

(g) In general, no qualified handicapped/disabled person shall, on the basis of handicap/disability, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 specifically provides that Federal civil rights laws, including Section 504 of the Rehabilitation Act of 1973 and The Americans with Disabilities Act of 1990, apply to TANF programs. The Americans with Disabilities Act (ADA) protects individuals with physical and mental health problems and learning disabilities. The ADA prohibits discrimination on the basis of disability by both private and public entities, whether or not they receive Federal financial assistance. Both Section 504 and Title II of the ADA cover all states as well as counties and municipalities administering public assistance programs.

(h) Recipients of Federal funding that employ 15 or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question. Section 504 allows recipients of Federal funding that employ less than 15 people to refer individuals with disabilities to another provider if unable to make an accommodation. The Department of Human Services, Division of Family Development or any other recipient to whom Federal financial assistance is extended, in providing any aid, benefit, or service, may not take discriminatory actions, directly or through contractual, licensing, or other arrangements, on the basis of handicap/disability as follows:

1. Deny a qualified handicapped/disabled person the opportunity to participate in or benefit from the aid, benefit, or service;
2. Afford a qualified handicapped/disabled person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
3. Provide a qualified handicapped/disabled person with an aid benefit or service that is not as effective as that provided to others;
4. Provide different or separate aid, benefit, or service to handicapped/disabled persons or to any class of handicapped/ disabled persons unless such action is necessary to provide qualified handicapped/disabled persons with aid, benefits, or services that are as effective as those provided to others;
5. Aid or perpetuate discrimination against a qualified handicapped/disabled person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap/disability in providing any aid benefit, or service to beneficiaries of the recipients program;

6. Deny a qualified handicapped/disabled person an opportunity to participate as a member of a planning or advisory board; or

7. Otherwise limit a qualified handicapped/disabled person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving aid, benefit or service.

(i) A recipient of Federal financial assistance may not utilize criteria, use methods of administration or determine a facility site location which has the effect of subjecting a qualified handicapped/ disabled person to discrimination, or that has the purpose or effect of defeating or substantially impairing accomplishment of objectives of the program, or perpetuates the discrimination of another recipient agency. A recipient agency that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure qualified handicapped/disabled persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their disability. The county and municipal agencies shall offer the hearing impaired the services of an interpreter. If the client chooses not to avail himself or herself of these services, the client shall sign a certification to that effect.

(j) The Department of Health and Human Services, Office for Civil Rights (OCR) provides in its official guidance, OCR Guidance, January 2001, that the two principles that must be served by all agencies in implementing TANF in compliance with the law are: the individualized treatment of a disabled person, and the provision of an effective and meaningful opportunity to access the services or benefits available. Thus, each agency is required to ensure equal access through the provision of appropriate services; modify policies, practices and procedures to provide such access unless it would result in a fundamental change to the program; and adopt non-discriminatory methods of administering the program. All WFNJ agencies are required to have a written policy on reasonable modifications to avoid discrimination.

(k) In general, no person in the United States shall, on the basis of age, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The Department of Human Service, Division of Family Development or any other recipient of Federal financial assistance may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

1. Excluding individuals from, denying benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or

2. Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(l) A recipient agency of Federal financial assistance is permitted to take action otherwise prohibited or that may have a disproportionate effect on persons of different ages, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Designated the existing text as (a); added (b) through (l).

10:90-1.8 Adherence to law and regulations

There must be strict adherence to Federal and State laws and regulations.

10:90-1.9 No duplication of assistance

Financial assistance for maintenance or other needs shall not be authorized through public assistance when, during the same period, such financial needs are actually being provided by other agencies or organizations, whether public or private, unless such aid/assistance supplements but does not supplant WFNJ benefits. Supplementary programs such as Medicaid, SSI and FS, as well as in-kind contributions are not considered duplicative.

10:90-1.10 Assistance to non-English speaking applicants

Information, applications and agency personnel shall be available to assist non-English speaking applicants. Spanish language program material is routinely prepared by the Division and distributed to county and municipal agencies. Program materials in languages other than Spanish may be prepared based upon knowledge of the population served by programs under the auspices of the Division.

10:90-1.11 Release of information by county or municipal agency

Information about applicants or recipients shall be used or disclosed only for purposes directly connected with the administration of public assistance and related services which cannot be offered without such information in accordance with the confidentiality provisions at N.J.A.C. 10:90-7.7.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-1.12 Refusal to apply for eligible benefits

A person who appears to be eligible for other benefits such as (but not limited to) unemployment insurance benefits; disability benefits, Social Security; Retirement, Survivors and Disability Insurance; Supplemental Security Income; or Veterans' benefits and such person refuses or neglects to apply for such benefits within 30 days of written notification without good cause, the entire assistance unit shall be ineligible to receive cash assistance.

10:90-1.13 Change in circumstances

(a) The client shall be informed periodically (at least once every six months) by the agency of his or her continuing obligation to furnish accurate and timely information to the county or municipal agency concerning changes in income, resources, or other circumstances which may affect the amount of the grant. The client must inform the county or municipal agency of any change in circumstances as soon as possible but no later than 10 calendar days after the change takes place.

(b) If a client deliberately misrepresents or conceals relevant facts in order to obtain or attempt to obtain payments of assistance for which the individual is not eligible, fraud may be suspected and a referral for fraud/intentional program violation (IPV) shall be initiated (see N.J.A.C. 10:90-11).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-1.14 Issuance of summons or subpoena

(a) When all other means of determining facts and circumstances concerning an application for assistance have been exhausted, the county agency director may, in accordance with N.J.S.A. 44:7-20:

1. Issue a subpoena to a third party in the State who has necessary and relevant information and require that pertinent records and other documents be produced for examination;

2. Administer oaths for the purpose of such examinations.

(b) Action for contempt of court may be initiated when such person fails to obey a subpoena issued by the county agency director or to testify to facts and circumstances pertinent to the application for assistance.

(c) The refusal of such person to cooperate will not disqualify the applicant.

(d) When all other means of determining facts and circumstances concerning an application for assistance have been exhausted, the municipal agency director may initiate the necessary steps through a court to obtain a subpoena in order to obtain any pertinent records and any other documents.

1. Action for contempt of court may be initiated when such person fails to obey a subpoena or to testify to facts and circumstances pertinent to the application for assistance.

2. The refusal of such person to cooperate will not disqualify the applicant.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

i. A child who is receiving training at one of the three National Job Corps Centers located in Kentucky, Indiana, and Utah is to be considered permanently absent from the home and shall not be considered a member of the eligible assistance unit for WFNJ eligibility purposes.

(b) Regarding the parent, parent-person, or legal guardian, temporary absence of not more than 30 consecutive 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 agency regarding issuance of the grant.

1. The county agency shall obtain approval from the DFD for continuing eligibility in unusual situations of temporary absence of a parent, parent-person, or legal guardian which lasts more than 30 consecutive days. Unusual situations shall include, but not be limited to, those referenced in N.J.A.C. 10:90-2.13(a).

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
Added references to legal guardian.

10:90-2.17 Provisions for minor parents

(a) Minor parents (applicants/recipients who are less than 18 years of age, never married, are the natural parents of the dependent child and are caring for the dependent child) 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 on a full-time basis. The hours of participation shall be in accordance with the scheduled program; or

ii. Engage in a work activity or employment, or participate in the TANF Initiative for Parents (TIP) Program, for a minimum of 35 hours per week if the applicant or recipient has completed secondary education in accordance with N.J.A.C. 10:90-4.2(c)2.

(b) If living with the parent, legal guardian, or other adult relative is determined unsuitable for the minor parent because of the good cause reasons listed in (c) below, then the county agency shall refer the minor parent to an alternate adult-supervised supportive living arrangement.

(c) Good cause for locating an alternative living arrangement for the minor parent shall exist if, during the application or eligibility process, as appropriate, the county agency 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/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/recipient or that person's dependent child;

3. Has exhibited neglect with respect to the needs of the applicant/recipient or the applicant/recipient's dependent child, or poses a risk of doing so;

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

5. Allows others to live in the home, for example, siblings of the minor parent or non-related adults, who have abused or neglected the minor parent or the minor parent's dependent child (or pose a risk of doing so).

(d) An applicant or recipient shall 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 a State-approved alternative educational or training program authorized by the Department of Human Services.

(e) When a minor parent and the minor parent's child are residing with the minor parent's natural or adoptive parent(s), income deeming rules apply to determining the eligibility of the minor parent (see N.J.A.C. 10:90-3.16).

(f) When a minor parent and the minor parent's child reside with an adult relative other than their natural/adoptive parent(s), the minor parent's natural or adoptive parents shall be subject to the same income deeming provisions noted at N.J.A.C. 10:90-3.16.

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

(h) Failure to comply with the requirement for school attendance or other work activity participation shall be sanctioned in accordance with N.J.A.C. 10:90-4.13.

(i) Failure of the minor parent to cooperate with WFNJ eligibility requirements, work requirements and/or the provisions for minor parents renders only the minor parent and his or her child(ren) ineligible for WFNJ/TANF cash assis-

tance, not the entire assistance unit with whom the minor parent resides.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (c), added new 5; and in (h), added references to legal guardians.

Amended by R.2009 d.289, effective September 21, 2009.

See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

Section was "Parent-minor provisions". In the introductory paragraph of (a), substituted "Minor parents" for "Parent-minors"; in the introductory paragraph of (a)1, deleted a comma following "guardian"; re-wrote (a)1i and (a)1ii; deleted former (d); recodified former (e) through (h) as (d) through (g); in (b), the introductory paragraph of (c), (c)5, (e), (f), and (g), substituted "minor parent" for "parent-minor" throughout; in (c)5, (e) and (f) substituted "minor parent's" for "parent-minor's"; in (e) and (f), substituted the first occurrence of "minor parent" for "parent-minor(s)"; in (f), deleted "or as a separate household, in accordance with (d) above," following "parent(s)"; in (g), substituted "parent, parent-person, or legal guardian of the minor parent, the minor parent, the minor parent's child(ren) and other minor siblings" for "parent-minor, the parent-minor's child, the parent-minor's parent(s), parent-person(s) or legal guardian(s) and the parent-minor's brothers and sisters (see N.J.A.C. 10:90-2.7"; and added new (h) and (i).

10:90-2.18 Family cap provision for WFNJ/TANF

(a) Adult WFNJ/TANF recipient and non-recipient parents, with the exception of non-needy caregivers, shall not be entitled to receive incrementally increased WFNJ cash benefits solely because of the birth of an additional child(ren). Although the family does not receive additional cash assistance, a child(ren) subject to this family cap provision is or are considered a member of the assistance unit for all purposes including, but not limited to, the existing cash assistance benefit, child support, medical assistance and food stamp benefits provided to the assistance unit.

1. Adult recipients who were never previously subject to the family cap provision who then give birth to an additional child(ren) 10 full months or more after the date of their application for assistance shall not receive an increase in their cash assistance benefits due to the birth of such an additional child(ren).

2. Adult recipients who had been subject to the family cap provisions under the prior AFDC program and who have been receiving cash assistance benefits either under the former AFDC program and/or under WFNJ within 10 consecutive calendar months immediately preceding the birth of a child shall not receive an increase in their cash assistance benefits as a result of the birth of such an additional child. This 10 month ineligibility timeframe includes any periods of ineligibility or case closure, either initiated on the part of the recipient or imposed by the county agency, including the post-WFNJ benefit period.

3. The provisions of this section shall not apply to any individual in an assistance unit with dependent children who gives birth to a child in less than 10 months after applying for and receiving WFNJ cash assistance benefits.

4. The provisions of this section shall not apply to the birth of a child that occurs as a result of domestic violence, rape or incest.

i. An affidavit shall be acceptable documentation that a child(ren) was conceived as a result of incidents of domestic violence, rape or incest.

ii. Under no circumstances shall the perpetrator involved in incidents of domestic violence, rape or incest be contacted to verify the victim's claim of good cause for exemption from the family cap provision.

5. Families subject to the family cap provision may earn back an increase in their grant amount if they become employed. In such cases, the following shall apply:

i. The total countable income shall be compared for eligibility purposes to the appropriate assistance unit size including the child who does not receive cash assistance due to the family cap, using Schedule I (maximum allowable income levels) in N.J.A.C. 10:90-3.3;

ii. The disregards as specified in N.J.A.C. 10:90-3.8 shall be applied for the monthly earned income of each employed person in the assistance unit; and

iii. After application of the earned income disregards, the total countable income shall be subtracted from Schedule II (maximum benefit payment levels) at N.J.A.C. 10:90-3.3, from the appropriate benefit payment level for the appropriate assistance unit size, including the child who did not receive cash assistance due to the family cap provisions in (a) above, to determine the assistance payment.

6. Any child subject to the family cap provisions listed in (a) above shall be included in the assistance unit for initial eligibility determination purposes.

7. The 10-month ineligibility timeframe for increased cash assistance due to the birth of an additional child(ren) specified in (a) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and a family shall not be entitled to an increased cash benefit for the birth of any child(ren) until such time as (a)8 below applies.

i. Any child included in the WFNJ assistance unit who subsequently becomes a minor parent and either remains in the eligible unit of the parent or caretaker relative or resides in an adult-supervised setting, shall be permitted to receive WFNJ cash assistance benefits for that minor parent's first newborn child only. The 10-month ineligibility timeframe becomes effective for any subsequent children born to the minor parent.

8. When an adult parent(s) reapplies for WFNJ benefits and no adult member of the assistance unit has been in receipt of WFNJ benefits for a minimum of 12 consecutive months immediately preceding the date of re-application, the family is eligible for a new 10-month grace period from the date of re-application. In addition, any child(ren) who did not receive cash assistance due to the family cap provisions listed in (a) above shall now be included in the assistance unit for cash assistance purposes.

i. When a WFNJ family becomes ineligible for WFNJ for either of the two reasons cited at (a)8i(1) or (2) below, remains employed for a minimum of 90 days, and subsequently reapplies for WFNJ prior to the expiration of the 12 consecutive month period noted in (a)8 above due to the loss of employment through no fault of their own, any child(ren) previously subject to the family cap in accordance with (a)8 above shall now be included in the assistance unit for cash assistance purposes. Such families, however, are not entitled to a new 10-month grace period and any child(ren) born subsequent to the reapplication shall be subject to the family cap provisions and shall be included in the assistance unit for all purposes except the determination of the cash assistance grant.

- (1) Earnings or increased earnings from employment, including earnings from new employment; or
- (2) Increased hours of employment.

(b) Kinship caregivers are not subject to the family cap provision for the kinship children in their care.

(c) A child who is subject to the family cap who becomes a member of a different assistance unit shall no longer be subject to the family cap provision.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a)1, substituted "full months" for "months"; added (a)4i to (a)4ii; and in (a)8i, cited (a)8i(1).

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Deleted (a)9.

Amended by R.2009 d.289, effective September 21, 2009.
See: 40 N.J.R. 5494(a), 41 N.J.R. 3435(a).

In the introductory paragraph of (a), inserted "and non-recipient" and "with the exception of non-needy caregivers,"; in (a)7i, substituted "minor parent" for "parent-minor" twice, "minor parent's" for "parent-minor's", and "10-month" for "10 month"; and added (b) and (c).

10:90-2.19 Refusal to cooperate with Quality Assurance reviews

An adult assistance unit member shall be determined ineligible for cash assistance if he or she refuses to cooperate in a State Quality Assurance review. If an adult assistance unit member is deleted for refusal to cooperate, without good cause, with a Quality Assurance review, such an individual shall be removed from the assistance unit until such time as the individual cooperates with the review.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-2.20 The Supportive Assistance for Individuals and Families (SAIF) Program

(a) The Supportive Assistance for Individuals and Families (SAIF) Program shall provide intensive case management (ICM) at 48 months for Work First New Jersey (WFNJ) recipients who have complied with WFNJ requirements and have not become self-sufficient and who do not appear to be

exemptible from time limits under N.J.A.C. 10:90-2.4, except for those recipients who would meet the definition of "chronically unemployable." Within the limits of available funding, recipients who appear to be chronically unemployable shall receive intensive case management through the SAIF Program. The goal of the SAIF Program is to assist SAIF Program participants to become self-sufficient before they reach the 60-month time limit.

(b) Intensive case management shall be provided for a total period of 24 months. Recipients shall be required to continue to meet financial and non-financial eligibility requirements for the WFNJ program.

(c) Time limit extensions shall not be granted under N.J.A.C. 10:90-2.5. Instead, all individuals who have exhausted 48 months of benefits, and who are not exempt from time limits, may be eligible to receive assistance for a total period of 24 months under the SAIF Program.

(d) After 48 months of assistance, participation in the SAIF Program becomes a WFNJ program requirement for eligible recipients and the participant shall begin to receive intensive case management services. As a condition of continued eligibility, participants shall receive and cooperate with individualized and intensive case management, and, if appropriate, substance abuse treatment and mental health services. Participation in the SAIF Program is a WFNJ program requirement for the recipients who are required to participate in the SAIF Program. The individual shall fully participate in the SAIF Program to continue receiving cash assistance benefits. If a SAIF participant fails to cooperate with SAIF requirements without good cause, the WFNJ case shall be closed.

(e) SAIF Program participants shall cooperate in the development of a new Individual Responsibility Plan (IRP). The IRP shall be updated every six months. See N.J.A.C. 10:90-4.8 regarding the provisions for the IRP.

(f) Failure, without good cause, to begin or continue to participate in an agreed-upon assigned activity, shall be considered as refusal to cooperate without good cause. This action shall result in the sanction procedures and penalties being imposed, as set forth at N.J.A.C. 10:90-4.13 through 4.18.

1. The SAIF Program shall adhere to all notice and hearing requirements as set forth at N.J.A.C. 10:90-9.

(g) SAIF Program participants shall continue to be eligible for WFNJ social and work support services.

