

CHAPTER 81

PUBLIC ASSISTANCE MANUAL

Authority

N.J.S.A. 44:10-3, Federal Family Support Act of 1988 (P.L. 100-485), 58 FR 49218, 57 FR 30407, 45 CFR 250.30(b)(a), 45 CFR 250.73(e)1 and 255.2.

Source and Effective Date

R.1994 d.429, effective July 25, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

Executive Order No. 66(1978) Expiration Date

Chapter 81, Public Assistance Manual, expires on July 25, 1999.

Chapter Historical Note

Chapter 81, Public Assistance Manual, was filed and became effective prior to September 1, 1969. Chapter 81 was repealed and new rules were adopted as R.1975 d.29. See: 6 N.J.R. 244(a), 7 N.J.R. 105(c). Pursuant to Executive Order No. 66(1978), Chapter 81 was readopted as R.1989 d.496. See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a). Subchapters 1 through 10, 12 and 14 were amended by R.1991 d.8, effective January 7, 1991. See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b), based on the Family Support Act of 1988 (P.L. 100-485) (54 F.R. 42146).

Chapter 81 was readopted as R.1994 d.429. See: Source and Effective Date. As a part of R.1994 d.429, Subchapter 12, Newark/Camden Teen Progress Demonstration, was repealed effective August 15, 1994. See: 26 N.J.R.1573(a), 26 N.J.R. 3479(a). See, also, section annotations.

Cross References

New Jersey Care, special Medicaid programs manual, scope, see N.J.A.C. 10:72-1.1.

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APPENDIX A REACH HOME APPROVAL CHECKLIST**APPENDIX B AGREEMENT OF COOPERATION****APPENDIX C FORMS: RELATED TO INCOME MAINTENANCE****APPENDIX D FORM R22****SUBCHAPTER 1. PUBLIC ASSISTANCE IN NEW JERSEY****Subchapter Historical Note**

All provisions of this subchapter were filed and became effective prior to September 1, 1969. A new revised subchapter was filed February 11, 1975, as R.1975 d.29 to become effective April 15, 1975. See: 6 N.J.R. 244(a), 7 N.J.R. 105(c). Amendments were filed and became effective March 1, 1976 as R.1976 d.63. See: 8 N.J.R. 69(b), 8 N.J.R. 195(b). Further amendments were filed and became effective December 1, 1977 as R.1977 d.452. See: 9 N.J.R. 367(c), 10 N.J.R. 16(b). Further amendments were filed and became effective September 1, 1979 as R.1979 d.278. See: 11 N.J.R. 280(b), 11 N.J.R. 383(b). Further amendments were filed on an emergency basis effective September 30, 1981 to become operative October 1, 1981 to expire November 30, 1981 and to be readopted December 30, 1981 as R.1981 d.518. See: 13 N.J.R. 759(a), 14 N.J.R. 102(c). This subchapter was readopted, effective August 23, 1984 with amendments to become operative October 1, 1984 as R.1984 d.405. See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a). See chapter and section levels for further amendments.

10:81-1.1 Purpose and scope

(a) The purpose of this manual is to set forth the policies and procedures necessary for the orderly and equitable provision of public assistance on a Statewide basis. It is binding on the county welfare agencies (CWAs) and enforceable by the Division of Economic Assistance. Questions of interpretation will be resolved by the Division of Economic Assistance.

(b) The community recognizes that the security and welfare of each individual are essential to the security and welfare of the community as a whole. Therefore, it has established, among others, programs of social service and public assistance.

(c) Supplementary services under private auspices are also available in the community. To the greatest extent possible clients should be informed of these services as additional resources, not in lieu of public programs.

(d) Public assistance and social services programs are administered within the framework of Federal and State laws and regulations in accordance with equitable and objective standards. Policy is limited by Federal and State law and is effective only as it is consistent with those laws.

1. A recipient is required to be engaged in work, a work activity, self-directed job search or other work/educational activity as defined in N.J.A.C. 10:86, once it is determined that the recipient is ready to engage in work, or once the recipient has received cash assistance for 24 months (whether or not consecutive), whichever is earlier.

2. Recipients shall be required to engage in work and/or work activities for a minimum of 20 hours and up to a maximum of 40 hours per week except that a recipient who is a full time post-secondary education student in a course of study directly related to employment, shall be required to engage in another work activity for no more than 15 hours a week subject to the recipient making satisfactory progress toward completion of the post-secondary course of study. This requirement supercedes any rule in N.J.A.C. 10:81 or 10:86 that pertains to required hours of participation in work and/or work activities that conflicts with this requirement.

