instruction issued by the United States Department of Agriculture. The one exception is that the rule at N.J.A.C. 10:87-3.8 as amended by Federal statute, which defines the categories of noncitizens who are eligible for the Federal Food Stamp Program, are not applicable.

10:87-13.2 Eligibility

(a) Provided that all other Federal Food Stamp Program eligibility requirements are met, only the following noncitizens who are ineligible for the Federal Food Stamp Program due to noncitizens eligibility criteria shall be eligible for participation in the New Jersey State Food Stamp Program:

1. Noncitizens under the age of 18;
2. Noncitizens age 65 or over;
3. Noncitizens who are receiving SSI benefits;
4. Noncitizens who are mentally or physically incapacitated. In the event that such disability is claimed, but is not evident, then the following shall be accepted:
 - i. Current receipt of temporary or permanent disability benefits issued by governmental or private sources, including Social Security disability payments;
 - ii. A statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability. The statement shall be accepted by the county agency either in writing or by telephone; and
5. Noncitizens who are receiving Work First New Jersey GA benefits who are considered unemployable.

(b) To be eligible for the New Jersey State Food Stamp Program, the noncitizen's date of entry into the United States must be prior to August 22, 1996.

(c) To be eligible for the New Jersey State Food Stamp Program, the noncitizen shall meet one of the following categories:

1. A noncitizen lawfully admitted for permanent residence as an immigrant as defined in Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act. (However, a noncitizen lawfully admitted for permanent residence pursuant to Section 245A of the Immigration and Nationality Act must be eligible as specified in (c)8 and 9 below) (see N.J.A.C. 10:87-2.20(c) for verification);

2. A noncitizen who entered the United States prior to January 1, 1972, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

3. A noncitizen qualified for conditional entry after March 31, 1980 because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to Section 207 (formerly Section 203(a)(7)) of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

4. A noncitizen who qualifies for conditional entry prior to April 1, 1980 pursuant to former Section 203(a)(7) of the Immigration and Nationality Act (see N.J.A.C. 10:87-2.20(c) for verification);

5. A noncitizen granted asylum through an exercise of discretion by the Attorney General pursuant to Section 208 of the Immigration and Nationality Act;

6. A noncitizen lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act, or as a result of a grant of parole by the Attorney General (see N.J.A.C. 10:87-2.20(c) for verification);

7. A noncitizen living within the United States from whom the Attorney General has withheld deportation pursuant to Section 243 or 241 of the Immigration and Nationality Act because of the judgment of the Attorney General that the noncitizen would otherwise be subject to persecution on account of race, religion, or political opinion (see N.J.A.C. 10:87-2.20(c) for verification);

8. A noncitizen who is defined as aged, blind or disabled in accordance with Section 1614(a)(1) of the Social Security Act and is considered to be lawfully admitted for temporary residence pursuant to Section 245A(b)(1) of the Immigration and Nationality Act;

9. A noncitizen who is granted lawful temporary resident status pursuant to Section 245A of the Immigration and Nationality Act at least five years prior to applying for food stamps and who subsequently gained lawful permanent resident status pursuant to Section 245A of the Immigration and Nationality Act; or

10. A noncitizen who is, as of June 1, 1987 or thereafter, a special agricultural worker (SAW) and lawfully admitted for temporary residence in accordance with Section 210(A) of the Immigration and Nationality Act.

(d) When a noncitizen described at (c)9 above acquires permanent resident status, the family members of that noncitizen acquire permanent resident status and can be included in the noncitizen's household for food stamp purposes. This provision conforms with Section 301(d) of P.L. 100-649.

10:87-13.3 Ineligible noncitizens

(a) Noncitizens other than those described in this subchapter are not eligible to participate in the New Jersey State Food Stamp Program as a member of any household. Among those excluded are noncitizen visitors, tourists, diplomats, and students, who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

(b) If the household is comprised of minors (who are eligible for participation in the New Jersey State Food Stamp Program) and an adult member who is ineligible for the New Jersey State Food Stamp Program because of his or her noncitizen status, such adult may make application on behalf of the remaining members of the household. However, if there is another adult in the household who is eligible for benefits, that person shall make application.

10:87-13.4 Application for citizenship

(a) An individual who is found to be eligible for the New Jersey State Food Stamp Program shall be required to apply for United States citizenship within 60 days of the date that the noncitizen is certified as eligible for the New Jersey State Food Stamp Program or within 60 days of the date the noncitizen is eligible to apply for citizenship, whichever is later.

1. An exception to the citizenship application requirement shall be granted to any person who is unable, because of "medically determinable" physical or mental impairment or combination of impairments which has lasted or is expected to last at least 12 months, to demonstrate an understanding of the English language, or who is unable for any of the same reasons to demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States.