(h) Participants shall receive priority treatment by all WFNJ vendors. When referred for an assessment or treatment, a SAIF Program participant shall be given the first available appointment, and in all cases shall be seen within 30 days.

1. This includes, but is not limited to, referrals for substance abuse assessment and treatment.

(i) Child welfare is a primary component of the SAIF Program. As a result, a strong link must be established with the Division of Youth and Family Services (DYFS) for families with dual cases. DYFS records shall be consulted for all SAIF Program participants at the beginning of the ICM period to identify if an open DYFS case exists.

(j) An individual who has exhausted 60 cumulative-months of WFNJ benefits may be eligible for two six-month extensions by participating in the SAIF Program, unless the individual has already received 24 months of assistance through the SAIF Program.

1. Individuals who have received less than 24 months of assistance through the SAIF Program may be eligible to participate in the SAIF Program for the remainder of the 24-month period if he or she meets the criteria in this section.

(k) Assistance may be continued after an individual has exhausted 24 cumulative-months in the SAIF Program only if the individual meets the criteria for an exemption from the WFNJ 60-month time limit at N.J.A.C. 10:90-2.4 or if he or she has not exhausted his or her 60-month time limit according to the Federal TANF clock. Eligibility for continuation of assistance shall be evaluated prior to reaching the 24-month time limit. If the household is ineligible for an exemption, the cash assistance case shall be terminated. Terminations shall require prior approval and authorization by the Division of Family Development.

(l) Prior to terminating the cash assistance case of any SAIF Program participant with an open DYFS case, the county welfare agency shall refer the family to community-based agencies for services appropriate for their needs. Additionally, the county welfare agency shall notify the Department of Children and Families that the participant's cash assistance will be terminated.

New Rule, R.2003 d.340, effective August 18, 2003 (operative October 1, 2003).

See: 35 N.J.R. 1824(a), 35 N.J.R. 3859(b).

Amended by R.2006 d.137, effective April 17, 2006.

See: 37 N.J.R. 4153(a), 38 N.J.R. 1736(a).

In introductory paragraph (a), updated internal reference to include (a)9; added (a)9; in (b), deleted "in increments not to exceed six months" and "up to".

Repeal and New Rule, R.2007 d.224, effective August 6, 2007.

See: 39 N.J.R. 1222(a), 39 N.J.R. 3382(a).

Section was "Work First New Jersey Post 60-Month Pilot Program: Supportive Assistance for Individuals and Families (SAIF) Program".

Amended by R.2010 d.102, effective June 21, 2010.

See: 41 N.J.R. 4052(a), 42 N.J.R. 1199(c).

Section was "The Commissioner's Pilot Program for Long-Term Welfare Recipients". Substituted "SAIF Program" for "pilot program" throughout; in (a) and (j)1, substituted "the SAIF Program" for "this pilot program"; in (a), substituted "Supportive Assistance for Individuals and Families (SAIF) Program" for "Commissioner's Pilot Program for Long-Term Welfare Recipients" and "Within the limits of available funding, recipients" for "Recipients"; in (c), substituted "Time limit" for "For the duration of the pilot program, new"; in (d), inserted the third through fifth sentences; in the introductory paragraph of (j), substituted "SAIF" for "Supportive Assistance for Individuals and Families (SAIF)"; in (j)1, substituted the second occurrence of "in" for "under"; in (k), inserted "or if he or she has not exhausted his or her 60-month

time limit according to the Federal TANF clock"; and in (l), substituted "Families" for "Family Services".

SUBCHAPTER 3. FINANCIAL ELIGIBILITY— INCOME, RESOURCES, BENEFITS

10:90-3.1 General financial eligibility provisions

(a) Benefits for recipients of WFNJ/TANF and WFNJ/GA shall be determined according to standards of countable income (earned and unearned) and countable resources. These standards shall take into account, for the determination of eligibility and provision of benefits, all income and resources of all persons in an assistance unit of which the applicant or recipient is a member, including any income deemed to the assistance unit members as a result of deeming from parents to minor parents and from sponsors to eligible aliens.

(b) Initial financial eligibility for WFNJ benefits shall be determined through an initial test for assistance units applying as a new applicant, reapplicant or reopened case by comparing the total countable income with the maximum income allowed for the appropriate unit size in accordance with Schedule I at N.J.A.C. 10:90-3.3 for WFNJ/TANF and Schedule III at N.J.A.C. 10:90-3.5 for WFNJ/GA employable single adults and couples without dependent children. If the assistance unit has income equal to or less than the maximum allowable income level, then initial financial eligibility exists.

1. There is no separate initial income eligibility test for WFNJ/GA unemployable single adults and couples without dependent children; instead, the total countable income of the WFNJ/GA unemployable assistance unit shall be compared to the unemployable maximum benefit payment level for the appropriate unit size in accordance with Schedule V at N.J.A.C. 10:90-3.6. If the assistance unit has income less than the maximum benefit payment level, then WFNJ/GA initial financial eligibility exists.

(c) Once initial financial eligibility is determined, as long as the total countable income of a WFNJ/TANF or WFNJ/GA assistance unit (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income) is less than the maximum benefit payment level for the appropriate eligible assistance unit size in accordance with Schedule II at N.J.A.C. 10:90-3.3, Schedule IV at N.J.A.C. 10:90-3.5 or Schedule V at N.J.A.C. 10:90-3.6, as appropriate, financial eligibility shall exist until such income equals or exceeds the maximum benefit payment level for the appropriate unit size except for cases with earned income that are subject to six-month reporting requirements. Such cases need not report changes in earned income until such time as the assistance unit's total income exceeds 130 percent of the Federal Poverty Level (FPL) as published by the Department of Health and Human Services in the Federal Register. However, if the assistance unit does report a change, the county/municipal agency shall act on that change.

and taxes on retirement funds, depreciation, and Federal, State, and local income taxes.

3. Net losses incurred by self-employed farmers who have earnings or anticipated annual gross earnings of \$1,000 or more from the farming enterprise, must be prorated and offset against other countable income in the following order:

- i. First against other self-employment income; and
- ii. Second against the total amount of earned or unearned income deduction after the earned income deduction has been applied.

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

5. Assistance shall not be provided to subsidize a failing business.

i. A business which is already established (that is, in operation for at least 24 months) and which shows only marginal profit, either constant or intermittent, shall be considered to be failing if the profit, averaged over the preceding 12 months, is less than the State minimum wage multiplied by 35 hours per week.

ii. For a new business, a period not to exceed 12 months from the start of the new business shall be considered adequate to determine its potential for self-support. In situations where, in the judgment of the county or municipal agency, additional time would enable the business to show a profit, the period may be extended for up to 12 additional months.

(e) Unearned income includes, but is not limited to, returns from capital investments such as dividends and interest; benefits and pensions; RSDI; annuities; compensation payments; recurring contributions; temporary disability insurance payments; temporary worker's compensation payments; unemployment insurance benefits; and, worker's compensation received by a CWEP or AWEP participant or by a dependent, as a result of a participant's death, for a permanent disability sustained during a CWEP or AWEP activity.

(f) Lump sum income is addressed at N.J.A.C. 10:90-3.18.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b) and (e), inserted references to RSDI.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (d).

Amended by R.2009 d.261, effective August 17, 2009.

See: 41 N.J.R. 1368(a), 41 N.J.R. 3091(a).

In (c)1, substituted "averaged over a 12-month period" for "prorated over the stated term of the contract only".

10:90-3.10 Resources—WFNJ TANF/GA

(a) Resources are either countable or exempt. The provisions pertaining to exempt resources may be found at N.J.A.C. 10:90-3.20.

(b) Resources are defined as all real and personal property, including bank accounts, which is within the control of one or more members of each eligible assistance unit, or to which the member(s) may have a valid claim, and certain benefits and other contributions of support which may become available to each eligible assistance unit. Available resources include cash and other forms of income immediately obtainable to meet the needs of each eligible assistance unit.

1. For checking and saving accounts in which the names of the owners are stated in the conjunctive ("and" accounts), the eligible assistance unit member shall be presumed to possess the funds in proportion to the number of owners listed on the account. Such presumption is rebuttable and shall not apply if the eligible assistance unit member and/or the other owner(s) demonstrate to the county or municipal agency that actual ownership (based on the contributions by each of the parties to the sums on deposit) of the funds is in a different proportion.

2. For checking and saving accounts in which the names of the owners are stated in the disjunctive ("or" accounts), the eligible assistance unit member shall be presumed to possess all the funds therein regardless of their source. Such presumption is rebuttable and shall not apply if the eligible assistance unit member and/or the other owner(s) demonstrate to the county or municipal agency that ownership of the funds is in a different proportion, predicated on contributions by each party to the sums on deposit.

(c) When ownership of nonexempt real property is the only reason for the ineligibility of an otherwise eligible assistance unit, the assistance unit may receive assistance benefits under the following terms and conditions:

1. Liquidation of the real property shall be undertaken and completed within nine months. An extension beyond the nine month period may be permitted, subject to the approval of the DFD, if good cause exists and is recognized by the DFD. Good cause shall be said to exist in this instance if the recipient, in spite of having made all good faith efforts (see (c)3 below), has nevertheless been unsuccessful in liquidating the real property and there is reason to believe that conditions will change, thereby making liquidation possible. Otherwise, at the end of nine months, granting of assistance benefits under these provisions shall no longer be authorized.

2. The signer(s) of the assistance application shall sign a written agreement with the county or municipal agency which describes a mutually acceptable plan of liquidation which includes a statement of market value of the property. The plan may be revised as necessary by mutual agree-

ment. If an appraisal is found necessary in order to reach agreement, the county or municipal agency may advance the cost of the appraisal from the administrative account. Such cost is subject to repayment or recovery (see (c)4 below).

3. The owner(s) of the real property shall, in accordance with the written plan of liquidation, make continuous good faith efforts to liquidate the property at market value. Any breach in the good faith efforts, as determined by the county or municipal agency, ends the authorization of all assistance benefits under these provisions.

4. In accordance with the agreement to repay, upon liquidation of the real property, the former owner(s) of the real property shall repay to the county or municipal agency either the amount of all assistance granted or the net amount received from the liquidation, whichever is less. Any funds remaining to the former owners after repayment constitute a resource for regular eligibility determination. Beginning April 2, 1997, any period for which WFNJ assistance has been repaid in full shall not count toward a recipient's 60-month cumulative time limit on receipt of assistance.

(d) Rules concerning the liquidation of all debts, claims, interests, settlements, and trust funds are as follow:

1. Members of each eligible assistance unit shall take all necessary and reasonable action to avail themselves of funds for support from others who owe or may owe money to them or who are holding funds for them. Any funds made available by such action (except funds from liquidation of a nonexempt resource) are to be considered as income to each eligible assistance unit.

2. Any failure or refusal by any person to take required action or to cooperate with the county or municipal agency in liquidation efforts renders the entire assistance unit ineligible for assistance for as long as the failure or refusal continues.

3. In situations customarily processed under contingent fee arrangements with private counsel, such as liability matters, an eligible assistance unit shall be required to undertake action by that method or by an alternative method acceptable to the county or municipal agency.

4. When a trust fund exists for a member of the eligible assistance unit (with the exception of any funds placed in trust for a minor child to make the minor child whole as a result of an injury as provided in N.J.A.C. 10:90-7.8), the county or municipal agency shall determine whether or not the funds are currently accessible and if accessible, such funds shall be considered in determining eligibility.

i. When a trust fund is not currently accessible and it exists at the time of application, the applicant must, as a condition of eligibility, make a bona fide presentation of a petition to the appropriate court for release of the

funds for current and future support. The county or municipal agency shall assist the applicant if necessary.

ii. When a trust fund is not currently accessible and came into being during the term of the assistance case, the county or municipal agency shall present a petition to the appropriate court for release of funds for current and future support. The recipient must, as a condition of continuing eligibility, provide whatever cooperation may be necessary in the presentation of the petition.

(e) A voluntary assignment or transfer of income or resources for the purpose of qualifying for WFNJ TANF/GA benefits shall render the applicant/recipient and the applicant/recipient assistance unit members ineligible for a period of up to one year (see Disqualification Period Chart at (e)4 below) from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the one year period prior to application or if an assistance unit acquires assets after being certified for benefits and then transfers such assets knowingly in order to prevent the assistance unit from exceeding the maximum resource limit.

1. Eligibility for WFNJ shall not be affected by the following transfers:

i. Resources which would not otherwise affect eligibility; for example, resources consisting of excluded personal property such as furniture or money that, when added to other nonexcluded household resources, total less than the allowable resource limit at the time of the transfer;

ii. Resources that are sold or traded at or near fair market value;

iii. Resources which are transferred between members of the same assistance unit (including excluded assistance unit individuals whose resources are being considered available to the assistance unit); or

iv. Resources which are transferred for reasons other than qualifying or attempting to qualify for WFNJ benefits.

2. If the county or municipal agency does establish that an applicant has knowingly transferred resources for the purpose of qualifying or attempting to qualify for WFNJ benefits, the assistance unit shall be sent a notice of denial explaining the reason for and length of disqualification. The period of disqualification shall begin in the month of application.

3. If the county or municipal agency establishes a transfer of assets by a WFNJ recipient assistance unit (or by an assistance unit which had been certified for eligibility), a notice of adverse action explaining the reason for and length of disqualification shall be sent. The period of disqualification shall be made effective with the first cash assistance payment to be issued after the notice of adverse

action period has expired, unless the assistance unit has requested a fair hearing and continued benefits.

4. The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable limits.

i. The following chart, which has been aligned with the chart utilized in the Food Stamp program, shall be used to determine the period of disqualification when the transfer of nonexempt resources was for the purpose of qualifying for WFNJ.

Disqualification Period Chart

<u>Amount in Excess of Resource Limit</u>	<u>Period of Assistance Unit Disqualification</u>
\$0.01-\$249.99	1 month
250-999.99	3 months
1,000-2,999.99	6 months
3,000-4,999.99	9 months
5,000 and over	12 months

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (c)1, inserted a third sentence; and in (c)2, substituted a reference to (c)4 for a reference to (a)4 at the end.

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

In the introductory paragraph of (e)4, deleted the last sentence.

10:90-3.11 Determining the income of WFNJ TANF/GA assistance units

(a) All earned and unearned income shall be determined by using a prospective budgeting methodology. WFNJ eligibility and cash assistance benefit calculations shall be based on an estimate of the assistance unit's income, using income averaging and, other circumstances that will exist until the assistance unit reports a change in circumstance or at the time of case redetermination, whichever occurs first. The estimate of income is based on the assistance unit's and the agency's reasonable expectations and knowledge of current, past and future circumstances.

(b) For purposes of determining the assistance unit's financial eligibility and benefits, the county or municipal agency shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application, redetermination or change in circumstance. Likewise, all unearned income received within this four week period is also determined. All earned and unearned income received within this four week period must be verified and documented in the case record, even if all four weeks of income are not ultimately used to calculate the estimate.

(c) In order to maintain consistency in policy application between the WFNJ and Food Stamp (FS) programs, the county or municipal agency shall utilize the same income estimate for both the WFNJ application/redetermination period and the FS application/recertification period, whenever

possible. Therefore, in those WFNJ/FS cases where the food stamp calculation encompasses a five-paycheck (or a three paycheck month for bi-weekly income) month, county or municipal agencies are authorized to use that same method for WFNJ eligibility and cash assistance benefit. Documentation of the income estimate determination must be maintained in the case record.

1. Since the receipt of income by a WFNJ individual usually occurs weekly, bi-weekly, or on a semi-monthly basis, the county or municipal agency shall convert the averaged income amount to a gross monthly amount by multiplying the averaged income amount by the appropriate conversion factors as follows:

- i. Weekly amounts by 4.333;
- ii. Bi-weekly amounts by 2.167; and
- iii. Semi-monthly amounts by two.

(d) In determining an estimate of income, the following procedures shall be used by the county or municipal agency:

1. Verify and document in the case record, all unearned income (through bank letters, statements, etc.) and earned income (through wage stubs or documentation from the employer) received within the four week period specified in (b) above;

i. For purposes of budgeting income from new employment, earned income shall be budgeted prospectively no later than 10 days from the date the recipient reports the receipt of his or her first paycheck. The 100 percent disregard shall then be applied for the first full month for which the income will be budgeted.

ii. When budgeting new income, the agency is required to send timely or adequate notices to clients for the month in which the 100 percent disregard is applied. If the agency is unable to provide the recipient with timely notice and adequate notice of budgeting or has insufficient time to budget the income for the first month following the month the recipient reports the receipt of the paycheck, then the income and the 100 percent disregard shall be applied for the first of the next following month.

2. Determine, through review of the documentation, the case record and discussion with the client, if any of the income received is not expected to be representative of the future. For instance, the first pay check of new employment may not represent a full pay period; a missing week's income may represent a summer plant closing; or a larger check may represent nonrecurring overtime, all of which may not be anticipated to occur in the future. Non-representative income shall not be used in calculating the estimate. For example, the assistance unit receives regular weekly income but is missing one week's pay due to a plant closing for that week only. The three available amounts would be averaged to determine average weekly income and that average converted to monthly gross income as described in (c)1 above;

3. If income fluctuates to the extent that a four-week period is not expected to provide an appropriate income estimate until the next redetermination, the agency shall require the assistance unit to submit verified wage information for those months subsequent to the month of review, in order that the agency may recalculate the estimate. When income fluctuates dramatically, agencies shall rebudget the case as often as deemed necessary to ensure the most accurate income estimate and correct assistance payment;

i. When four consecutive weeks of income fluctuate but are representative of the assistance unit's anticipated fluctuation in income for future months, the agency shall average the income from the four-week period and project that gross income estimate for future months;

4. The final step shall be to average the income that has been determined to be representative of the eligible assistance unit's circumstances and to convert that average to a gross monthly income estimate amount by using the conversion factors set forth in (c)1 above. The estimate amount shall then be used to determine initial eligibility and benefit amount until the next redetermination or report of a change in circumstances.