(e) Such assistance and services shall be rendered to all eligible individuals and families in an atmosphere of mutual respect between agency employees and the people they serve. Agencies shall ensure that assistance and services are:

1. Extended in a manner and environment which increases a person's sense of importance, dignity and self-esteem;

2. Designed and administered to respect the human and civil rights of persons applying for or receiving assistance;

3. Provided in the least restrictive, most appropriate setting.

(f) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, enacted August 22, 1996, enacted Federal welfare reform. The new Federal law eliminated the Aid to Families with Dependent Children (AFDC) program and created a Temporary Assistance for Needy Families (TANF) block grant for states to provide time-limited cash assistance. New Jersey's block grant program is established as Work First New Jersey (WFNJ) in accordance with the Work First New Jersey Act, P.L. 1997, c.13, c.14, c.____, and c.____. Pursuant to Public Law 104-193 and P.L. 1997, c.13, c.14, c.____ and c.____, the following provisions pertain to time-limited cash assistance:

1. Effective April 1997, eligibility for cash assistance benefits shall be limited to a lifetime total of 60 cumulative months for an individual recipient, except as otherwise provided in this subsection, whether assistance was received in the WFNJ/TANF or the WFNJ/GA components of the program. The calculation of the time limit will be based on the number of days the recipient received benefits up to the 60 cumulative month lifetime limit.

i. At the end of an individual adult recipient's 60 cumulative months of receipt of cash assistance, the assistance unit shall no longer be eligible to receive WFNJ/TANF or WFNJ/GA assistance.

ii. In the event that a recipient who has received cash assistance as a dependent child or minor parent and later becomes a head of household in the child's or parent's own right for the purposes of receiving benefits, the time during which such dependent child or minor parent had previously received benefits shall not count toward the 60 cumulative month lifetime limit.

2. A recipient's receipt of assistance from Federal TANF block grant funds provided by another state or territory shall count towards the 60 cumulative month lifetime limit, except for an adult recipient as described in (f)2i and ii below.

i. In determining the number of months for which an adult has received assistance, any month during which the adult lived on an Indian reservation or in an Alaskan Native village shall be disregarded if, during the month, at least 1,000 individuals were living on the reservation or in the village and at least 50 percent of the adults living on the reservation or in the village were unemployed.

ii. In determining the number of months for which an adult recipient has received cash assistance, the first 90 days of each period of a temporary disability resulting from injury or illness related to participation in a community work experience program (CWEP) or alternative work experience program (AWEP) shall be exempted from the 60 cumulative month time limit.

3. A recipient shall be exempted from the 60 cumulative month lifetime limit if the recipient is:

i. Over 60 years of age;

ii. The sole parent or other sole caretaker relative of a disabled child or other disabled dependent who must provide full-time care for the disabled child or other disabled dependent;

iii. Permanently disabled, including, but not limited to, a person eligible for disability insurance benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401 et seq.) but not to include any period of non-permanent incapacity;

iv. Chronically unemployable (to be defined at a later date); or

v. Subject to domestic violence. As an interim measure, the exemption shall be based on the request of the recipient. An affidavit taken from the recipient indicating that she or he is a victim of domestic violence shall be accepted as documentation that this situation exists.

4. Extensions, as provided in WFNJ statute, are acknowledged and shall be defined at a later date.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1979 d.426, effective December 1, 1979.
See: 11 N.J.R. 376(b), 11 N.J.R. 560(d).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Emergency amendment R.1997 d.101, effective January 31, 1997 (operative February 1, 1997; to expire April 1, 1997).
See: 29 N.J.R. 701(a).
Inserted (d)1 and (d)2.
Emergency amendment R.1997 d.175, effective March 24, 1997 (operative March 31, 1997; to expire May 23, 1997).
See: 29 N.J.R. 1425(a).
In (d), inserted "Federal and State" preceding "law" and made a conforming change; in(d)2, rewrote the first sentence and added the second sentence; and added (f).

Case Notes

Cited as example of expression of legislative desire to help the elderly grow old with dignity and independence. *Texter v. Dept. of Human Services*, 88 N.J. 376, 443 A.2d 178 (1982).

County welfare board's discretion is severely restricted by state and federal regulations. *Battaglia v. Union Cty. Welfare Bd.*, 88 N.J. 48, 438 A.2d 530 (1981) certiorari denied 102 S.Ct. 2045, 456 U.S. 965, 72 L.Ed.2d 490 (1982).