(e) WFNJ assistance units shall be required to report any change in unearned income and circumstances that could affect eligibility and the benefit amount as soon as possible to the county or municipal agency, but in no event later than 10 calendar days of the date the change happened or in the case of new earnings no later than 10 days from the date of receipt of the first paycheck. For cases with earned income see (e)3 below regarding reporting requirements. The agency shall initiate appropriate action on the reported change within 10 calendar days of receiving the report of the change, subject to timely and/or adequate notice.

1. Reportable income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible assistance unit size which are expected to continue into the future. Examples of such changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a source of unearned income; permanent or long term changes in unearned income; or addition of or loss of an eligible unit member.

2. A change in circumstances of the eligible assistance unit may result in an adjustment upward or downward in the amount of the cash assistance payment. Downward adjustments shall be subject to timely and adequate notice.

3. Cases with earned income are assigned a six-month reporting cycle that coincides with the time of the next case redetermination. Cases with earned income are not required to report changes in monthly earned income unless total monthly household income exceeds 130 percent of the Federal Poverty Level (FPL). This is the only required

change that a recipient on six-month reporting must report prior to the next case redetermination.

i. Only assistance units that have countable earned income are eligible for six-month reporting. This includes assistance units that have earned income from a disqualified member and those in which the only earned income is from self-employment, even if, after the cost of producing that income is deducted, the actual earned income is zero.

ii. If a six-month assistance unit reports any changes, the county/municipal agency shall act on those changes in accordance with (e)1 and 2 above. Other than the requirement to report earned income over 130 percent of the FPL, the only change reporting to be encouraged is one that will result in the assistance unit obtaining higher benefits during the six-month period, such as losing a job or source of unearned income; permanent or long term changes in hours worked and/or rate of pay or permanent or long term changes in unearned income that result in decreased earned income to the household; changing from full-time to part-time employment; short term plant closings (such as one or more weeks) or periods of sick leave without compensation (more than one day); or addition of an eligible unit member. The agency shall, verbally and in writing, inform all recipients subject to six-month reporting that they are not required to report increases in earned income if the total earnings are less than 130 percent of the Federal Poverty Guidelines, and that any reporting of an earnings increase will result in a decrease in benefits. In addition, the agency shall, verbally and in writing, inform all recipients subject to six-month reporting that they are encouraged to report a decrease in earnings, as a decrease in earnings could result in an increase in benefits.

iii. County/municipal agencies shall act on all changes that are received from sources other than the assistance unit when such information is considered verified upon receipt. Verified upon receipt means that the information received is not questionable. Such information includes, but is not limited to, the Beneficiary Data Exchange (BENDEX) and the State Data Exchange (SDX) computer matches, letters from employers verifying wages and reports from other county/municipal agencies that an assistance unit member has left the unit and is applying in another jurisdiction.

iv. When an assistance unit is on six-month reporting and exceeds the income eligibility standard for a WFNJ TANF/GA grant, the unit is not required to report changes in earnings until their total income equals or exceeds 130 percent of the FPL or until the next redetermination, whichever occurs first. Since such households are not required to report changes that do not exceed 130 percent of the FPL, no overpayment has occurred and no claim shall be established.

v. If an individual subject to six-month reporting leaves an assistance unit and moves into another assistance unit, or becomes a separate assistance unit or reports the addition of a new member already participating in six-month reporting on another case, the CWA shall take appropriate action to remove the person from the losing case, add the person to the gaining case, and ensure there is no duplicate participation.

(1) If the individual leaving the assistance unit is the only individual with earned income, the county/municipal agency shall convert the case back to the normal reporting requirements at the time of the next case redetermination.

(2) When the individual with earnings joins another assistance unit without income, the county/municipal agency shall convert the case to six-month reporting requirements at the time of the next case redetermination.

vi. County/municipal agencies are not precluded from conducting investigations of suspected fraud cases.

(f) Under certain circumstances, including, but not limited to, the following, a supplemental payment to the last regular benefit payment may be issued during the current payment period.

1. An assistance payment was incorrectly computed or not issued due to administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments;
2. A change in circumstances occurred; or
3. A new member was added to the eligible unit.

(g) Any supplemental payment to an eligible assistance unit shall be calculated using the proration chart at N.J.A.C. 10:90-3.7 based on the date of the change if all other eligibility factors are met.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (c), substituted a reference to WFNJ/FS cases for a reference to PA/FS cases; and added (d) i and ii.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (d) and (e).

10:90-3.12 Treatment of income and resources from eligible and noneligible individuals in the WFNJ TANF/GA household, as appropriate

(a) Income of the spouse is considered available for the other spouse and income of a parent (natural or adoptive) is considered available for children under 18. If the spouse or parent is living with his or her spouse or children, respectively, income is considered available regardless of whether the spouse or natural or adoptive parent is noneligible or sanctioned.

(b) When an individual is not included in the eligible assistance unit because of a sanction for failure or refusal to comply with a WFNJ program requirement or is disqualified for an intentional program violation and, such individual has earned or unearned income of his or her own, that income shall be considered available to the remaining members of the eligible unit.

1. For earned income, the gross amount to be considered available to the eligible assistance unit shall be determined without application of earned income disregards provided for at N.J.A.C. 10:90-3.8.

(c) The resources of eligible and noneligible individuals in the WFNJ TANF/GA household specified in (a) and (b) above shall be determined in accordance with the provisions of this subchapter. Resources shall be determined countable or exempt as such determination would be made as if the individual was eligible for WFNJ TANF/GA. Where such individual's resources are countable and exceed the resource limit for a specific exemption, the excess shall be counted as available to the eligible unit. For example, if the individual's liquid resources exceed the \$2,000 resource exemption, the excess shall be counted available to the eligible unit.

(d) If the noneligible individual is an illegal alien parent or noneligible alien parent and has citizen or eligible alien children, his or her income shall be considered available to the eligible assistance unit and shall be calculated in accordance with the parent to minor parent deeming formula at N.J.A.C. 10:90-3.16 at initial determination and redetermination of eligibility.

(e) A parent person other than a natural or adoptive parent or stepparent, who is a care-giver to a dependent child(ren) who is that care-giver's legal blood relative, shall be evaluated to determine whether that person is eligible for benefits if that person's income does not exceed 150 percent of the Federal Poverty Income Guidelines, as published in the Federal Register and subsequently as a public notice in the New Jersey Register.

(f) For WFNJ/GA single adults and couples without dependent children, retroactive SSI payments are subject to reimbursement in accordance WFNJ/GA fiscal provisions at N.J.A.C. 10:90-14.

Administrative correction.

See: 29 N.J.R. 3729(a).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (c); recodified former (c) through (e) as (d) through (f).

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

In (d), substituted "minor parent" for "parent-minor".

10:90-3.13 Treatment of income for needy stepparents who are married to a WFNJ recipient parent

(a) When a needy stepparent is married to a natural or adoptive WFNJ recipient parent and is not the parent of any

of the WFNJ children, the stepparent shall be included as a member of the eligible assistance unit, with all needs recognized and his or her income considered in determining the adjusted allowance and the amount of the cash assistance benefit in accordance with all regulations in this chapter.

1. If the stepparent's income causes the eligible assistance unit to become ineligible, then the stepparent is considered non-needy and the rules at N.J.A.C. 10:90-3.14 shall be applied.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-3.14 Treatment of income for a non-needy stepparent who is married to a natural or adoptive WFNJ recipient parent

(a) When a non-needy stepparent is married to a natural or adoptive WFNJ recipient parent and is not the parent of any of the WFNJ children, the non-needy stepparent, the stepparent's natural or adoptive children and the WFNJ recipient parent shall be excluded from the eligible assistance unit; therefore, the eligible assistance unit shall consist of only the WFNJ children. Eligibility for the WFNJ children shall be established provided that the gross income of the assistance unit does not exceed the maximum income limits for the applicable household size as referenced in (a)1 below, and the countable income of the eligible children does not exceed the limits referenced in (c) below.

1. Household maximum income limits for non-needy stepparents marrying WFNJ recipient parents shall be based on 150 percent of the Federal Poverty Income Guidelines as published each year in the Federal Register and subsequently as a public notice in the New Jersey Register.

(b) WFNJ eligibility shall not exist for any month if the total income exceeds 150 percent of the Federal Poverty Income Guidelines for the appropriate number of persons in the household. The household shall include the natural or adoptive parent, his or her children, the non-needy stepparent and the stepparent's children residing in the same household who are claimed or could be claimed by the stepparent as dependents for Federal personal income tax liability and who are not recipients of WFNJ or SSI benefits.

1. The income of the assistance unit shall be determined by counting the gross income of all members of the household, which shall be reduced only by any amounts paid as alimony or child support to individuals not living in the household. Although SSI benefits are exempt, all other countable income of the natural or adoptive parent is considered.

2. The gross income derived from the computation procedures in (b)1 above shall be compared to 150 percent of the Federal Poverty Income Guidelines. Provided the household's gross income is less than the amount for the appropriate household size, initial WFNJ eligibility shall be

established for the children of the natural or adoptive parent (excluding children who are recipients of SSI benefits). If the household's gross income equals or exceeds the applicable poverty level guideline amount, all members of the household shall be ineligible for WFNJ benefits.

i. The parent of the eligible children shall sign the application for assistance and fulfill all obligations contained therein.

ii. The grant for eligible children shall be:

(1) The appropriate maximum allowance payment in Schedule II at N.J.A.C. 10:90-3.3, less any income available to the eligible assistance unit, including the countable income of the natural or adoptive parent as determined in (c) below.

(2) In no event shall the WFNJ payment for the eligible children be reduced below \$10.00 until such time as gross income of the assistance unit exceeds the applicable Federal Poverty Income Guideline for the appropriate household size, and the countable income of the eligible children does not exceed the maximum benefit payment amount in Schedule II at N.J.A.C. 10:90-3.3 for the appropriate eligible unit size.

(c) Countable income to the WFNJ eligible children shall be determined in accordance with the following procedures:

1. The income of the non-needy stepparent shall be totally excluded.

2. Any earned income of the WFNJ parent shall be reduced by the appropriate disregard as specified at N.J.A.C. 10:90-3.8, and the result added to any unearned income received by that parent. The result of this calculation is further reduced by the payment benefit level amount for an eligible unit of one in Schedule II at N.J.A.C. 10:90-3.3.

3. All remaining income of the natural or adoptive parent shall be considered as unearned income and shall be added together with any other countable income of the children to determine the total countable income available to the eligible assistance unit.

4. The total countable income shall be deducted from the payment benefit level for the appropriate eligible unit size in Schedule II at N.J.A.C. 10:90-3.3, and the remainder shall be the WFNJ benefit payable for the eligible children.

i. In the event that the WFNJ benefit calculation results in a benefit of less than \$10.00, (b)2ii(2) above shall apply.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (b)2, substituted "is less than" for "does not exceed" following "income" in the second sentence, and inserted "equals or" following "income" in the third sentence; and in (c), substituted references to N.J.A.C. 10:90-3.3 for references to N.J.A.C. 10:90-3.5 throughout.

Amended by R.2009 d.135, effective April 20, 2009.

See: 40 N.J.R. 5501(a), 41 N.J.R. 1861(a).

In (a)1, substituted "\$100.00" for "\$50.00".

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (a)8, inserted "for TANF recipients" and ". Income received through a college work study program is not exempt for GA recipients"; and in (a)13, substituted "unemployable WFNJ/GA individuals and deferred WFNJ/TANF individuals" for "WFNJ TANF/GA families/individuals", and inserted "and the WFNJ work requirement".

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

Rewrote the introductory paragraph of (a); deleted former (a)1; recodified former (a)2 through (a)15 as (a)1 through (a)14; in (a)3, inserted "tax" and substituted "(EITC)" for "(EIC)"; in (a)4, substituted "Workforce Investment Act (WIA)" for "Job Training Partnership Act (JTPA)"; in (a)5 and (a)6, substituted "WIA" for "JTPA"; in (a)13, deleted "and" from the end; in (a)14ii, substituted the first occurrence of "Food Stamp" for "coupon"; in (a)14iv, substituted "WIA" for "Job Training Partnership Act (JTPA)"; in (a)14ix(19), substituted a semicolon for a period at the end; and added (a)15 through (a)18.

10:90-3.20 Exempt resources

(a) Exempt resources are not subject to any requirement for liquidation and are not considered in determining WFNJ eligibility or in determining the cash assistance benefit. In addition to the exempt income set forth at N.J.A.C. 10:90-3.19, the following resources shall be exempt for each assistance unit:

1. Benefits available through the WFNJ program which are over and above the cash assistance allowance, such as, but not limited to, child care and transportation payments;

2. Aid/assistance from other agencies or organizations, whether public or private, as exempt from Federal and/or State law such as, but not limited to, Federal Emergency Management Assistance (FEMA), which supplements but does not supplant WFNJ benefits;

3. Up to a total of \$2,000 in resources (including savings);

i. An exception to the \$2,000 limit may be made for minor parents living in alternate adult supervised living arrangements only. For such minor parents, the full amount of special minor parent alternate living arrangement savings accounts and all interest and/or dividend earnings from such an account shall also be exempt;

ii. In addition to the above resources, moneys, matching contributions and interest on funds which are held in separate approved Individual Development Accounts are totally exempt. Funds which are held in approved Individual Development Accounts shall not be considered available for the assistance unit's use for emergency assistance purposes. The funds in these accounts are controlled by other entities and must be designated for one of the following purposes:

- (1) Purchase of a home;
- (2) Educational/training expenses;
- (3) Purchase of a motor vehicle; or

(4) Purchase of a business.

iii. Moneys identified at (a)3 and 3i above are exempt in determining eligibility for WFNJ. However, in the event that a WFNJ assistance unit is in need of emergency assistance, such funds may be considered available for the assistance unit's use to meet the emergency need prior to the issuance of emergency assistance;

4. All motor vehicle(s) registered in the name of a member of the assistance unit;

i. Recreational vehicles are not subject to the resource exemption and the value of recreational vehicles, registered in the name of an assistance unit member, shall be included in the determination of financial eligibility. The fair market value of a recreational vehicle shall be determined by the value of those vehicles as indicated on the National Automobile Dealers Association Internet website www.nadaguides.com. The county or municipal agency shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional or handicap accessible equipment. If a new vehicle is not listed on the website, the county or municipal agency shall determine the wholesale value by some other means such as, but not limited to, contacting a dealer that sells that make of recreational vehicle;

5. Real property owned by an eligible assistance unit member(s) and used as a home by a member(s) of the eligible assistance unit, together with so much of the land on which the house stands as is reasonably necessary for the maintenance of the house;

i. The property may remain in exempt status during temporary absence of the entire assistance unit for a period up to four months, at which time the county or municipal agency shall review the status and, if so indicated, may allow it to remain in exempt status for an additional four months. Continued absence through the entire eight months shall be deemed to be permanent and the property shall be removed from exempt status;

6. Personal property, such as, but not limited to, house furnishings and clothing which are used regularly or likely to be used;

i. Furnishings and clothing in storage may be deemed to be exempt in the presence of a reasonable plan for their use;

ii. Personal effects if regularly used or of small intrinsic value;

(1) Items of exceptional value not regularly used and not essential to the physical health and safety of the eligible assistance unit are not exempt;

7. Livestock, machinery, tools, equipment, and stock-in-trade which serve to produce some net income in cash or in kind or serve as an incentive for self-help; livestock or

property owned or used by a child in connection with a group or school activity (such as 4-H); and farm and garden products raised by the eligible assistance unit for its own use;

8. Any asset, real or personal, the liquidation of which would produce no net revenue to the eligible assistance unit;

9. Nonrecurring gifts and contributions of nominal amount or value, such as those for birthdays, graduations or holidays;

10. Bona fide and/or personal loans which are held and used for specific purposes in accordance with the conditions of the loan and not used to meet day-to-day living costs; and, such loans are evidenced by a document signed by the client and the lender which states the amount of the loan and terms of repayment;

11. Fees paid in conjunction with the collection of a pending claim when the costs were incurred during a period of receipt of WFNJ (see N.J.A.C. 10:90-7);

12. Prepaid burial plots (limited to one for each member of the eligible assistance unit) and prepaid bona fide funeral agreements up to a total value of \$4,000 per assistance unit member, to the extent that the total equity value of any agreement attributable to each member of an eligible assistance unit does not exceed \$2,430, unless such assistance unit member was a recipient of General Assistance prior to July 1, 1997 and the exemption at (a)12iii below applies;

i. Burial plots mean conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.

ii. Funeral agreements mean contractual arrangements to provide for the costs connected with burial, cremation, or other funeral arrangements.

iii. Prepaid irrevocably assigned funeral/burial arrangements, as noted in (a)12iii(1) through (3) below, for WFNJ/GA recipients who were General Assistance recipients and had made such arrangements prior to July 1, 1997;

(1) Prepaid irrevocable funeral/burial insurance policies;

(2) Prepaid irrevocable funeral/burial annuity policies;

(3) Prepaid irrevocable funeral/burial trust funds;

13. Life insurance policies;

14. Resources designated for special purposes as follow:

i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

ii. The value of the Food Stamp allotment for any household participating in the Food Stamp Program of the U.S. Department of Agriculture;

iii. Allowances for participation in the WFNJ program, including payments for transportation and related expenses set forth in the supportive services section at N.J.A.C. 10:90-5 and payments for child care;

iv. Allowance payments, that is, monies paid to offset expenses related to training received by a WFNJ parent or parent-person who is participating in the Workforce Investment Act (WIA) program;

v. Payments to assistance units for child care in situations where special circumstances occur within the household (such as emergency illness of the parent(s)) that necessitate alternative care for a child on a temporary basis; and transportation or the cost of transportation, which is not available from any other source, to transport that child to and from the child care site when it is essential for the child's physical health and safety;

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

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

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

(3) Such aid is to any undergraduate student for educational purposes;

vii. Monies received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81);

viii. Monies received on behalf of foster child care, including extra payments received for special services; and

ix. Funds received by applicants and recipients through certain Federal programs as delineated in (a)14ix(1) through (18) below:

(1) Funds distributed or held in trust for members of any Indian Tribe under Public Law 92-254 or 93-134;

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-03, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

(4) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965 (42 U.S.C. §§ 3001 et seq.);

(5) Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE);

(6) Payments made through the United States Department of Housing and Urban Development (HUD) Section 8, Rental Assistance Program (RAP), which provides funds to certain disabled individuals and low income families to assist them in meeting shelter costs;

(7) HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974;

(8) Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35;

(9) Allowances and benefits under the National and Community Service Trust Act of 1993 (NCSTA) which established a Corporation for National and Community Service which administers national service programs, including the Americorps programs, the Senior Corps and Youth Corps programs; the Learn and Serve program and, the Volunteers in Service to America (VISTA) program;

(10) All student financial assistance received under Title IV of the Higher Education Act and under the Bureau of Indian Affairs student assistance programs;

(11) Student financial assistance made for attendance costs under the Carl D. Perkins Vocational Education Act Amendments of 1990;

(12) Restitution made, under Section 105 of Title I of P.L. 100-383, the Civil Liberties Act of 1988, to individuals of Japanese ancestry who were interned during World War II;

(13) Restitution made, under Section 206 of Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, to Aleuts who were relocated by the U.S. government during World War II;

(14) Major disaster and emergency assistance granted under Section 105 of P.L. 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988, including FEMA;

(15) Agent Orange payments as provided for under Section 1(a) of P.L. 101-201 and Section 10405 of P.L. 101-239 of the Omnibus Budget Reconciliation Act of 1989;

(16) Amounts paid to individuals, under Section 6(h)(2) of P.L. 101-426, the Radiation Exposure Com-

pensation Act of 1990, for injuries or deaths due to exposure to radiation from nuclear testing and uranium mining;

(17) Payments made to individuals because of their status as victims of Nazi persecution; and

(18) Stipends received by individuals who participate in the New Jersey Youth Corps Stipends Program.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a)12, added an exception at the end of the first paragraph, and added iii.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), rewrote 3 and 4.