10:81-1.2 Opportunity and decision to apply

Any person who believes he or she and his or her children are eligible for public assistance must be given the opportunity to apply without delay. Applicants will be informed about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the applicant. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

10:81-1.3 Presumptive eligibility in cases of immediate need

When immediate need is apparent and applicant provides evidence of eligibility by a written statement signed under oath, the director of the county welfare board shall issue a grant effective as of the date of application. (Immediate need is defined in N.J.A.C. 10:81-9.1.)

Cross References

Initial payment, see N.J.A.C. 10:81-4.3.

Case Notes

Gilbert v. Tull, 145 N.J. Super. 53, 366 A.2d 1012, 59 (Law Div.1976) (regulation cited as PAM § 1120).

10:81-1.4 Prompt disposition by county welfare agency

County welfare agency staff shall move with all reasonable speed in accepting, processing and recommending action on applications for assistance. If applicant is eligible, payment shall be issued as soon as need is apparent. The agency's standards of promptness for acting on applications or re-determining eligibility shall not be a basis for delay in granting aid.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).

10:81-1.5 Primary source of information

Applicants and recipients are in all instances the primary source of information about themselves and their families. It is the responsibility of the agency to determine eligibility and, as necessary, to secure verification from secondary sources. Such verification information shall be limited to those facts which are essential to establish eligibility and shall be obtained only with the consent of the client. It will be explained to the client that verification is necessary and lack of consent to obtain it will make processing of the application impossible.



(e) When continued absence as defined in this section exists, eligibility for AFDC-F or -N ceases. The family shall be evaluated for AFDC-C.

1. In situations where the parent is to be incarcerated, hospitalized, institutionalized or incapacitated for a period beyond 30 days, eligibility for AFDC-F or -N ceases. The remaining members of the family shall be evaluated for AFDC-C.

As amended, R.1977 d. 452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

As amended, R.1979 d.423, effective December 1, 1979.

See: 11 N.J.R. 446(a), 11 N.J.R. 559(e).

As amended, R.1980 d.118, effective March 19, 1980.

See: 11 N.J.R. 625(a), 12 N.J.R. 194(c).

Added second sentence and cross reference.

As amended, R.1984 d.415, effective September 17, 1984.

See: 16 N.J.R. 825(a), 16 N.J.R. 2440(a).

Amended by R.1986 d.9, effective February 3, 1986.

See: 17 N.J.R. 2333(a), 18 N.J.R. 272(a).

(d)1-3 added.

Amended by R.1992 d.366, effective September 21, 1992.

See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).

Text deleted at (c)3 to conform to equalization of payment standards.

Case Notes

"Absent parent" for AFDC eligibility defined. In the Matter of Souder, 204 N.J.Super. 132, 497 A.2d 1258 (App.Div.1985).

"Absent parent" defined for AFDC eligibility. Burrus v. Dept. of Human Services, 194 N.J.Super. 60, 476 A.2d 285 (App.Div.1984).

Continued absence of parent. Shannon v. Dept. of Human Services, 157 N.J. Super. 251, 384 A.2d 899 (App.Div.1978) (regulation cited as PAM § 2533).

Husband residing in same apartment building as recipient spouse does not constitute continued absence of parent; benefits reduction approved (Director's Final Decision). A.S. v. Bergen Cty. Welfare Bd., 7 N.J.A.R. 258 (1981), revised 191 N.J.Super. 228 (App.Div.1983).

AFDC grant terminated because children were not being deprived of parental support. Burlington Cty. Welfare Bd., v. H.R., 3 N.J.A.R. 363 (1980).

Physical incapacity of parent. R.R. v. Hudson County Division of Welfare, 2 N.J.A.R. 228 (1978).

Continued AFDC assistance denied because father was not continuously absent from home. Gloucester Cty. Welfare Bd. v. "C.R.", 2 N.J.A.R. 14 (1980).

10:81-2.8 FDP or REACH participation in AFDC-C, -F, and -N segments

(a) The IM worker has responsibility for determining each AFDC-C, -F and -N family member's need to participate in FDP or REACH (the AFDC work/training program) as a condition of eligibility for AFDC (see N.J.A.C. 10:86 or N.J.A.C. 10:81-14), unless exempt. The FDP or REACH exemptions as described in N.J.A.C. 10:86 or N.J.A.C. 10:81-14.3A will be explained to each applicant.

1. If an individual claims exemption due to incapacity, he or she shall be given Form DRS-1, Examining Physician's Report, to be completed by a physician or licensed or certified psychologist of his or her choice and returned to the CWA for payment as authorized by the Division of Medical Assistance and Health Services.

i. If the completed DRS-1 indicates that the individual will be incapacitated for at least 90 days, the client shall be referred to the Division of Vocational Rehabilitation Services by means of Form PA-14, Referral for Services.