Amended by R.2011 d.078, effective March 7, 2011.

See: 42 N.J.R. 2561(b), 43 N.J.R. 630(a).

In (a)3i, substituted "minor" for "teen" preceding "parents" twice and "minor parent" for "teen" following "special"; rewrote the introductory paragraph of (a)4 and (a)4i; deleted (a)4ii and (a)4iii; in (a)14ii, substituted the first occurrence of "Food Stamp" for "coupon"; and in (a)14iv, substituted "Workforce Investment Act (WIA)" for "Job Training Partnership Act (JTPA)".

10:90-3.21 Overpayments and underpayments

(a) Overpayment means a financial assistance payment (including emergency assistance) received by or for an eligible assistance unit for the payment month(s) which exceeds the amount for which that unit was eligible.

1. The county or municipal agency shall seek recovery of all overpayments (including emergency assistance) regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions.

2. Recovery may be accomplished by any of the following methods: securing repayment from the existing income and resources of the adult members of the assistance unit; reducing the cash benefits payable to the assistance unit; or securing repayment through court action, if necessary. For cases which have both an underpayment and overpayment, the county or municipal agency may offset one against the other in correcting the payment.

i. Child-only cases, as defined in N.J.A.C. 10:90-15.1, are not subject to recovery of overpayments, except in situations where Kinship Subsidy payments have resulted in a duplication of assistance.

3. The amount of the overpayment shall be the amount of assistance (including emergency assistance) received during the period of overpayment less the amount of assistance which should have been received.

i. In the case of an overpayment caused by the client's failure without good cause to report earned income on a timely basis, the amount of the overpayment shall be calculated without benefit of the earned income disregards provided for at N.J.A.C. 10:90-3.8.

ii. If an eligible assistance unit is overpaid for which the county agency receives child support collections, only that amount of assistance paid in excess of support payments received during the period of overpayment shall be considered for overpayment collection.

4. Liability for overpayment of assistance (including emergency assistance) is established jointly among the adult individual responsible for the overpayment, the overpaid adult members of the eligible assistance unit, the adult individual members of the eligible assistance unit and any eligible assistance unit of which an adult member of the overpaid eligible unit subsequently becomes a member.

5. Upon discovery of an overpayment, the county or municipal agency shall inform the client in writing of the incorrect payment(s), the amount of overpayment and what corrective actions will be taken.

6. Overpayment to an eligible unit which is currently receiving assistance (including adult recipients whose overpayment occurred during a prior period of eligibility) may be repaid in full by the eligible unit or in part wherein the assistance benefit amount may be reduced by 10 percent of the appropriate benefit allowance for the unit size, until recovery is completed.

i. If, on a case by case basis, it is determined that, in the judgment of the county or municipal agency, the 10 percent reduction in the assistance benefit may be detrimental to the well-being of the assistance unit, a lesser rate of recovery shall be established, but not below a minimum rate of five percent.

ii. If the benefit assistance amount is reduced to zero because of recovery, members of the eligible unit will continue to be considered recipients of WFNJ. If the amount payable because of recovery is less than \$10.00, the WFNJ benefit shall be issued in that lesser amount.

7. When a member of the eligible assistance unit is the individual responsible for the overpayment, the agency shall recover the overpayment from the adult members of that eligible unit.

8. If the individual responsible for the overpayment is no longer receiving assistance, the agency shall initiate court action against the responsible adult individual to recover the overpayment.

i. If despite agency action, recovery is not completed through court action, the agency shall recover the overpayment in accordance with (a)10 below.

9. If the individual responsible for the overpayment is a member of another eligible unit, the agency shall recover the overpayment from the adult members of that unit.

10. In all other circumstances, the priority of recovery of overpayments shall be: the overpaid adult members of the eligible unit; any eligible unit of which an adult member of the overpaid eligible unit subsequently becomes a member;

or any adult individual members of the overpaid eligible unit whether or not currently recipients.

11. Overpayment to an assistance unit, all members of which are no longer receiving WFNJ, shall be recovered by the county or municipal agency through a court of appropriate jurisdiction if the adult members of the assistance unit do not voluntarily repay the overpayment.

i. Where the overpayment amount owed by an assistance unit no longer receiving WFNJ is less than \$100.00, or it is determined that, after reasonable effort to recover the overpayment, it is no longer cost effective to continue recovery efforts, the county or municipal agency may waive recovery of the overpayment. All circumstances concerning a waiver of recovery must be fully documented in the case record.

ii. Recovery of overpayments due to fraud or Intentional Program Violation (IPV) (see N.J.A.C. 10:90-11) shall not be waived regardless of the amount of overpayment.

12. The county or municipal agency must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

i. Recover the overpayment(s);

ii. Initiate action to locate and/or recover the overpayment(s) from a former adult recipient; or

iii. Execute a recovery agreement from a current adult recipient's grant or income/resources.

13. In all situations of overpayments, the facts and circumstances in each case shall be evaluated and, where indicated, action taken as appropriate in accordance with regulations pertaining to fraudulent receipt of assistance (see N.J.A.C. 10:90-11).

(b) Underpayment means a financial assistance payment received by or for an eligible assistance unit for the payment month which is less than the amount for which the unit was eligible, or failure by the county or municipal agency to issue a financial assistance payment for the payment month to an eligible assistance unit if such payment should have been issued. Upon discovery of an underpayment, the county or municipal agency shall determine the amount underpaid and proceed as follows:

1. When underpayment was due to failure of a member of the eligible assistance unit to provide appropriate information, the next regular payment shall reflect the corrected grant amount for that payment period and the amount necessary to correct the payment for the period immediately preceding.

2. When underpayment was due exclusively to administrative error by the agency, corrective payment shall be made, retroactive to the month the administrative error first occurred, within the 12 months immediately preceding the discovery of the underpayment.

2. For WFNJ/GA recipients in consolidated municipalities, the WFNJ agency shall place WFNJ/GA single adults and couples without dependent children in an approved activity and monitor compliance.

(d) Failure to actively cooperate with or participate in the WFNJ work activity requirements, without good cause, shall be considered noncompliance and shall result in loss of cash assistance benefits in accordance with N.J.A.C. 10:90-4.13.

1. For WFNJ/GA recipients in consolidated municipalities, when the NJOSCC reports to the county agency noncompliance by a WFNJ/GA participant, the county agency shall act on the report of noncompliance in accordance with N.J.A.C. 10:90-4.13.

2. For WFNJ/GA recipients in nonconsolidated municipalities, the NJOSCC will report the noncompliance by the WFNJ/GA recipient to the municipal agency which will begin the sanction process (see N.J.A.C. 10:90-4.13).

(e) A recipient who is not engaged in full time unsubsidized employment shall be required to commence participation in a work activity, self-directed job search, job search or other designated work/educational activity as follows (whichever occurs first):

1. As soon as it is determined that the individual is ready to engage in work or in a work activity; or

2. At some time prior to the individual having received 24 months of cash assistance benefits (whether or not the receipt of such cash assistance is consecutive) unless deferred.

i. Receipt of 24 cumulative months of WFNJ cash assistance benefits does not in and of itself render an individual ineligible for cash assistance.

(f) All adult WFNJ recipients, teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis, including those individuals determined deferred from the WFNJ work requirement, shall be required to sign an initial individual responsibility plan (IRP) which shall indicate the terms of the work activity requirements and/or the plan of action based on the findings and conclusions from the initial assessment that the recipient must fulfill in order to continue to receive benefits as well as identify work related supportive services (such as child care, transportation, and other work-related expenses necessary to engage in work activities) that are to be provided. For all recipients not deferred from the WFNJ work requirements, the individual responsibility plan shall be updated annually or as necessary in accordance with individual progress and/or change in circumstances (see N.J.A.C. 10:90-4.8).

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added (a)2.

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.
Administrative correction.
See: 35 N.J.R. 4894(a).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Inserted "teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis" in the first sentence of (a), introductory paragraph, 2, and (f).

Special amendment, R.2008 d.182, effective June 3, 2008.

See: 40 N.J.R. 4232(a).

In the in the introductory paragraph of (d); substituted "in accordance with" for "on a per capita basis (see" and deleted "; Sanctions)" from the end; in (d)1, substituted "in accordance with N.J.A.C. 10:90-4.13" for "within 10 days and begin the WFNJ conciliation process (see N.J.A.C. 10:90-4.12, Sanction notification process)"; and rewrote (d)2.

10:90-4.2 Work activity participation

(a) All recipients, unless otherwise deferred, shall continuously and actively seek work and engage in job search. Recipients who are assessed to be job ready shall be placed in job search immediately. If no employment is found, they shall be reassessed, if appropriate and placed in a work activity as indicated by their individual assessments. Other recipients shall be placed in an appropriate work activity as indicated by the assessment results; however, they shall be encouraged to continuously seek employment.

1. Participation in job search may be counted for up to six weeks, of which no more than four weeks may be consecutive.

2. When an adult WFNJ/TANF recipient is placed in a CWEP or AWEP activity, the number of hours of participation per week, based on the receipt of TANF and Food Stamp benefits, shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the Food Stamp allotment less child support collections for the month, divided by the higher of the current Federal or State minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next lower whole hour.

i. If the calculated number of hours does not equal the mandated number of hours of participation for that recipient, the recipient shall continue to participate in the activity in accordance with the prescribed hours of participation for compliance under the WFNJ program. The participant shall be compensated for the total excess hours of participation required through the issuance of a supplemental participant allowance payment that shall be calculated as follows:

(1) Excess hours of participation shall be determined by subtracting the calculated hours of participation (determined using the grant, TRA, EA, and food stamp allotment less child support collections for the month as described above) from the mandated hours of participation for compliance under WFNJ program and multiplying the excess participation hours by the higher of the current Federal or State minimum hourly wage rate.

(b) An WFNJ/TANF adult recipient in a single parent family, unless temporarily deferred, shall be required to partici-

pate in one or more work activities for up to 40 hours per week.

1. WFNJ/GA single adults or couples without dependent children, unless temporarily deferred, shall be required to participate in one or more work activities for up to 30 hours per week.

i. When a WFNJ/GA individual(s) is participating in a CWEP activity, the maximum number of hours per week shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the Food Stamp allotment divided by the higher of the Federal or state minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next whole hour. The WFNJ/GA individual(s) may be required to participate in another activity such as job search or remediation.

ii. In nonconsolidated municipalities, the NJOSCC shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP based on the information reported by the municipal agency at the initial eligibility determination or when the municipal agency reports a change to NJOSCC. If available, NJOSCC may access this information through the State's automated information system.

iii. In consolidated municipalities, the county agency shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP.

(c) A teen parent under the age of 18 shall be required, on a full time basis, to attend high school or an equivalent course of study unless:

1. It is determined that the teen parent is exempt from regularly attending high school or its equivalent, based upon an assessment which indicates the person's inability and lack of aptitude to successfully complete such academic requirements; then the teen parent shall be required to participate full time in an approved alternative educational or training program, including special educational programs for the learning and developmentally challenged (the hours of participation shall be in accordance with the scheduled program); or

2. The teen parent has completed secondary education; then he or she shall be required to participate in a work activity for a minimum of 35 hours per week.

(d) A recipient who has not completed high school and has not attained 20 years of age and is a single head of household, a single adult or either of the adults of a couple without dependent children shall be required to maintain satisfactory school attendance at secondary school or the equivalent during the month or participate in education directly related to employment for at least 20 hours per week. If it is determined that, due to the person's inability or lack of aptitude to successfully complete academic requirements, he or she shall be required to participate in another appropriate work activity.

(e) Each parent in a two-parent WFNJ/TANF family shall be required to participate in one or more activities for a minimum of 35 hours per week up to a maximum hourly total of 40 hours per week, unless otherwise deferred in accordance with N.J.A.C. 10:90-4.9.

1. For one parent, 30 hours of the required 35 hours of participation shall include participation in one or more of the following federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job training; job-search and job readiness assistance; community service programs; vocational educational training (not to exceed 12 months per individual) which may be combined with work experience; or the provision of child care services to an individual who is participating in a community service program.

2. The second parent shall be required to satisfactorily participate in work activities for 35 hours a week of which a minimum of 20 hours shall be in the following Federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job-training; or community service programs.

(f) Individuals 16 through 18 years of age who are attending school on a full-time basis and are expected to complete the program of the school before reaching the age of 19 are required to satisfactorily attend the scheduled classes at a secondary school or a course of study leading to a certificate of general equivalence.

1. Individuals, age 16 through 18, who are students and who drop out of school will be required to enroll and participate in another appropriate work activity for a minimum of 35 hours per week. Failure to comply with the work activity will result in the sanctions for such persons as stipulated at N.J.A.C. 10:90-4.11.

(g) A recipient who is a full-time post-secondary student in a course of study related to employment, as defined at N.J.A.C. 10:90-4.3(j)1, shall be required to engage in another work activity for 15 hours a week subject to the recipient making satisfactory progress toward the completion of the post-secondary course of study.

Administrative correction.

See: 29 N.J.R. 3729(a).

In (b), deleted "a minimum of 35 hours per week to a maximum aggregate hourly total of" preceding "up to 40 hours per week"; in (b)1, deleted "for an average total of 30 hours per week" following "or more work activities"; in (e)1 and 2, under Federally recognized activities deleted subsidized private sector employment and subsidized public sector employment.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Rewrote (a); added (a)2, (a)2i and 2i(1); and in (d) inserted "dependent" before "children".

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), substituted "assessment" for "employment profile (assessment)"; rewrote (b).

10:90-4.3 Description of work activities

(a) Unsubsidized employment means employment in the private or public sector which is not subsidized in any way.

(b) Supported employment is an employment activity tailored to meet the needs of those recipients who demonstrate serious barriers to employment (such as learning disability or illiteracy, drug and alcohol problems, and/or physical/mental disabilities). Supported on-the-job employment opportunities and sheltered workshop approaches (modeled after successful programs in the mental health and developmental disabilities field) will serve persons with such barriers. When the participant is experiencing difficulties on the job, a job coach will interact with the participant and the employer to resolve problems that may affect their continued employment.

(c) Community Work Experience Program (CWEP) is to be utilized to provide work and training to enable the recipient to adjust to, and learn how to function in, an employment setting. Placements shall only be with a public, private nonprofit or private charitable employer. CWEP placements are directed towards organizations and agencies directly involved in useful public service areas such as health, recreation, child and adult care, education, environmental protection, social services, etc. A CWEP participant shall not be placed with a private for profit employer.

(d) Alternative work experience programs (AWEP) consists of work and training for WFNJ recipients on a temporary basis with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine the 20 hours per week work experience with 15 hours per week of education (which may include English as a Second Language), substance abuse treatment, vocational exploration and/or job training. An AWEP participant's work experience placement shall not be with a private for profit employer.

(e) On-the-job training (OJT) is an employment opportunity which includes training. The participant is hired by a private or public employer and receives training that provides knowledge or skills essential to the full and adequate performance of the job. At the end of the OJT, the participant shall be retained by the employer as a regular employee if the individual has made satisfactory progress during the OJT contract period.