2. Those individuals not exempt from FDP or REACH shall be informed that they must participate in the FDP or REACH program (see N.J.A.C. 10:86 or N.J.A.C. 10:81-14.3 and 14.8 for failure to participate in FDP or REACH).

i. The IM worker shall immediately refer all individuals who wish to volunteer for participation in FDP or REACH to case management.

(b) During the application process the income maintenance worker shall:

1. Provide an orientation to the FDP or REACH program to applicants;

2. Determine the participant status for FDP or REACH;

3. Inform exempt FDP or REACH applicants of their right to voluntarily participate in the FDP or REACH program;

4. Refer nonexempt applicants and volunteers for FDP or REACH evaluation by the case manager;

5. Establish FDP or REACH participant's target group category in accordance with N.J.A.C. 10:86 or N.J.A.C. 10:81-14.3(j); and

6. Refer FDP or REACH applicants and participants to the county welfare agency IV-D Child Support Unit for child support orders.

(c) The IM worker shall inform AFDC-N applicants that the condition of insufficient income or resources upon which eligibility is based cannot be the result of a voluntary termination of employment without good cause (see N.J.A.C. 10:86 or N.J.A.C. 10:81-14.8(e)) within the last 90 days prior to application by either of the applicant parents regardless of reason. When voluntary termination of employment causes ineligibility, neither the father nor the mother will be included in the eligible family for a period of 90 days. The 90-day penalty period shall begin with the date of the termination of employment. However, eligibility shall be considered for the children.

Repeal and New Rule: R.1991 d.8, effective January 7, 1991.

See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).

Section was "WIN registration in AFDC-C and -F segments (WIN counties only)."

Prior rulemaking activity is as follows:

Amended by R.1976 d.63, effective March 1, 1976.

See: 8 N.J.R. 69(b), 8 N.J.R. 169(a).

Amended by R.1977 d.226, effective July 1, 1977.

See: 9 N.J.R. 223(b), 9 N.J.R. 370(a).

Amended by R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Amended by R.1979 d.428, effective October 18, 1979.

See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
 Amended on an emergency basis by R.1981 d.397, effective September 30, 1981, (operative October 1, 1981), expired November 30, 1981.
 See: 13 N.J.R. 759(a). Readopted, R.1981 d.518, effective December 31, 1981.
 See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
 (b)-(b)1v added.
 Amended by R.1992 d.366, effective September 21, 1992.
 See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
 References to Family Development Program added.

10:81-2.9 Denial of cash assistance

(a) In addition to those persons who are already not considered to be members of the eligible unit, the following persons shall also not be eligible for assistance and shall not be considered to be members of the assistance unit:

1. A person who is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or, is violating a condition of probation or parole imposed under Federal or State law;

2. A person found to have willfully and knowingly fraudulently misrepresented his or her residence in order to obtain means-tested public benefits in two or more states or jurisdictions, shall be ineligible for benefits for a period of 10 years from the date of conviction in a Federal or state court;

3. Other aliens who are not eligible aliens as defined in N.J.A.C. 10:81-3.10; and

4. A person convicted on or after August 22, 1996 under Federal or State law of any offense which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the distribution, possession or use of a controlled substance as defined in section 102(6) of the Federal "Controlled Substances Act" (21 U.S.C. § 802(6)).

i. A person convicted of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for benefits if the person has successfully completed a drug abuse treatment program licensed by the Department of Health and Senior Services, at the conclusion of which the person is certified drug free by an authorized program representative.

(1) Eligibility for benefits shall commence upon successful completion of the established requirements of the drug treatment program.

(2) During the first 60 days after successful completion of the drug treatment program or at the time of application or case redetermination, it must be determined, via testing by an entity designated by DFD, that the person is free of any controlled substance. If the person is determined not to be free of any controlled substance during, or at the conclusion of, the 60-day period, the person's eligibility for benefits shall be terminated.

(A) Benefits cannot be granted or reinstated until the person completes another drug treatment program, remains drug free for a minimum of 60 days and is determined via testing to be free of any controlled substance.

Emergency New Rule, R.1997 d.101, effective January 31, 1997 (operative February 1, 1997; to expire April 1, 1997).
 See: 29 N.J.R. 701(a).
 Emergency amendment R.1997 d.175, effective March 24, 1997 (operative March 31, 1997; to expire May 23, 1997).
 See: 29 N.J.R. 1425(a).
 Added (a)3 and 4.

10:81-2.10 Residence law

The law requires that an applicant for or recipient of public assistance shall reside in New Jersey. Application should be made to CWB in county of residence even though temporary.