(f) Job search and job readiness assistance are employment-directed activities in which participants engage in activities with the immediate goal of obtaining full-time employment. Job search is directed to the individual participant's needs and local job market conditions and may serve participants in either group, individual, or self-directed job-seeking activities, or a combination thereof. Job search is an appropriate up front activity for applicants as well as job ready recipients who have basic workplace skills and experience applicable to the labor market. Job readiness

activities will also be combined with job search to enhance the effectiveness of job search activities for those in need of additional skills development.

1. Job search and job readiness activities shall be counted for a maximum of six weeks (four of which may be consecutive) unless New Jersey's unemployment rate is 50 percent greater than the unemployment rate of the United States, in which case this activity may be extended to 12 weeks.

(g) Community service programs are self-directed or scheduled preparatory work activities in which participants may provide an array of vital services designed to increase the common good and/or improve the condition of the community in which he or she resides. Examples include, but are not limited to, the provision of child care as a community service project; mentoring or tutoring activities conducted under the auspices of organizations such as Big Brothers/Big Sisters, Americorps, Habitat for Humanity; physical or administrative labor performed on behalf of a community organization/group; and volunteer work in hospitals, battered women's shelters, libraries, schools or other such public institutions.

1. Community service programs shall be offered as a "bridge" activity to participants who are awaiting the start-up of a new or subsequent activity.

2. Community service programs may be offered to individuals who are employed part-time so that participants can meet the WFNJ and Federal work participation requirement.

3. Community service programs may be offered as an activity in other circumstances with DFD review and approval.

4. Community service programs/sites shall be approved by the county or municipal agency.

(h) Vocational educational training is an activity involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting. Participants receive instruction in specific occupational areas which reflect the current local labor market demand. Providers of this type of activity include, but are not limited to, community based organizations; private for profits; community/county colleges; Voc-Tech school; JTPA's; and adult high schools.

1. This activity shall not be utilized for more than 12 months for any individual.

i. When a WFNJ/GA individual is placed in this activity in compliance with the FSETP, the 12 month limitation shall not apply.

(i) Job skills training directly related to employment is an activity tailored for those recipients who demonstrate serious barriers to employment (such as learning disability or illiteracy, drug and alcohol problems, mental health barriers, and/or physical/mental disabilities) and may include such activity

components as pre-employment job coaching and mentoring (modeled after successful programs in the mental health and developmental disabilities field).

1. The Division of Family Development's Welfare to Work Disability Case Management Initiative provides rehabilitation services to WFNJ recipients identified as having barriers to employment related to a disability. This initiative provides a range of services to eligible participants which include vocational counseling, career guidance and specialized skills training.

(j) Education directly related to employment is an activity involving a participant without a high school diploma or a general equivalence diploma (GED) in a course of study leading to a high school diploma or GED when combined with community work experience participation or other approved work activities, including employment.

(k) Post-secondary educational opportunities directly related to employment shall be offered to recipients with a high school diploma or GED, when combined with community work experience participation or other approved work activities, including employment.

1. Post-secondary education are those professional and educational programs offered at colleges, mostly community colleges, and other post-high school institutions that lead to recognized careers for which there is or will be a demand in the New Jersey job market as published by the New Jersey Department of Labor.

i. Post-secondary programs that may be of longer duration than two years in certain circumstances, shall lead to a recognized college credential such as a certificate, license, associate degree or other recognized college credential.

(l) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence is an activity that shall be utilized in the case of a recipient who is a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday.

(m) Provision of child care services is an activity that involves the WFNJ recipient in the direct provision of child care services to another WFNJ individual who is participating in a community service program or other State approved employment-directed program.

(n) The TANF Initiative for Parents (TIP) Program is an activity that offers comprehensive in-home visitation and/or in-community parenting, nutritional and support services including, but not limited to, parent education programs, interactive parent-child sessions, fatherhood services, and

nutritional education, in accordance with N.J.A.C. 10:90-5.16.

(o) Other work activities may be added to those set forth above in this section in order to comply with Federal or State laws and/or to maximize Federal funds.

Administrative correction.

See: 29 N.J.R. 3729(a).

In (c) and (d), deleted "unpaid" preceding "work and training"; and in (j)1, deleted "significant" preceding "demand".

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (g), added 1 through 3; added (i)1; deleted (j)1; added a new (k) and recodified former (k) through (m) as (l) through (n).

Amended by R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

In (i), inserted "mental health barriers,;" added new (n); and recodified former (n) as (o).

Amended by R.2009 d.202, effective June 15, 2009.

See: 41 N.J.R. 364(a), 41 N.J.R. 2483(a).

In (l), deleted "(See N.J.A.C. 10:90-4.4 for what constitutes satisfactory attendance.)" from the end.

10:90-4.4 (Reserved)

Repealed by R.2009 d.202, effective June 15, 2009.

See: 41 N.J.R. 364(a), 41 N.J.R. 2483(a).

Section was "Satisfactory attendance".

10:90-4.5 Conditions under which CWEP and AWEP shall be regarded as employment

(a) Participation by a recipient in CWEP or AWEP activity provided by a sponsor, pursuant to the Federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, shall not be considered employment for any purpose, except that such participation shall be regarded as employment as follows:

1. The "Law Against Discrimination," P.L. 1945, c.169 (N.J.S.A. 10:5-1 et seq.), and the sponsor, not the program, shall be deemed the employer for purposes of any action brought under this act;

2. The "New Jersey Public Employees' Occupational Safety and Health Act," P.L. 1983, c.516 (N.J.S.A. 34:6A-25 et seq.) when the sponsor is a public employer subject to this Act;

3. The "Conscientious Employee Protection Act," P.L. 1986, c.105 (N.J.S.A. 34:19-1 et seq.) and the "Worker and Community Right to Know Act," P.L. 1983, c.315 (N.J.S.A. 34:5A-1 et seq.);

4. The purposes of Chapter 15 of Title 34 of the Revised Statutes (Worker's Compensation), and the participant shall be regarded an employee of the State and the

TRA co-payment amount will be 65 percent of all household income including the SLS benefit or the combined cash assistance and SLS benefit, whichever is less.

New Rule, R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (f), added 1.

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In (b), substituted "TANF or unemployable GA" for "active" and "benefits" for "Benefits", and inserted "both" and "and the WFNJ work requirement".

10:90-5.15 Mental Health Initiative

(a) Mental health and employment readiness services are available through the Work First New Jersey Mental Health Initiative (MHI). The MHI provides services to WFNJ recipients who are experiencing mental health barriers to self-sufficiency.

1. WFNJ recipients enrolled in the MHI are eligible to receive mental health services provided and/or arranged by a Mental Health Case Manager who is a trained mental health clinician from a contracted agency, and employment readiness services provided by an employment specialist from an agency associated with the Division of Mental Health Services' Supported Employment Program and/or coordinated with the One-Stop Career Centers (OSCC).

i. Mental health services arranged for may include, but are not limited to, psychiatric evaluation and medication, out-patient counseling, or partial care/psychosocial rehabilitation.

ii. Employment services may include, but are not limited to, vocational readiness determination, career profiling, community-based occupational exploration, job-seeking skills, alternative work experience with support, support plan development, and individualized job placement.

(b) A participant's hours spent in treatment provided by and/or arranged through the MHI may count towards the required hours of a work activity.

1. For WFNJ recipients required to participate in a work activity, mental health treatment counts as a participant's work activity only if the mental health case manager assesses the recipient and monitors the participant's treatment.

(c) A WFNJ recipient who appears to have a mental health barrier and appears to meet the eligibility criteria for the program shall be asked to complete the form MHI-1, WFNJ Mental Health Initiative Questionnaire. Completion of this form is voluntary. If the results of the MHI-1 indicate a mental health barrier, the recipient shall be referred to the MHI for an assessment by a Mental Health Case Manager.

1. A mental health assessment shall be administered to each WFNJ recipient referred to the program by a trained

mental health clinician using recognized DMHS Intensive Case Management Services assessment protocols.

(d) Participants may be enrolled in the MHI if they meet either of the following criteria below:

1. They are mandatory TANF recipients required to participate in a work activity or employable GA recipients, and have a mental health problem that prevents them from achieving self-sufficiency, as determined by the Mental Health Case Manager, based on the results of the mental health assessment, pursuant to (c)1 above; or

2. They have an open DYFS case, and have a mental health problem, as determined by the Mental Health Case Manager, based on the results of the mental health assessment, pursuant to (c)1 above. These cases may include deferred TANF and unemployable GA cases.

(e) Referral to and participation in the MHI shall be either voluntary or mandatory based on the following criteria:

1. Non-sanctioned WFNJ recipients who are required to participate in a work activity shall be offered a referral based on the results of the MHI-1. Acceptance of such referral is voluntary. Individuals that choose not to accept the referral are to be assigned an appropriate work-related activity.

i. For those individuals that accept the referral and agree to attend a meeting with a Mental Health Case Manager, the referral is to be noted on the IRP. If the meeting with the recipient and the Mental Health Case Manager is held and it is determined that a mental health problem exists and an appropriate mental health activity is assigned, then the recipient has the option of attending that activity or participating in another WFNJ work-related activity. Refusal to attend the mental health activity is not sanctionable in this situation.

ii. If the recipient agrees to attend this activity, it becomes his or her WFNJ work-related activity, with non-compliance triggering the start of the sanction process.

(1) Before starting the sanction process for a recipient enrolled in MHI, the WFNJ worker shall contact that recipient's Mental Health Case Manager for a determination of whether the client's non-compliance was due to his or her mental health problems. If the Mental Health Case Manager concludes that the recipient's non-cooperation may have been a result of his or her mental health barriers, that recipient shall not be sanctioned and shall be offered the opportunity either to continue participating in the MHI or to be assigned an alternate activity.

2. WFNJ recipients who are required to participate in a work activity, and who have been sanctioned for non-compliance with a work activity in accordance with N.J.A.C. 10:90-4.13, may be advised that they shall be required to complete the MHI-1 and, if applicable, par-

ticipate in the MHI in order to remove the sanction, unless the agency worker determines that the reason for the non-compliance is other than a mental health problem. A referral to meet with a Mental Health Case Manager for a mental health assessment shall be provided to the sanctioned individual. Acceptance of such referral is mandatory. The MHI referral is to be noted on the recipient's IRP.

i. If treatment is indicated, the recipient shall be required to actively attend that program during the two-week intent to comply period in order for the sanction to be removed. Continuation of the mental health activity will become the recipient's mandatory work activity. Failure to participate as designated shall cause the individual's sanction to proceed as scheduled.

(1) Before the individual's sanction is reinstated to proceed as scheduled, the WFNJ worker shall contact the recipient's Mental Health Case Manager for a determination of whether the recipient's non-compliance was due to his or her mental health problems. If the Mental Health Case Manager concludes that the recipient's non-cooperation was a result of his or her mental health barriers, then the recipient shall not be sanctioned and shall be offered the opportunity either to continue participating in MHI or be assigned an alternate activity.

New Rule, R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

Special amendment, R.2008 d.182, effective June 3, 2008.

See: 40 N.J.R. 4232(a).

In (e)2i, substituted "cause the individual's sanction to proceed as scheduled" for "advance the penalty to the next sanction offense level"; and in (e)2i(1), substituted "the individual's sanction is reinstated to proceed as scheduled" for "advancing a MHI recipient to the next sanction level".

10:90-5.16 TANF Initiative for Parents (TIP) Program

(a) The TIP Program is a performance-based child abuse and neglect prevention initiative that offers comprehensive parenting, nutritional and support services utilizing in-home visitation parenting models of service delivery, one of which includes the Healthy Families America (HFA) model, for families at risk of abuse or neglect. TIP Program services are made available initially based on the in-home visitation service provider's assessed needs of the family. TIP Program participants shall be re-evaluated for continued program services, by the service provider, at three-month intervals.

(b) The purposes of the TIP Program are to:

1. Promote the safety, permanency and well-being of infants and their siblings while:
 - i. Encouraging healthy parent-child interactions; and
 - ii. Reducing the number of referrals to the Division of Youth and Family Services (DYFS);

2. Increase healthy child development, rates of immunizations, early identification of development delays, and good nutrition;

3. Link families to community based medical, social, nutritional and employment services; and

4. Provide TANF parents an opportunity to acquire parenting skills that will assist the recipient in the pursuit or maintenance of employment while balancing a healthy family environment.

(c) Participation in TIP Program services, including the in-home visitation, is not mandatory. The TIP program preferred approach is in-home visitation. However, participants are given a choice of participating in the program services voluntarily, as follows:

1. In their own home;
2. Outside of their own home; or
3. In their own home and outside of their own home.

(d) The TIP Program services are available to certain individuals in their last trimester of pregnancy and new parents with infants from birth through 12 months of age, even if the individual has older children in the family in addition to the new infant, as follows:

1. Individuals in their third trimester of pregnancy:
 - i. WFNJ TANF/GA individuals; and
 - ii. Non-Public Assistance (NPA) Food Stamp Program (FSP) individuals; and
2. Individuals who are new parents:
 - i. WFNJ TANF recipients, including new TANF parents, needy parent persons, parents in child-only cases, sanctioned recipients and recipients with a capped child;
 - ii. SSI recipients in child-only cases; and
 - iii. NPA FSP recipients.

(e) TIP Program participants who are deferred from the WFNJ work requirements in accordance with N.J.A.C. 10:90-4.10 may voluntarily take part in parenting skills services.

1. WFNJ recipients who are deferred may want to consider participating in the TIP Program as a transitional activity that will help prepare them for employment readiness and assist the recipient with balancing work activity and raising a family.

(f) For TIP Program participants who are required to participate in a work activity in accordance with N.J.A.C. 10:90-4, hours spent participating in the TIP Program shall count towards the required hours of a work activity. A TIP participant may need to participate in another work activity in addition to TIP in order to fulfill his or her required number of hours. No adverse action or sanction shall be imposed on a

TIP participant for non-compliance with the TIP Program. If the participant does not comply with the TIP program requirements, that individual shall be removed from TIP and placed in a different work activity. However, a sanction may result from the recipient's failure to comply with a non-TIP work activity in accordance with N.J.A.C. 10:90-4.13.

1. Participation in TIP Program services shall count towards a WFNJ recipients work activity only through the child's 12th month of age.

i. TIP services provided to the participant shall not extend beyond the child's 12th month of age, except in certain situations when the in-home service provider determines, on a case-by-case basis, that continued periodic in-home or in-community visitation is necessary.

2. In order for TIP Program participation to count towards the required hours of a work activity, the participant must attend the identified parenting skills program(s) that is determined to be necessary, based on the assessed needs of the family.

(g) The in-home visitation service provider shall administer a comprehensive assessment to each individual referred to the TIP Program to determine eligibility for participation.

1. The parenting skills assessment shall evaluate the individual's abilities, skills, and knowledge about healthy parenting. The assessment includes, but is not limited to, the following:

- i. A universal health screening;
- ii. A family stress checklist; and
- iii. A child welfare checklist.

2. Upon completion of the assessment, the individual and the in-home visitation service provider shall identify the services appropriate for that family. A menu of parenting services and other services that promote transition into the workplace shall be offered. For WFNJ recipients, such services shall be recorded on the IRP and may include, but are not limited to, the following:

- i. Assessment, nutrition and parent education programs;
- ii. Fatherhood services/workshops;
- iii. Interactive parent-child sessions;
- iv. Counseling and employment coaching sessions;
- v. Links to social, medical and employment services; and
- vi. Coordinated case planning among the CWA, OSCC, DYFS (when appropriate) and the in-home visitation service provider.

New Rule, R.2007 d.15, effective January 16, 2007.
See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

Amended by R.2009 d.202, effective June 15, 2009.

See: 41 N.J.R. 364(a), 41 N.J.R. 2483(a).

In (f)2, deleted “, and attain satisfactory attendance in accordance with the provisions at N.J.A.C. 10:90-4.4” from the end.

Case Notes

Agency erred in sanctioning petitioner's benefits under Temporary Assistance to Needy Families after petitioner refused to participate in an Initiative for Parents (TIP) assessment; failure to participate in a TIP is not a sanctionable offense under N.J.A.C. 10:90-5.16(c) (remanding on other grounds). *C.W. v. Hunterdon County Bd. of Social Services*, OAL Dkt. No. HPW 4341-07, 2007 N.J. AGEN LEXIS 934, Remand Decision (October 5, 2007).

SUBCHAPTER 6. EMERGENCY ASSISTANCE

10:90-6.1 Availability of emergency assistance

(a) Emergency assistance shall be made available through the WFNJ program as a supportive service to meet the emergent needs of WFNJ recipients, so that recipients shall not be prevented from complying with the work requirement due to disruptions caused by homelessness and related emergencies. Consequently, in an effort to minimize the incidence of homelessness among the WFNJ recipient population, the county/municipal agency shall be alert to the following circumstances, which may reasonably be assumed to, if not addressed by the recipient and the agency, result in imminent or actual homelessness of the individual or family. Upon identification of any of the indicators listed below, the county/municipal agency shall review the case record to determine if the individual or family shall be referred to sources of help, either within or outside the agency, to plan to ensure the availability of uninterrupted housing.

1. When shelter costs equal or exceed total recorded income to the WFNJ assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses;

2. When the county/municipal agency receives information to the effect that the individual or family's utility bills are in arrearages or utilities have been shut off;

3. When the individual's or family's income is reduced as a result of the reduction in WFNJ benefits or other available income, through no fault of the individual or family;

4. When the individual's or family's rent which had previously been affordable is increased to an amount which makes the current housing costs appear to exceed available income; or

5. When the county/municipal agency receives information that the individual or family is involved in a tenant/landlord dispute or threatened foreclosure.

i. When a tenant/landlord dispute or threatened foreclosure exists, the agency shall assist the family in an attempt to prevent the loss of existing permanent housing, including referral to appropriate legal/service agencies.

(b) The EA as listed in (a) above can also be an appropriate form of assistance for WFNJ recipients who are unable to work.

(c) The county or municipal agency shall provide emergency assistance when there has been substantial loss of housing, food, clothing or household furnishings or utilities by fire, flood or other similar disaster, or an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing (see (c)1 below); and the county or municipal agency determines that the provision of shelter/housing and/or food and/or emergency clothing, and/or minimum essential house furnishings or utilities is necessary for health and safety.

1. A lack of realistic capacity to engage in advance planning shall be said to exist in the following circumstances:

i. When the assistance unit can demonstrate that there was insufficient time to secure housing between receipt of notice of imminent loss of housing and actual eviction, foreclosure or loss of prior permanent housing; or

ii. When the assistance unit can demonstrate or signs a document, prepared by the county/municipal agency, certifying that available funds, including liquid resources at N.J.A.C. 10:90-3.20, were exhausted on items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, or from meeting the expenses of daily living. The specific event(s) or circumstance(s) upon which the granting of EA is based must be documented in the case record. In addition to expenditures for food, clothing and housing, other appropriate items include, but are not limited to, expenditures for a family emergency, such as attending the funeral of a family member, excessive unreimbursed medical expenses or car payment or repairs; or

iii. When the assistance unit demonstrates functional incapacity, for example, evidence of alcohol or drug abuse, or a mental or cognitive impairment that would prevent them from planning for or securing substitute housing. When additional barriers are identified, the recipient shall be referred to appropriate services. Individuals granted EA on this basis must agree as part of their service plan (see N.J.A.C. 10:90-6.6 concerning the development of a service plan) to engage in appropriate treatment for their addiction or other impairments that may limit their ability to function. Such

treatment for addiction or incapacitating condition shall also be included in the IRP in order to coordinate the requirements contained in the IRP.

(1) Adult applicants or recipients who have been evicted, are facing an eviction or have been terminated from a shelter program, for reasons related to substance abuse, shall be referred to the SAI for a substance abuse assessment by a qualified professional. If the qualified professional determines that treatment is necessary and that the recipient is able to follow through with the recommended treatment plan, then participation in a substance abuse treatment program is considered mandatory for continued EA. If the qualified professional determines that the recipient is unable to comply with service plan requirements, then the recipient shall be found to have good cause and will therefore, not be subject to a penalty. The agency and the qualified professional shall review the case at a minimum of every three months to determine the recipient's ability to comply with the EA service plan requirements.

(A) Adult applicants or recipients with two or more episodes of unexplained homelessness shall be assessed for substance abuse, if the agency suspects that substance abuse is a contributing factor. If treatment is deemed appropriate by a qualified professional who shall also determine whether the recipient is able to participate in a program, then treatment shall become a mandatory part of the EA service plan for continued EA eligibility unless the recipient has good cause. If treatment is unavailable, or a waiting list exists, the recipient shall not be penalized; he or she shall be considered to have good cause.

(2) Adult applicants or recipients who have been evicted, are facing an eviction or have been terminated from a shelter program shall be assessed by a mental health professional if the underlying reason is the result of suspected mental illness. If the qualified professional determines that treatment is necessary, participation in a mental health program then becomes a mandatory part of the EA service plan and cooperation is required for continued EA eligibility unless the recipient has good cause.

(A) If treatment is unavailable, or a waiting list exists, for entry into a mental health program or in cases where the qualified professional determines that the recipient is unable to follow through with an assessment or treatment plan due to acute mental incapacitation, or other cognitive impairments, then he or she shall be deemed to have good cause. The agency and the qualified professional shall review the case at a minimum of every three months to determine the recipient's ability to comply with the EA service plan requirements.

costs of adequate emergency shelter/housing, taking into consideration individual/family circumstances and services provided. Such emergency housing shall include placement in shelters; hotel/motel placement; transitional housing; or shelters for victims of domestic violence.

i. Adult EA recipients transitioning from GA to TANF, who are residing in transitional housing, shelter or hotel/motel placement, and who appear to meet the TANF Initiative for Parents (TIP) eligibility requirements, shall receive a mandatory TIP assessment by the TIP Vendor for continued EA eligibility. The outreach and assessment results shall be documented on the EA service plan.

ii. A pending eviction or foreclosure must be documented, either through a tenancy complaint filed by the landlord or an order from a court for eviction or foreclosure. Where such documentation does not exist, a letter from a landlord or other person serving in such capacity (relative/friend with whom the individual/family is residing), subject to agency verification, stating that eviction is imminent or has occurred shall be accepted by the agency.

2. When food is not available from any other source, an amount of \$4.50 per day per person shall be authorized and allowed until such time as other funds become available (for example, the next regular assistance payment, support payment, receipt of earnings or receipt of food stamps).

i. When it is necessary to provide temporary living arrangements for a recipient by utilizing emergency shelter/housing in a hotel, motel, or other facility in which cooking facilities are not available or are determined by the county or municipal agency to be inadequate, payments for restaurant meals, not to exceed \$7.50 per person per day, shall be authorized and allowed until such time as other funds become available.

3. When the agency determines that they are necessary, payments to enable a recipient to purchase minimum essential clothing for physical health and safety shall be granted, not to exceed the amounts stated below, unless authorized by DFD on a case-by-case basis.

- i. Adult—\$86.00;
- ii. Child, age 13 and over—\$86.00;
- iii. Child, age five through 12—\$48.00;
- iv. Child, birth through four—\$29.00.

4. Allowances for those items deemed urgent and essential to the physical health and safety of the recipient shall not exceed those amounts stated at (a)4i below. The recipient is obligated to use any other reasonable source for provision of these items, including, but not limited to, relatives and charitable organizations.

i. Items deemed urgent and essential to the physical health and well being of the individual or family, as appropriate, include, but are not limited to, the following: a refrigerator, a dinette set, kitchen equipment, lamps, beds, cribs, chests of drawers and bed and bath linens. A maximum allowance is provided for the purchase of such items. Payment for these items shall not be made on more than three occasions during the 60 cumulative month lifetime limit under WFNJ assistance.

No. of eligible persons:	1	2	3	4	5	6
Maximum allowance:	\$585	\$745	\$895	\$1,045	\$1,195	\$1,365
Add \$150 for each additional person						

ii. Replacement of house furnishings is not solely limited to replacement of items lost or destroyed in the incident that gave rise to the emergency. For example, a recipient may be moving from a hotel/motel shelter or furnished apartment into an unfurnished living arrangement where there is no essential furniture. Likewise, when an item which is essential for the recipient's health and well-being, such as a refrigerator, wears out, EA funds may appropriately be used to replace it.

iii. Itemized invoices and vouchers shall be provided to the county or municipal agency for all purchases.

iv. Payment of storage costs shall be made at the most reasonable rates available and shall not exceed six months. If additional time is required due to individual circumstances, the agency shall request approval from DFD.

5. Payment shall be authorized for up to any three calendar months of retroactive rental or mortgage payments if it will prevent actual eviction or foreclosure, and/or six calendar months of retroactive utility payments if it will prevent the loss of utilities or make utilities operable.

i. Payment for more than three calendar months of retroactive rental or mortgage payments and/or six months of retroactive utility payments shall be made only under extraordinary circumstances (as found at N.J.A.C. 10:90-6.4(b)1) subject to authorization by DFD.

ii. Basic utilities are those that are necessary to make a dwelling habitable. At a minimum, basic utilities shall include electric, water, a fuel source for heating and cooking and, where applicable, sewerage and garbage disposal. In those instances where it is necessary to pay a utility deposit in order to reinstate utilities, such payment may be made under EA.

6. If appropriate for the individual/family situation, WFNJ recipients shall be notified that temporary rental assistance (TRA) may be provided, when the recipient is facing eviction, in order to maintain current permanent housing which had previously been affordable but which is no longer affordable for reasons such as, but not limited to, loss of employment, temporary unemployment or under-

employment and it is anticipated that such housing will again become affordable; or when it is determined that maintaining the unit in the current housing arrangement is both the least costly alternative and serves to preserve the family structure while the search for affordable housing continues. TRA is the preferred form of emergency housing assistance in all situations, as appropriate.

7. If appropriate for the individual/family situation, WFNJ recipients shall be notified that TRA may also be provided to recipients who have experienced an actual state of homelessness and are able to locate a housing arrangement or can be accommodated in a housing arrangement in lieu of temporary shelter when the county/municipal agency has determined that a TRA is the appropriate remedy to address the emergency. The agency may authorize TRA when the total cost of housing inclusive of basic utilities is equal to or below the current Fair Market Rent (FMR), as established by the United States Department of Housing and Urban Development for the county of residence. The agency shall also consider the recipient's eligibility for the Universal Service Fund or other utility assistance programs in the FMR calculation.

i. TRA shall be provided when:

(1) The total cost of housing does not exceed the current FMR for the county in which the recipient resides. Amounts in excess of the current FMR will require prior approval and authorization of subsidy level by DFD; and

(2) The recipient's service plan and individual responsibility plan states the conditions under which a TRA has been granted and reflect the recipient's understanding of such.

ii. TRA shall not be discontinued when an adult recipient of WFNJ benefits has been sanctioned for non-compliance with the work requirement until one month after all WFNJ cash assistance to the eligible unit has been terminated and the case closed as a result of a failure to correct a sanction, provided this period of time in sanctions is prior to the 12-month lifetime limit placed on EA.

iii. In a household with two adult recipients, where one adult is noncompliant, and the cash assistance is reduced by the pro rata share, the agency portion of the EA/TRA shall be adjusted to offset the decrease in the cash assistance.

(b) The county or municipal agency may authorize payment for security deposits when a TRA is being provided. Issuance of a new security deposit shall not be contingent upon return of the previous deposit.

(c) EA shall not be provided to adult recipients who are terminated without good cause from an EA placement, such as a hotel/motel shelter or transitional housing for a period of six months when the termination is the result of the adult

recipient's actions, which may include, but are not limited to, the actions identified in (c)1 through 6 below. Such a determination cannot be made unless the county and municipal agencies have thoroughly reviewed with the recipient, prior to placement, the hotel, motel, shelter, or transitional housing violations that could result in EA termination and a six-month period of ineligibility.

1. Possession of a weapon or an instrument used as a weapon after entry into the shelter;

2. Destruction of shelter property or the property of others;

3. Threatening and/or disruptive behavior that affects the operations of the shelter or the safety of the other residents;

4. Possession or use of drugs or alcohol on the premises. If the recipient is terminated from the shelter for this reason, EA cannot be terminated unless the recipient is already participating in the SAI and with the consultation of the SAI coordinator. Otherwise, the recipient shall be referred to the SAI;

5. Violation of health and safety policies, including, but not limited to, smoking in undesignated areas, burning of candles or incense in the room, and the use of hotplates or other cooking devices in the room; or

6. More than one violation of the same rule of the hotel/motel or shelter, other than those enumerated in (c)1 through 5 above, which has a substantial effect on the health and safety of the residents, staff or facility.

(d) The CWA/MWA shall request, prior to EA termination, that the facility provide written documentation to support the termination, if possible.

(e) The recipient shall be eligible for continued EA for other violations, including, but not limited to, those identified in (e)1 below, that may result in a termination from a facility. The caseworker shall evaluate the recipient's circumstances and make an appropriate placement. A hotel/motel placement shall be considered as a last resort when there are no supervised placements available.

1. An adult EA recipient who incurs two or more terminations, for reasons that may include, but are not limited to the following will result in a loss of EA for a period of six months.

i. Failure to observe the curfew policy of the facility, without good cause;

ii. An absence from the facility without good cause, for 24 hours or more, without prior notification or approval; or

iii. Violation of the facility's policies concerning visitation, for example, visits to other floors, rooms or outside guests.

(f) For other minor violations that may result in an eviction from the hotel/motel or transitional housing placement, the adult recipient will be eligible for continued EA in a supervised placement only. However, hotel/motel placements may be utilized when there are no supervised placements available. A second eviction will result in a loss of EA for a period of six months, unless good cause has been determined.

(g) Prior to EA termination, the agencies shall review, with the recipient, the reason(s) for the termination. If additional barriers are identified that may have prevented EA compliance, then the recipient is considered to have good cause and shall not be terminated and a penalty shall not be imposed. The recipient shall be required to follow through with services to address those barriers for continued EA eligibility. Such services shall be identified as mandatory activities in the EA service plan.

(h) For any subsequent placement, the CWA/MWA shall revise the EA service plan and ensure that the recipient is made aware that failure to comply with the rules of the placement will render him or her ineligible for EA for six months.

(i) The EA penalty shall be lifted when the applicant or recipient experiences a new emergency, which may include, but is not limited to, a fire, natural disaster or a new eviction, through no fault of the applicant or recipient; or if the family has a Division of Youth and Family Services case opened for abuse and neglect pursuant to N.J.A.C. 10:90-6.1(c)3xii.

1. On a case-by-case basis and in consultation with DFD, the penalty may also be lifted when deemed appropriate by the county or municipal agency.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), added language regarding a Citizenship Application fee; in (a)1, added language regarding emergency housing; rewrote (a)5; in (a)5i, added N.J.A.C. reference; in (a)7, added last half of first sentence and second sentence; rewrote (a)7i and added new 7i1, 2, and 3; rewrote 7ii; and deleted 7iii.

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), rewrote the introductory paragraph, inserted “, unless authorized by DFD on a case-by-case basis” in 3, rewrote 6 and the introductory paragraph of 7.

Amended by R.2010 d.239, effective November 1, 2010.
See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

In the introductory paragraph of (a), deleted a semicolon following “housing”; added new (a)1i; recodified former (a)1i as (a)1ii; rewrote the introductory paragraph of (a)7 and (a)7i(1); deleted former (a)7i(2); recodified former (a)7i(3) as (a)7i(2); in (a)ii, substituted “until one month after” for “unless”; added (a)7iii; and added (b) through (i).

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 155) adopted, which found that in calculating Temporary Rental Assistance, N.J.A.C. 10:90-6.1(c)2 required the agency to consider all “potential contributions,” including an applicant’s prospect of continued Universal Service Fund subsidy and voluntary rent contribution from a friend; however, because the agency was provided with insufficient information to determine whether the individual volunteering to assist with rent had the wherewithal or the will to continue payments for the entire term of the lease, the agency was within its right to deny emergency assistance under N.J.A.C. 10:90-

6.3(a)7i(2). T.A. v. Burlington County Bd. of Social Services, OAL Dkt. No. HPW 8995-06, Final Decision (April 16, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 629) adopted, which concluded that although N.J.A.C. 10:90-6.3(a)1 and N.J.A.C. 10:90-6.6(a)1i(1) allowed an applicant for emergency housing to be placed outside his municipality of customary residence, they did not provide the agency with the authority to move him beyond the county’s geographic boundaries. Public policy favored maintaining a homeless person either in or as close to his municipality of residence as possible. G.M. v. Cumberland County Bd. of Social Services, OAL Dkt. No. HPW 395-07, 2007 N.J. AGEN LEXIS 967, Final Decision (February 5, 2007).

10:90-6.4 Time limitations

(a) Any emergency assistance granted shall be limited to 12 cumulative months during the lifetime of the case, irrespective of the county or municipality of residence. A month of emergency assistance shall be any month for which a payment of emergency assistance of any kind is issued on behalf of a WFNJ TANF/GA, or SSI recipient, unless otherwise excluded.

1. Payment of security deposits shall not count towards the recipient’s 12-month lifetime limit on receipt of EA benefits.

2. Payment of retroactive rent or mortgage shall be counted month for month toward the lifetime limit. Payment of retroactive utilities shall be counted as one month for each two full months paid, or parts thereof.

3. The provision of allowances for food, clothing or single replacement items of furniture and the one-time payment of a Citizenship Application Fee are specifically excluded from the calculation of the maximum lifetime EA limit.

(b) Additional emergency assistance shall be granted beyond the 12-month maximum when, in the judgment of the county or municipal agency, the WFNJ or SSI recipient has taken all reasonable steps to resolve the emergent situation but the emergency nonetheless continues or a new emergency occurs, which causes extreme hardship to the family.

1. The following listing is not intended to be exhaustive, nor should it be interpreted as preventing county or municipal agencies from considering other situations not specifically mentioned in the list. Nevertheless, the agency shall confer with DFD if individual and/or family circumstances which are offered as a reason for extending EA represent a departure from the categories provided herein. An extension of emergency assistance based on extreme hardship shall be provided when:

i. There is the danger of a loss of employment or a bona fide offer of employment by a recipient adult;

ii. There is imminent danger of the immediate breakup of the family unit, with children needing to be placed in foster care;

iii. The recipient adult or child is in imminent physical danger or at risk of abuse and neglect;

iv. There is danger of serious harm to persons who are clinically/medically diagnosed as mentally and/or physically incapable of caring for themselves, thereby possibly leading to inpatient hospital care or institutionalization; or

v. The request for additional EA arises directly out of a substantial loss of shelter, food, clothing, household furnishings and/or essential utilities incurred as a result of a natural disaster.

2. Recipients who are in applicant status for Supplemental Security Income (SSI), or who have been denied but have appealed the denial, shall receive a six-month extension of emergency assistance. This status needs to be supported by medical documentation.

(c) No more than 10 percent of single adults and couples without dependent children (WFNJ/GA) who are receiving temporary rental assistance may receive one six-month extension of emergency assistance if the agency determines that a case of extreme hardship exists, pursuant to (b)1 above.

1. The county or municipal agency shall review each such case monthly to determine if the extreme hardship continues to exist.

(d) The county agency shall extend emergency assistance beyond the 12-month limit, for up to six additional months, to an assistance unit with dependent children (WFNJ/TANF) when the agency determines that a case of extreme hardship exists, pursuant to (b)1 above. Agencies are to make a decision on extension applications within 15 days after all extension applications are received for that month and inform the recipient of the agency's decision.