10:81-2.11 Support from relatives

(a) The IM worker will explain to applicant that certain relatives must be contacted and evaluated to determine what capacity, if any, they have to contribute to the family's support. Payment will not be delayed pending evaluation of legally responsible relatives.

(b) Applicant should be advised that their entitlement to assistance will not be jeopardized by the unwillingness of legally responsible relatives to provide support.

10:81-2.12 Repayment (all segments)

The IM worker shall determine from the applicant whether there is a pending claim against any individual, group or agency on behalf of any member of the eligible unit. If such a non-exempt claim does exist, applicant shall be advised that completion of Form PA-10D, Agreement to Repay, must be executed before a grant may be given.

Amended by R.1977 d.452, effective December 1, 1977.
 See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Case Notes

Statute requiring those who receive public assistance for children living with them, as condition of continued eligibility, to agree to repay, from settlement of certain legal claims or interests, assistance granted by welfare agency from date of entitlement to such claims or interest does not preclude recovery of such funds in the absence of agreement to repay. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

10:81-2.13 Administrative action on application

(a) The IM worker again will review all appropriate forms for completeness and accuracy, and give them to his/her supervisor. The supervisor will examine the forms for consistency of applicant's statements, completion of all necessary information and correct budgetary computations. If acceptable, the supervisor will indicate his/her approval by signing Form PA-3A or Form 105, as appropriate; if not acceptable, the forms will be returned to IM worker for correction.

10:81-3.12 Parent-minor in TANF

(a) If an applicant or recipient is less than 18 years of age, has never married, and is caring for a dependent child, the applicant or recipient shall be required, as a condition of eligibility for benefits for the applicant or recipient and the applicant's or recipient's dependent child to:

1. Reside in a home maintained by, and have the benefits paid to the applicant's or recipient's parent, legal guardian, or other adult relative; and

i. Regularly attend a high school or equivalency program of study; or

ii. Engage in a work activity if the applicant or recipient has completed secondary education.

(b) If living with the parent, legal guardian, or other adult relative is determined unsuitable for the parent-minor because of good cause reasons in (c) below, then the CWA shall assist the parent-minor in locating another appropriate adult, or adult supervised supportive living arrangement.

(c) Good cause for locating an alternative living arrangement for the parent-minor may exist if, during the application or eligibility process, as appropriate, the CWA determines that the parent, legal guardian or other adult relative with whom the applicant or recipient would otherwise be required to reside in order to be eligible for benefits:

1. Refuses or is unable to allow the applicant or recipient, or that person's dependent child to reside in that adult's home;

2. Poses a threat to the emotional health or physical safety of the applicant or recipient;

3. Has exhibited neglect with respect to the needs of the applicant or recipient and the applicant's or recipient's dependent child; or

4. Has abused the applicant or recipient, or the applicant's or recipient's dependent child, or poses a risk of doing so.

i. In making the determination to exempt an applicant or recipient who is under 18 years of age for reasons of abuse, information shall be obtained directly from that applicant or recipient when there has been any known circumstance or incident of abuse, or upon the request of that applicant or recipient.

(d) If the parent-minor recipient is at least 17 years of age and has successfully resided in an independent living arrangement prior to February 1, 1997 with no previous incident of homelessness, such parent-minor may be allowed to continue living in an independent living arrangement subject to the following conditions:

1. The parent-minor shall name a responsible adult as a protective payee;

2. The parent-minor shall fully cooperate with a series of regular home visitations which will be completed by a representative of the entity designated by DFD;

3. The parent-minor must remain enrolled in high school or an approved GED program; and

4. If the parent-minor cannot identify a suitable adult as the protective payee, he or she will have the choice of residing in an alternate adult-supervised living arrangement designated by DFD or be ineligible for assistance. If at any time during the eligibility period, the parent-minor has not fully cooperated with his or her protective payee, the case manager or the representative of the entity designated by DFD, he or she will be required to move his or her residence to an alternate adult-supervised living arrangement designated by DFD or lose eligibility for cash assistance.

(e) An applicant or recipient may be exempt from regularly attending high school or an equivalency program of study if, based upon an assessment of the person's ability and aptitude, it is determined that the applicant or recipient lacks a reasonable prospect of being able to successfully complete the academic requirements of a high school or equivalency program of study. The individual shall be required to participate in an alternative educational or training program approved by the Department of Human Services.

(f) When a parent-minor(s) and the parent-minor's child is residing with his or her natural or adoptive parent(s), income deeming rules apply to determining the eligibility of the parent-minor (see N.J.A.C. 10:82-3.14).