1. Each such case shall be reviewed monthly by the county agency to determine if the extreme hardship continues to exist.

2. If, at the end of the first six-month period, extreme hardship continues to exist in an assistance unit with dependent children, the county agency shall provide an additional six months of emergency assistance to no more than 10 percent of those assistance units with dependent children who are currently in receipt of temporary rental assistance.

(e) County or municipal agencies shall extend emergency assistance beyond the 12-month limit to recipients who are diagnosed as HIV positive with symptoms or who have active AIDS, or are terminally ill and are unable to perform activities of daily living, up to a maximum of 12 additional months.

(f) Agencies are to carefully assess the impact of the termination of EA on victims of family violence, rape or incest. If termination would make it more difficult for a recipient to escape family violence or would unfairly penalize the recipient who is or has been victimized by any such violence, or who is at risk of further family violence, then the 12-month

limit shall be deferred for up to six months. Authorization for continuing or granting EA because of family violence beyond this limit may be authorized by DFD on a case-by-case basis.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added new (a)1; recodified former (a)1 as (a)2; in (b), substituted "Additional emergency assistance" for "Emergency housing" and added language regarding new emergencies; in (b)1, added last sentence; in (b)1i through iv, added language detailing when an extension of emergency assistance will be given; added new v; and recodified former (d)3 as (e).

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), substituted "shall" for "may" preceding "be granted" in the introductory paragraph and added 2; in (d), added the second sentence in the introductory paragraph; added (f) and (g).

Amended by R.2008 d.313, effective October 20, 2008.
See: 40 N.J.R. 2191(a), 40 N.J.R. 6205(a).

Deleted (g).
Amended by R.2010 d.239, effective November 1, 2010.
See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

Added new (a)1; and recodified former (a)1 and (a)2 as (a)2 and (a)3.

10:90-6.5 Recipient contribution

(a) Recipients of emergency assistance, including those receiving SSI, shall contribute 30 percent of their total household income towards payment of all emergency shelter arrangements, including utilities and all other forms of alternative housing arrangements, such as transitional housing programs, domestic violence shelters, emergency shelters, placement in hotels or motels and temporary rental assistance.

1. The EA recipient contribution shall be assessed by the county/municipal agency on the basis of all income available to the EA household. Once the county/municipal agency has deducted the recipient contribution from the cash assistance payment, the county/municipal agency shall be responsible for forwarding the full shelter payment to the vendor.

i. SSI recipients with documented out-of-pocket medical expenses or other disability related expenses, which cannot be met through another source, are eligible for a reduction in their contribution amount.

2. The county or municipal agency shall begin deducting the monthly contribution for recipients temporarily housed in hotels/motels, emergency shelters or transitional housing after the second full month following the month in which the family was initially placed in the temporary housing. TRA contributions shall begin no later than the second month of placement.

3. When a WFNJ recipient is housed in a shelter arrangement that requires an out-of-pocket payment, then the recipient's EA contribution shall be adjusted to take into consideration the out-of-pocket payment. If the required out-of-pocket contribution is 30 percent or more, then the recipient shall not be required to contribute an additional 30 percent of his or her income toward the required EA contribution.

(b) When replacement housing is required to resolve the emergency in a child only case, the agency shall determine the amount of its participation in the payment of the costs of such housing based on the need to house the child(ren) adequately. Therefore, EA shall be provided in an amount sufficient to adequately house the assistance unit and the non-needy parent-person(s). When the eligible child and the non-needy parent-person reside with or plan to reside with other individuals who are not WFNJ recipients, the agency shall not include anyone other than the assistance unit and the non-needy parent-person(s) when determining the amount of the EA payment for housing arrangements. All other individuals who benefit from the living arrangement must contribute toward defraying the costs of the emergency housing.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Rewrote (a); in (a)1 and 2, added language regarding meals and housing; inserted new 3; rewrote 4; and added 5.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a), inserted “, except those individuals with households whose sole source of income is SSI,” preceding “shall contribute” in the introductory paragraph, and rewrote 5; added (b).

Amended by R.2010 d.239, effective November 1, 2010.

See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

Rewrote (a).

10:90-6.6 Recipient/agency responsibilities

(a) The county/municipal agency shares responsibility with the individual/family in receipt of emergency assistance to resolve the emergency situation and to assist the individual/family to secure a suitable permanent housing arrangement. Receipt of emergency assistance is contingent upon the recipient’s taking reasonable steps toward resolving the emergent situation. Reasonable steps shall include the recipient’s signature on a written notice of recipient responsibilities while receiving temporary housing/shelter; participation in formulating, complying with and carrying out a plan for service; fulfilling the number of housing searches mutually agreed upon; and following agency recommendations related to resolving the emergent situation. The service plan shall consist of mandatory and non-mandatory activities as determined by the agency. The agency shall review each activity listed on the service plan with the recipient. Failure to comply with the mandatory activities of the service plan without good cause shall result in termination of EA benefits for a period of six months. In no case shall the EA granted exceed the limits set forth in N.J.A.C. 10:90-6.4 concerning time limits and extensions in situations of extreme hardship.

1. The service plan shall be developed between the county or municipal agency and the recipient of emergency assistance within 10 days of the EA authorization date in order to provide a plan of action aimed at working toward securing permanent shelter and also, where directly related to securing such shelter, at resolving the circumstances that contributed to the emergency situation. When appropriate, development of the service plan shall be coordinated with the development of the individual responsibility plan (IRP)

discussed in N.J.A.C. 10:90-4.8. For individuals requesting EA for reason of family violence or the risk of family violence, the EA service plan must be coordinated with any services offered through the designated victim service provider agency and included in the family violence safety and service plan in accordance with N.J.A.C. 10:90-20.1(b)1ii. Every effort shall be made to avoid situations in which the development and execution of one plan infringes upon the development and execution of the other, thereby placing the recipient in danger of being either sanctioned due to non-cooperation or terminated from receipt of EA. The service plan shall include, as appropriate, but is not limited to:

i. Selection of a housing arrangement which takes into consideration the recipient’s circumstances, such as mental or physical problems.

(1) Every effort will be made to locate suitable housing in the community of prior permanent residence. If, however, shelter/housing is not available at the most reasonable rate, taking into consideration individual circumstances and services provided, within the municipality of customary residence, the recipient, as a condition of eligibility, shall be obliged to accept shelter/housing outside the municipality of customary residence;

ii. Provision of the following specified services:

(1) Information;

(2) Referral;

(3) Assistance in securing shelter, including transportation;

(4) Assistance in arranging for child care; and

(5) Referral for legal services; and

iii. Other service plan activities may include the following:

(1) Actively looking for safe and affordable permanent housing and providing documentation of such efforts;

(2) Seeking and maintaining employment or following through with other programs that may lead to self-sufficiency;

(3) Attending all scheduled meetings with the agency worker;

(4) With agency assistance, planning the short-term or long-term goals associated with maintaining permanent housing;

(5) Providing proof of applications for public and subsidized housing;

(6) Cooperating in providing needed documentation for public or subsidized housing;

(7) Participating in programs designed to address barriers that may prohibit the assistance unit from maintaining permanent housing, which includes, but may not be limited to, the Substance Abuse Initiative, the Behavioral Health Initiative and TIP; or

(8) Following through with other agency referrals for services, including the Social Security Administration, Legal Services, child care services, and housing assistance.

2. The EA service plan shall be monitored monthly, at a minimum, for recipients residing in a shelter, motel or hotel. For recipients in receipt of a TRA, the EA service plan shall be monitored, as appropriate by the agency, but not less than every six months.

3. The county or municipal agency shall reevaluate and/or revise the service plan as warranted by changes in the recipient's shelter needs and/or other pertinent circumstances.

i. When emergency assistance has been extended beyond the 12-month maximum found at N.J.A.C. 10:90-6.4(a) above for either an initial period of six months or a second period of six months (applicable to WFNJ/TANF recipients only), the service plan must be revised in order to address the special circumstances which have contributed to the hardship which caused the extension.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Deleted (a)iv.

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (a)1, added the third sentence in the introductory paragraph.
Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a)1, inserted "as appropriate" before "but is not limited to:" in the fifth sentence.

Amended by R.2010 d.239, effective November 1, 2010.

See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

In the introductory paragraph of (a), rewrote the fourth sentence and added the fifth sentence; in the introductory paragraph of (a)1, substituted "non-cooperation" for "noncooperation"; in (a)1i(1), substituted a semicolon for a colon at the end; in (a)1ii(5), inserted "and" at the end; and rewrote (a)1iii and (a)2.

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 629) adopted, which concluded that although N.J.A.C. 10:90-6.3(a)1 and N.J.A.C. 10:90-6.6(a)1i(1) allowed an applicant for emergency housing to be placed outside his municipality of customary residence, they did not provide the agency with the authority to move him beyond the county's geographic boundaries. Public policy favored maintaining a homeless person either in or as close to his municipality of residence as possible. G.M. v. Cumberland County Bd. of Social Services, OAL Dkt. No. HPW 395-07, 2007 N.J. AGEN LEXIS 967, Final Decision (February 5, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 45) adopted with comment, which found that the agency improperly terminated petitioner's temporary rental assistance after petitioner failed to provide weekly proof that he was searching for housing; petitioner's Individual Responsibility Plan made the housing search voluntary and specifically informed him

that he would not be penalized if he failed to do so and, pursuant to N.J.A.C. 10:90-6.6(a)1, superseded the conflicting mandatory search requirement of the Emergency Assistance Service Plan, particularly since petitioner's mental condition rendered him incapable of fulfilling a housing search requirement. J.R. v. Union County Div. of Social Services, OAL Dkt. No. HPW 01364-07, 2007 N.J. AGEN LEXIS 172, Final Decision (January 24, 2007).

10:90-6.7 Payment for hotel or motel placements

The county or municipal agency shall issue payment for emergency housing provided in hotels and motels in accordance with the schedule of per diem rates as follows:

Emergency Assistance amounts per day

1 Person/1 room	\$50.00
2 Persons/1 room	\$60.00
3 Persons/1 room	\$75.00
4 Persons/1 room	\$75.00
4 Persons/2 rooms	\$105.00
5 Persons/1 room	\$85.00
5 Persons/2 rooms	\$105.00

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

In (a), substituted "housing provided in hotels and motels" for "shelter"; inserted per diem rates; and deleted (b).

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In the schedule of per diem rates, increased payments for emergency housing.

Amended by R.2010 d.239, effective November 1, 2010.

See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

Section was "Payment for emergency shelter". Deleted designation (a).

10:90-6.8 Intercounty/municipality transfer of EA cases

(a) Whenever a single adult, a couple without dependent children or a family with dependent children requiring the provision of EA benefits moves from one county or municipality (WFNJ/GA only) to another, the following provisions shall apply:

1. When the county or municipality of origin (that is, the county or municipality that granted the emergency assistance benefit) places the individual or family in out-of-county/municipality temporary emergency housing, the county/municipality of origin shall retain financial responsibility for the shelter payments, regular assistance payments and issuance of food stamp benefits, if applicable, as well as other monitoring functions until the homelessness is resolved or permanent housing is obtained. If mutually agreed upon by the two counties or municipalities, the new county or municipality of residence may assume full responsibility for administration of the case, provided transfer requirements promulgated by DFD have been fulfilled. For transitional housing placements, the county or municipality where the transitional housing facility is located shall assume responsibility for the case regardless of whether or not EA was issued in the previous county or municipality.

2. When an EA recipient determined appropriate to receive TRA benefits moves to permanent housing in another county/municipality, with or without county or municipal agency intercession, the new county or municipality of residence shall assume responsibility for the TRA benefits, EA case management, WFNJ case management and cash assistance benefits provided the client remains eligible for EA payments after the recipient makes application for services in the new county/municipality, and pursuant to transfer requirements at N.J.A.C. 10:90-7.

3. When an EA recipient residing in one county or municipality voluntarily takes up residence in another county or municipality, without county or municipal agency intercession, the new county or municipality of residence shall assume responsibility provided the client remains eligible for EA payments, as well as all other monitoring requirements, including any cash assistance benefits, pursuant to transfer requirements promulgated by DFD. The recipient must apply for cash assistance in the new county or municipality and for food stamps in the new county. The time requirements for such transfers as found at N.J.A.C. 10:90-7 shall apply.

4. When a WFNJ recipient voluntarily moves from one county or municipality to another, with or without county or municipal agency intercession, and a subsequent change in circumstances results in the need for EA, the new county or municipality of residence shall immediately assume responsibility to determine eligibility for EA payments, as well as all other monitoring functions, pursuant to case transfer provisions at N.J.A.C. 10:90-7.

5. Any case transfer management disputes which cannot be resolved locally shall be referred to DFD to determine which county or municipal agency has responsibility for administration of the case. The decision of DFD shall be considered final and binding upon all parties involved.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), inserted "temporary" before "emergency housing" in the first sentence of 1, added 2, recodified existing 2 through 4 as 3 through 5.

Amended by R.2010 d.239, effective November 1, 2010.

See: 41 N.J.R. 3887(a), 42 N.J.R. 2621(a).

In (a)1, inserted "the" following "When" and inserted the last sentence.

10:90-6.9 Supportive Housing Assistance Program (SHAP) pilot project

(a) The SHAP pilot project is established pursuant to P.L. 1997, c. 14, §10 (Work First New Jersey Act), approved January 29, 1997, wherein the Commissioner of the Department of Human Services is authorized to waive compliance with the requirements of the Work First New Jersey (WFNJ) program to the extent the Commissioner deems it necessary to conduct experimental, pilot, or demonstration projects, which are likely to help promote the objectives of the WFNJ program. The SHAP pilot project expands upon the provi-

sions governing the granting of extensions of Emergency Assistance (EA) to recipients of WFNJ/General Assistance (GA) EA as found at N.J.A.C. 10:90-6.4(c), WFNJ/Temporary Assistance for Needy Families (TANF) and Federal Supplemental Security Income (SSI) payments, as found at N.J.A.C. 10:90-6.4(d), provided such individuals continue to need EA and are otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1.

(b) One purpose of the SHAP pilot project is to extend EA benefits for WFNJ recipients who otherwise qualify for Temporary Rental Assistance (TRA) and may have exhausted at least six months of their 12 cumulative-month lifetime limit on receipt of EA benefits in temporary housing, such as a hotel, motel or shelter and subsequently locate permanent housing; and to recipients whose emergency assistance benefits terminated due to the 12 cumulative-month lifetime limit on receipt of EA benefits and who are experiencing a new housing crisis. The second purpose of the SHAP pilot is to provide WFNJ recipients who are determined permanently disabled, as well as SSI recipients with up to an additional 36 months of EA.

1. Under the SHAP pilot project, WFNJ recipients who are engaged or eligible to engage in employment or a program designed to prepare recipients for competitive employment, may receive up to an additional 12 months of EA, plus up to two six-month extensions (see N.J.A.C. 10:90-6.4), in accordance with the following provisions:

i. Recipients must be in compliance with all WFNJ program requirements, including the EA services plan;

ii. Recipients must be participating or eligible to participate in a Federally defined work activity or, as appropriate, the Substance Abuse Initiative (SAI) or the Mental Health Initiative (MHI);

iii. Recipients must be in receipt of EA benefits and residing in a hotel, motel, or shelter placement paid for by the county or municipal agency, and have exhausted at least six months of their 12-month lifetime limit; or the recipient's emergency assistance benefits terminated due to the 12 cumulative-month lifetime limit on receipt of EA benefits and he or she is experiencing a new housing crisis; and

iv. Recipients must have located permanent or transitional housing and are in need of TRA benefits. The housing must be considered likely to become affordable during the receipt of SHAP benefits, or the housing must be the least costly arrangement and serve to preserve the family structure.

2. SSI recipients and WFNJ recipients who are determined permanently disabled and are in imminent danger of homelessness, shall receive up to 36 months of SHAP when one or more of the following criteria are met:

i. The individual has applied for and is either pending approval or appealing a denial for Retirement,

Survivors and Disability Insurance (RSDI) and/or SSI disability benefits, which shall be supported by a WFNJ/MED-1 form substantiating at least 12 months of disability. The individual shall cooperate with all WFNJ requirements related to applying for RSDI/SSI disability benefits;

ii. The recipient is the sole caretaker of a severely disabled or seriously ill dependent child or family member;

iii. There is recent documentation of long-term medical or psychological problems, which indicates that the individual is unlikely to ever secure and/or maintain employment;

iv. There is documentation of a history of mental and/or physical inability to take care of oneself, resulting in serious potential or actual harm to the individual based on agency observation as documented in the case file. Documentation may be provided from the case record, worker's observations supported by Form WFNJ-6, Work First New Jersey Medical Social Information Report, and/or verification from community-based organizations regarding the individual's mental and/or physical incapacity;

v. There is documentation of a history of recurrent inpatient hospital care or institutionalization due to a clinically/medically diagnosed chronic medical/psychological condition, which renders the individual functionally incapacitated;

vi. The individual is age 62 or above. The individual shall be required to apply for other benefits for which he or she may be potentially eligible, such as RSDI or SSI; or

vii. The individual has been diagnosed as HIV positive with symptoms, or has active AIDS, or is terminally ill and unable to perform activities of daily living.

(c) After receipt of SHAP, if additional assistance is needed, the recipient shall be evaluated for a hardship extension in accordance with N.J.A.C. 10:90-6.4.

(d) Recipients who lost Section 8 housing for non-compliance with Section 8 housing rules and regulations are not eligible for SHAP.

(e) WFNJ recipients must agree to a mandatory vendor-restricted payment for the payment of rent and/or other utilities, as deemed appropriate by the agency.