(g) When a parent-minor(s) and the parent-minor's child reside with an adult relative other than their natural/adoptive parent(s), or as a separate household, in accordance with (d) above, the parent-minor's natural or adoptive parents shall be evaluated as legally responsible relatives in accordance with the provisions of N.J.A.C. 10:82-3.10.

(h) When a parent-minor and his or her child(ren) are living in the home of the parent-minor's natural or adoptive parents, or relatives who qualify as parent-person(s) of the parent-minor, and such parent(s) or parent-persons are themselves eligible for cash assistance, the eligible family shall consist of the parent-minor, the parent-minor's child, the parent-minor's parent(s) and the parent-minor's brothers and sisters.

(i) Circumstances requiring special handling which are not conditions of eligibility:

1. Any person who applies for assistance shall be presumed to be mentally competent unless there is professional diagnostic evidence to the contrary, or unless there is question regarding competency because of certain observable behavior or reactions.

(j) Criteria for alleged incompetency of applicant include:

1. Inability or substantial difficulty in giving simple identifying information such as his/her correct name, address, names of members of his/her family, names of persons with whom he/she lives or has frequent association (during the course of the interview references should be made to these previously directed questions and the consistency of the response noted); inability to report in a general way factual information about his/her economic status, his/her education, his/her employment history (if any), and his/her medical history.

2. Insistence on relating irrelevant information in a way which appears genuinely unbalanced.

(k) If, after considering the client's response according to the above criteria, the CWB has reasonable doubt of his/her mental competency (alleged incompetency), the IM worker shall accept an application from him/her and when immediate need is apparent, issue grant. The case shall immediately be referred to the social service unit to locate a protective payee.

(l) If any of the following conditions appear to exist in the relationship between parent and child, the case shall immediately be referred to the social service unit which shall contact the Division of Youth and Family Services (DYFS) for appropriate action. The CWA shall provide DYFS with pertinent information as appropriate and will cooperate in planning and implementing action in the best interest of the child. (See also N.J.A.C. 10:81-7.46)

1. Physical or sexual abuse or cruel treatment;
2. Exploitation by prostitution or overwork, having the child beg or involving the child in illegal activities;
3. Neglect as shown by apparent malnutrition or lack of supervision necessary for the health and safety of the child;
4. These conditions, of themselves, will not affect eligibility of the children to receive assistance.

(m) In the event of any indication that the death of a child resulted from abuse or neglect, such matter shall be reported immediately to DYFS.

As amended, R.1977 d.332, effective October 1, 1977.
 See: 9 N.J.R. 340(c), 9 N.J.R. 479(a).
 As amended, R.1977 d.452, effective December 1, 1977.
 See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
 As amended on an emergency basis, R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
 See: 16 N.J.R. 2833(a).
 (a) amended.
 Readopted, R.1984 d.569, effective November 28, 1984.
 See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
 (a): deleted "parent-minors" and inserted "AFDC-C and -F adolescent parents."
 Amended by R.1987 d.379, effective September 21, 1987.
 See: 19 N.J.R. 31(a), 19 N.J.R. 1738(a).
 Text of (a) 2 replaced.
 Amended by R.1989 d.496, effective September 18, 1989.

See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
 Threshold age changed to 18 from 19, for deeming purposes.
 Emergency amendment R.1997 d.101, effective January 31, 1997 (operative February 1, 1997; to expire April 1, 1997).
 See: 29 N.J.R. 701(a).
 Rewrote (a); inserted new (b) through (h); and recodified former (b) through (f) as (i) through (m).

10:81-3.13 Age requirements

(a) To be considered of eligible age, a child in AFDC must be under age 18, or under age 19 and a full-time student in a secondary school or in the equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age 19. Program completion is defined as the day of ceremonial graduation. See N.J.A.C. 10:82-1.9 for definitions regarding school attendance.

1. When any school or course of training involves attendance during an academic year, a child shall be considered eligible during the summer months when he or she has been accepted for admission in the fall. He or she shall be considered eligible during regular vacation periods unless the educational program has been completed or unless there is verification that the child does not attend or is not acceptable to reenter the program.

(b) A child between 18 and 21 years of age residing with an AFDC recipient family who, except for age, would be eligible for inclusion in the grant, may be eligible for Medicaid Special (see N.J.A.C. 10:81-8.22-8.25).

(c) In all segments, when the year of birth can be determined but not the month, July 1 shall be designated to be the birth date. When the month can be determined but not the date, the child will be eligible at the end of that month.

(d) A recipient child cannot be included in the AFDC cash payment after the month in which he/she attains the age when he/she is no longer eligible. Furthermore, a child who attains such age on the first day of the month is not considered to be of eligible age during that month and is not eligible for inclusion in the grant for that month. Additionally, the family ceases to be eligible when the youngest child is no longer of eligible age.

(e) The county welfare agency shall establish and maintain appropriate administrative controls in all AFDC cases, identifying those members of the eligible unit who may be rendered ineligible because of age. Specifically in this regard, agency controls shall provide advance identification of children attaining age 18 and/or 19, as appropriate for possible referral for general assistance. Parents approaching age 65 should be alerted to the Supplemental Security Income Program.

As amended, R.1977 d.452, effective December 1, 1977.
 See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
 As amended, R.1978 d.190, effective June 8, 1978.
 See: 10 N.J.R. 286(a).
 As amended, R.1977 d.212, effective July 1, 1977.
 See: 9 N.J.R. 342(b).

3. The social service unit of the registering county welfare board shall assist the applicant to establish a home for the dependent child(ren).

(e) Responsibility for initial planning for the return of a patient to the community rests with the institutional authorities. When public assistance is necessary and the person appears eligible, the Bureau of Transitional Services will coordinate the application with the institutional authorities and with the appropriate CWA. The Bureau of Transitional Services under the Division of Mental Health and Hospitals will be responsible for reviewing such referrals to assure that all essential information is assembled, and for expediting the processing of an application by the appropriate county welfare agency for final determination of eligibility.

1. The institution will routinely complete the following forms without charge (a stock supply of which will be provided to them by the Division of Economic Assistance) and will forward copies to the Bureau of Transitional Services along with copies of staff notes pertinent to each case:

- i. Form PA-12, Referral by State Mental Institution to Public Assistance Agency;
- ii. Form DRS-8, Report of Findings by Psychiatric Diagnostic Group, where appropriate.

2. Persons under the jurisdiction of Division of Mental Retardation, Bureau of Field Services, shall be referred by that bureau directly to the appropriate county welfare board.

(f) When a parent is about to be released from a veteran's hospital, the hospital will make referral in writing, with the knowledge and consent of the veteran, to include the following minimum information:

1. Identifying data;
2. Anticipated date of discharge;
3. Description of any known or tentative living arrangement following discharge;
4. In addition, the hospital will complete, without charge, the following forms as appropriate;
 - i. DRS-8, Report of Findings by Diagnostic Group;
 - ii. Abstract of patient's hospital record; or in absence of abstract;
 - iii. DRS-1, Examining Physician's Report;
 - iv. DRS-1A, Report of Eye Examination.

5. Thereafter the county welfare board shall arrange for an application interview and shall process the application as any other.

(g) The BTS area worker shall arrange with the social service staff of the institution for an interview with the applicant. If the patient decides to apply, the BTS worker

shall assist in completing the application in accordance with subchapter 2 of this chapter.

1. The BTS worker is responsible for prompt investigation to determine initial eligibility, including inquiry regarding any funds held by the institution or other party in a personal account for the applicant. The BTS worker will discuss available services including assistance in locating a suitable living arrangement with the applicant. BTS will determine which CWA the case will be referred to and notify the institutional authorities of this decision. BTS shall transfer the completed referral forms to the designated CWA.

(h) The CWA will register cases transferred from BTS within one working day. The CWA will determine initial eligibility within 30 days and so inform in writing BTS which will coordinate discharge of the client. If the client is discharged in less than 30 days and has immediate need (see N.J.A.C. 10:81-1.3) assistance will be granted immediately. If the applicant qualifies, the initial grant shall be issued by the CWA to coincide with the client's release from the institution, and the relationship between the recipient and the CWA will be conducted as in all other cases.

(i) A child of eligible age or a spouse of an AFDC-C recipient parent who is at home on extended visit or convalescent leave from a State institution is eligible for inclusion in the AFDC-C, -F or -N assistance payment, as appropriate.

Amended by R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Amended by R.1979 d.428, effective October 18, 1979.

See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

Amended by R.1983 d.319, effective July 20, 1983.

See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).

Internal cites changed to N.J.A.C. cites.

Amended by R.1991 d.8, effective January 7, 1991.

See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).

In (e) and (f): Revised references to forms in subsections.

10:81-3.32 Temporary absence of a family member

(a) Eligibility for WFNJ/TANF may exist during the absence of a child, parent or parent-person from the home under the circumstances described in N.J.A.C. 10:81-3.33 and 3.34. When the absence is foreseeable, the CWA should make appropriate plans.

1. A parent or caretaker relative who fails to notify the county welfare agency of the absence of the minor child from the home by the end of the five day period that begins with the date that it becomes clear to the parent or relative that the minor child will be absent for more than 180 consecutive days shall be ineligible for benefits for a period of three months from the date the CWA becomes aware of the recipient's failure to notify the agency of the absence which shall begin with the month following the month in which the absence becomes known.

Amended by R.1977 d.452, effective December 1, 1977.

See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Amended by R.1980 d.78, effective April 1, 1980.

See: 11 N.J.R. 554(b), 12 N.J.R. 126(c).

Recodified (b) and (c) into N.J.A.C. 10:81-3.33 and 3.34 with amendments.

Emergency amendment R.1997 d.175 effective March 24, 1997 (operative March 31, 1997; to expire May 23, 1997).

See: 29 N.J.R. 1425(a).

In (a), changed "AFDC" to "WFNJ/TANF", and inserted N.J.A.C. references ;and added (a)1.

10:81-3.33 Child or parent in an institution

(a) When a child who would be otherwise eligible for WFNJ/TANF is out of the home due to voluntary/involuntary placement in an institution, he or she shall be recognized as a member of the eligible unit so long as it is anticipated that he or she will return home within one year from the date of the placement. State only funds shall be used after the minor child has been absent from the home for more than 180 consecutive days. See N.J.A.C. 10:82-1.6(b) regarding adjustments to the grant for children who are absent from the home.

1. A child whose placement is specified for a period longer than one year shall not be eligible during the entire period of placement. (See N.J.A.C. 10:82-2.5 regarding visits home of seven or more days.)

2. Placement for an unspecified or indeterminate period shall be construed to be for less than one year. Should such period extend beyond one year, the child shall be deleted from the eligible unit at the end of the year.

3. In the case of a new application, eligibility of an institutionalized child shall be based on the specified length of the placement starting from the date the placement began.

(b) The term "parent" as used in subsection (c) of this section includes both parents and parent-persons.

(c) Rules concerning a parent in an institution are:

1. In AFDC-C, when a parent is absent for diagnostic treatment or care and, even though hospitalized, is able to retain responsibility for supervising a plan for adequate care and control of his/her child(ren), eligibility shall continue so long as necessary to complete recovery but not to exceed three months. (Use of a temporary payee is not precluded; see N.J.A.C. 10:81-4.7.)

i. When it appears that the absence will continue for more than three months, the case will be reevaluated relative to the care and protection of the children and approval of the State office obtained for continued eligibility of the parent.

ii. See: N.J.A.C. 10:82-1.6(b) regarding appropriate adjustments to the grant.

2. In AFDC-F and -N cases, when a parent is absent from the home due to one of the following conditions, the case shall be immediately reviewed for transfer to AFDC-C if;

i. A parent is hospitalized and such condition will continue for at least 30 days; or

ii. A parent is committed to an institution and such absence will continue for at least 30 days.

As amended, R.1980 d.78, eff. April 1, 1980.

See: 11 N.J.R. 554(b), 12 N.J.R. 126(c).

(a) was recodified and substantially amended from N.J.A.C. 10:81-3.32(b) and 3.33.

(b) and (c)1 were recodified from N.J.A.C. 10:81-3.32(c)3 and 4 with amendments. Three month limitation was six months and reevaluation procedure was changed. Reference to temporary payee and grant adjustments were added.

As amended, R.1983 d.319, eff. July 20, 1983.

See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).

Internal cite changed.

Emergency amendment R.1997 d.175, effective March 24, 1997 (operative March 31, 1997; to expire May 23, 1997).

See: 29 N.J.R. 1425(a).

In (a), changed "AFDC" to "WFNJ/TANF", and inserted the second sentence.

10:81-3.34 Absence for reasons other than institutional

(a) Children: Temporary absence of a child which has not lasted more than 30 consecutive days does not affect eligibility or level of grant entitlement. When the absence of a child lasts longer than 30 days or it appears that an absence will last longer than 30 days the CWA will review the situation.

1. If it is found that the parent or parent-person lacks or will lack both physical custody and responsibility for day to day care of the child and the situation is likely to continue for more than 90 days, the child is no longer eligible for assistance. In situations in which the whereabouts of the child is unknown, or the parent or parent-person is precluded from contract, or the time period is otherwise indefinite, the child is no longer eligible for assistance.

2. If it is found that there is reasonable expectation that the child will return to the home within 90 days, the child remains eligible.

3. The child remains eligible during the time that the above review is in process, but not longer than 90 days.

4. In unusual situations involving particular hardship, the CWA may consult with the State office.

(b) Regarding parent or parent-person, temporary absence of not more than 30 days for whatever reason will not affect eligibility provided that adequate care and supervision of the child(ren) has been arranged in advance. When necessary, arrangements will be made by the county welfare agency regarding issuance of the grant.