(f) In accordance with N.J.A.C. 10:90-6.3, the county and municipal agencies are authorized to make the following payments under SHAP:

1. Payment of security deposits shall be made for eligible recipients when permanent housing has been located.

Security deposits shall not be counted toward the months in SHAP.

i. If a recipient is placed in temporary housing while awaiting final arrangements for permanent housing, the time spent in temporary housing shall not count toward the SHAP benefit, as long as the recipient is currently receiving EA or is in a hardship extension.

2. Payment of retroactive utilities may be made in accordance with N.J.A.C. 10:90-6.3(a)5 and shall be counted as one month of receipt of SHAP benefits for each two months paid, not to exceed three months of SHAP benefits; and

3. Payment of retroactive rent or mortgage may be made in accordance with N.J.A.C. 10:90-6.3(a)5 and shall be counted month for month toward SHAP benefits.

(g) County and municipal agency responsibilities include, but are not limited to, the following:

1. Determining SHAP eligibility;

2. Developing and updating the EA Service Plan, as appropriate, but not less than every six months;

3. Placing recipients in TRA within three months or as soon as possible;

4. Ensuring that all supporting documentation, including the county or municipal agency's certification of recipient disability/unemployability, shall be maintained in the recipient's case record for recipients determined disabled or unemployable;

5. Referring recipients to appropriate agencies and programs to meet the recipient's needs, which may include, but not be limited to, substance abuse, medical services, and mental health screening and services. Additionally, as appropriate, making necessary transportation arrangements;

6. Documenting that recipients apply for permanent housing including Section 8, public housing, project or tenant-based vouchers, State-Rental Assistance Program and Housing First programs and accept that housing if offered; and

7. Assuring that recipients are referred to apply for SSI, RSDI, or other cash benefits to which the recipients might be entitled. For recipients who have been denied SSI, the agency shall ensure that the recipients follow through with all levels of the appeal process.

New Rule, R.2008 d.313, effective October 20, 2008.

See: 40 N.J.R. 2191(a), 40 N.J.R. 6205(a).

Section was "Reserved".

Administrative correction.

See: 40 N.J.R. 6970(a).

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In the introductory paragraph of (b), deleted a comma following "motel"; and in (b)2vi, substituted "62" for "60".

(e) A person is presumed innocent until proven guilty. Except as provided in N.J.A.C. 10:90-11.6(b), assistance shall be continued to an eligible person, even though there is reason to suspect that IPV has been committed, while the facts are under review by the county or municipal agency, or the law enforcement authority.

(f) The county or municipal agency shall ensure that an individual under investigation shall have the following rights:

1. The county or municipal agency shall ensure that information obtained from or concerning a person under investigation shall be restricted in accordance with N.J.A.C. 10:90-7.7. The county or municipal agency shall take special precautions in obtaining information from a third party so that no accusations relevant to the alleged IPV are disclosed, including the reason for the investigation or the nature of the allegation, without the written consent of the individual under investigation.

2. The county or municipal agency shall ensure that investigative methods do not infringe on the civil liberties of the individual or interfere with due process of law. The county or municipal agency shall be prohibited from obtaining forced entry, conducting residence searches without consent of the client, making home visits during normal sleeping hours (generally 10:00 P.M. to 7:00 A.M.), or requiring that an individual be subjected to a lie detector test.

3. Rules on warning and waiver of rights are as follows:

i. When the questioning of an individual regarding a possible charge of IPV becomes accusatory in nature, no individual may be asked or permitted to sign any waiver of rights before he or she has had an opportunity to read, or if necessary have read to him or her, the individual's right to refrain from answering any questions and to terminate the interview at will at any time. The individual shall also be given a copy of the statement explaining the individual's rights. The individual shall also be advised at that time of the opportunity, where available, to obtain legal counsel through Legal Services, the Legal Aid Society, or the lawyer referral service of the Office of the Public Defender. The individual shall be advised at that time that if he or she requests the presence of an attorney, the county or municipal agency shall postpone the interview for a reasonable period of time so that the individual may arrange for legal representation.

ii. The county or municipal agency representative shall ask if the individual wishes to sign the waiver of rights statement, indicating that he or she acknowledges his or her rights and agrees to discuss the matter without the presence of an attorney. The county or municipal agency representative shall witness the waiver by signing and dating the document. A copy of the signed document shall be given to the individual.

iii. If the individual refuses to sign the waiver, no further questioning shall occur at this time. If the individual requests the presence of an attorney, the county or municipal agency shall postpone the interview for a reasonable period of time so that the accused individual may arrange for legal representation. However, the investigation shall not be delayed pending the interview.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-11.2 Methods of determining IPV

(a) The county or municipal agency shall proceed against any individual member of an WFNJ assistance unit, regardless of WFNJ payment status, who it believes has committed IPV. The county or municipal agency may secure a finding of IPV either through an administrative disqualification hearing conducted by the Office of Administrative Law (OAL), or a court of appropriate jurisdiction. In proceeding against any such individual, the county or municipal agency shall coordinate the IPV investigation and any resultant hearing with any action being taken under the Food Stamp Program, when the factual issue(s) arises from the same or related circumstances. A finding of IPV may also be made if the accused signs either the waiver of right to an administrative disqualification hearing (N.J.A.C. 10:90-11.4), or a disqualification consent agreement (N.J.A.C. 10:90-11.9).

(b) A referral for an administrative disqualification hearing or referral to a court of appropriate jurisdiction shall be initiated by the county or municipal agency whenever the county or municipal agency has sufficient documentary evidence to substantiate that an individual has intentionally committed one or more acts of IPV, as defined at N.J.A.C. 10:90-11.1, regardless of the current eligibility of the individual.

10:90-11.3 Referral for administrative disqualification hearing

(a) Referral for an administrative disqualification hearing shall be made:

1. When the facts of the case do not warrant prosecution through the court system;
2. When a case previously referred for prosecution is declined by the appropriate legal authority; or
3. When no action has been taken on a case which has been referred for prosecution and the county or municipal agency has decided to formally withdraw the referral.

(b) A referral for an administrative disqualification hearing shall not be made against an individual whose case is currently being referred for prosecution, or subsequent to any action taken against the accused individual by a court of appropriate jurisdiction.

(c) IPV cases which are referred to the prosecutor and/or a court of appropriate jurisdiction and are handled through prosecution, pre-trial intervention, or are plea-bargained shall not be subsequently referred for an administrative disqualification hearing.

(d) The county or municipal agency shall consolidate an individual's fair hearing with an administrative disqualification hearing based on the same or related circumstances, provided that the individual receives prior notice of the consolidation.

10:90-11.4 Waiver of right to administrative disqualification hearing

(a) The accused individual shall have the option of waiving his or her right to an administrative disqualification hearing. The county or municipal agency shall provide written notification of this option to the client only after ensuring that the evidence against the client has been reviewed by someone other than the eligibility worker assigned to that case and that such evidence warrants the scheduling of a disqualification hearing. A mandatory written notification, which informs the individual of the option of waiving his or her right to a disqualification hearing, shall include:

1. The date that the signed waiver must be received by the county or municipal agency to avoid the holding of a hearing and a signature block for the accused individual;
2. A statement explaining that the caretaker relative must likewise sign the waiver if the accused individual is not the caretaker relative;
3. An appropriately designated signature block for the caretaker relative;
4. A statement explaining the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law;
5. A statement explaining that waiver of the individual's right to appear at a disqualification hearing may result in a disqualification penalty and a reduction in the assistance payment for the appropriate period, even if the accused individual does not admit to the facts as presented by the county or municipal agency;
6. A statement indicating that the accused individual shall be provided the opportunity to specify whether or not he or she admits to the facts as presented by the county or municipal agency; and
7. The telephone number and, if possible, the name of the person at the county or municipal agency to contact for additional information.

10:90-11.5 Administrative disqualification hearing procedures

(a) Administrative disqualification hearings will be conducted in accordance with the requirements of this section, and with those stipulated under N.J.A.C. 1:1 and 1:10. OAL will assign an administrative law judge (ALJ) to preside over the hearing.

(b) Administrative disqualification matters shall be transmitted by DFD to the OAL for the purpose of conducting a hearing pursuant to N.J.A.C. 1:1 and 1:10.

(c) The final decision shall be made by the Director of DFD based on the hearing record, and shall comply with Federal and State law and regulations.

(d) The hearing record shall be retained for a period of three years. This record shall be available to the WFNJ assistance unit, or its representative, at any reasonable time for copying and/or inspection.

(e) Within 90 calendar days of the date the individual is notified in writing that an administrative disqualification hearing has been scheduled, the hearing shall be conducted and a decision shall be rendered.

(f) The county or municipal agency shall provide advance written notice of the hearing to the individual suspected of IPV at least 30 calendar days in advance of the date an administrative disqualification hearing has been scheduled. The notice shall be mailed by certified mail-return receipt requested or served in person by a WFNJ representative. In the event that the individual refuses to accept delivery of the advance notice and the mail receipt notes that fact, the receipt will be accepted as proof of notice served. The certified letter shall be clearly marked "deliver to addressee only" in order to ensure that notice is served to the correct individual. A return receipt for certified mail which contains the signature of an individual other than the person addressed is insufficient evidence that proper advance notice was given. Letters sent by certified mail which are returned to the county or municipal agency with notations such as "unclaimed" or "undeliverable" offer no proof that advance requirements have been met. The advance notice shall contain at a minimum:

1. The date, time, and location of the hearing;
2. The charge(s) against the individual;
3. A summary of the evidence, and how and where the evidence can be examined;
4. A warning that the decision will be based solely on information provided by the county or municipal agency if the individual fails to appear at the hearing without good cause;

“Denied application” means a determination that, for a specific reason, the applicant is determined ineligible for assistance.

“Department” means the New Jersey Department of Human Services.

“Designated payee” means a person signing the application to whom the assistance benefits will be issued.

“Disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working; a record of such an impairment; or being regarded as having such an impairment (Americans with Disabilities Act of 1990 and Rehabilitation Act of 1973).

“Dismissed application” means recognition that eligibility need not be considered further because the applicant moved to another state during the application process or cannot be located, or the application was registered in error.

“Disregards” means the amount of earned income which is not considered in the WFNJ program when determining the amount of the assistance benefit.

“DDD” means the Division of Developmental Disabilities.

“Division of Employment Services (DES)” means the office within the State Department of Labor and Industry responsible for administration of Unemployment Insurance and Temporary Disability Benefits programs and for operation of the State Employment Service.

“Division of Family Development (DFD)” means the office within the State Department of Human Services responsible for supervision of the administration of county and municipal agencies.

“DVRS” means the Division of Vocational and Rehabilitation Services.

“DYFS” means the Division of Youth and Family Services in the Department of Human Services.

“Electronic Benefit Transfer (EBT)” means the utilization of a Families First debit card by which a recipient may draw benefits through an approved financial institution or vendor.

“Eligible medical institution” means a facility or specified section thereof certified as an approved institution for the purpose of treating acute illness (private or general hospitals) or providing care for the chronically ill (long term care facilities).

“Emergency assistance” means a program of assistance and related services to WFNJ recipients for brief periods of time, necessitated by unusual circumstances which were neither foreseen nor controllable by the recipient.

“Enrollment” means the WFNJ applicant/recipient has been admitted to a Department of Health and Senior Services’ licensed or approved residential substance abuse treatment program, is physically residing at the treatment facility, or has been admitted to a DHSS in-patient or out-patient facility.

“Exempt resource” means a resource which is not to be taken into consideration when computing extent of need and is not subject to liquidation requirements.

“Families First” means the program which utilizes Electronic Benefit Transfer as an alternate method of distributing benefits, such as but not limited to cash assistance and food stamps, to eligible individuals and families.

“Family violence” means subjecting an individual(s) to extreme cruelty or physical battering, as defined at 408(a)(7)(C) of the Social Security Act. These behavioral acts of abuse by a perpetrator are those behaviors that result in, or threaten to result in, physical or mental injury/abuse; threatened or attempted sexual assault; sexual assault activity involving a dependent child; the forcing of an individual as the caretaker relative of a dependent child to take part in non-consensual sexual acts or activities; and neglecting or preventing the individual(s) from getting medical care. Such harmful physical and controlling behavior(s) by the perpetrator, that may have occurred in the past or are presently taking place, can cause, but is not limited to, economic intimidation and isolation of the intimate partner(s) or other family member(s), and may impact that individual’s compliance with WFNJ program requirements or in seeking needed services for fear of their own or their child(ren)’s safety.

“Filiation proceedings” means court action to establish paternity and responsibility for support of a child born out-of-wedlock.

“Financial income eligibility” means it is determined that the applicant’s total monthly income is less than the applicable maximum income level established for needy individuals and families in the WFNJ program.

“Food Stamp Program” means a program to increase the food purchasing power of low income households.

“Full-time employment” means employment unsubsidized by any level of government in which a person is engaged for at least 35 hours a week.

“Full-time post-secondary student” means a student enrolled for a minimum of 12 credit hours in a post-secondary school.

“FVO Risk Assessment” means the specific contracted services of the Department of Human Services’ (DHS) designated domestic violence agency or the Department of Community Affairs (DCA), Division On Women’s (DOW) sexual assault service program to assess WFNJ TANF/GA individuals, who are granted a Family Violence Option (FVO) Waiver, for the purpose of confirming the individual’s need for a waiver or continued need for a waiver. The assessment includes a safety and service plan or a strategy consistent with the identified needs and safety concerns of WFNJ TANF/GA individuals; and the identification of intervention services.

“FVO Risk Assessment Process” means the standardized process established within each WFNJ CWA to refer WFNJ TANF/GA individuals, granted a FVO Waiver to the DHS’ designated domestic violence agency or the DCA, DOW’s sexual assault service program for a FVO Risk Assessment.

“Good faith effort for WFNJ/GA” means that the GA individual shall provide oral, written or additional information and documentary evidence known to, possessed by or reasonably obtainable by that individual, which leads to the identification of his or her child(ren) and the identification of the custodial parent(s), and is relevant to establishing paternity when applicable, and to obtaining a support order(s) and/or health care coverage.

“Good faith effort for WFNJ/TANF” means that the TANF individual shall provide oral, written or additional information and documentary evidence known to, possessed by or reasonably obtainable by that individual, that may lead to the identification and/or location of the non-custodial parent(s), and is relevant to establishing paternity when applicable, and to obtaining a support order(s) and/or health care coverage.

“Gross earned income” means the total earnings of members of the assistance unit before applicable disregards and deductions are subtracted, or the net profit from self-employment before income tax or personal taxes are deducted.

“Head of household” means the individual who is recognized by other members of the household as having primary responsibility for financial control and direction of the household.

“Homelessness, state of” means when the physical health and safety of an assistance unit, through no fault of its members, is imperiled by substantial loss of shelter.

“IM” means income maintenance.

“Incapacity” means physical or mental defect, illness or impairment, supported by competent medical testimony, of such a debilitating nature as to reduce substantially or eliminate an individual’s ability to support or care for himself or herself and/or the otherwise eligible child in his or her care, which is expected to last for at least 30 days.

“Income” means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, rent receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, Federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, inheritances, annuities, retirement benefits, veteran’s benefits, union benefits, or other source that may be defined as income by the Commissioner.

“Income eligibility standard” means the income eligibility threshold based on assistance unit size for benefits provided within the limit of funds appropriated by the Legislature.

“Income exclusions” means income that is not to be taken into consideration when determining WFNJ financial eligibility.

“Income-in-kind” means income received in the form of goods or services rather than cash.

“Inquiry” means any request for information about assistance programs which is not a request for an application.

“Institution” means a public or private facility providing 24 hour residential placement, care or incarceration.

“Intervention services” means those activities and services offered by the DHS’ designated domestic violence agencies, the DOW’s sexual assault service programs or through other community providers, such as, but not limited to, counseling.

“Legal custody” means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

“Legal guardian” means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child’s upbringing, pursuant to a court order.

“Legally-related” means a relationship created through marriage, adoption or legal guardianship procedures.

“Licensed residential substance abuse treatment program” means a Department of Health and Senior Services’ licensed residential substance abuse treatment program; drug treatment facility; alcoholism treatment facility; or halfway house.

“Location” means verified information about the alleged father’s and/or non-custodial parent’s physical whereabouts, employer(s), and/or other sources of income or assets, as appropriate, which are sufficient and necessary to take the next appropriate action on a case.

“State IV-D Agency” means the Department of Human Services (DHS).

“State institution” means any institutional facility for the mentally ill or developmentally disabled, penal institution or veteran’s hospital under the jurisdiction of the State of New Jersey.

“State office” means the Division of Family Development.

“Substance Abuse Initiative” means active participation in substance abuse treatment services that requires a substance abuse assessment administered by a professional clinical care coordinator (CCC) and treatment services as determined clinically appropriate by the CCC, for all WFNJ eligible applicants and recipients who have substance abuse problems.

“Suspended grant” means a payment which is withheld from the recipient pending clarification of continuing eligibility and/or extent of need or because of temporary increase of available resources.

“TANF” means the Federal welfare reform program called Temporary Assistance for Needy Families.

“Temporary payee” means a person designated temporarily by the WFNJ entity to receive assistance payments on behalf of an eligible individual or family, usually in an emergency situation.

“Time-limited assistance” means an aggregate total of 60 cumulative months of receipt of WFNJ benefits whether or not those months are accrued consecutively or intermittently during periods of program participation.

“Timely notice” means a notice that is mailed to a WFNJ applicant/recipient by a county or municipal agency at least 10 calendar days before the effective date of an agency’s decision or action concerning WFNJ benefits.

“Title IV-D” means Part D, “Child Support and Establishment of Paternity,” of subchapter IV of the Social Security Act (42 U.S.C. § 651 et seq.) under which states receive partial Federal reimbursement of their administrative expenses for establishing paternity and collecting child support.

“Total countable income” means the sum of all recognized income of the assistance unit, including unearned and calculated earned income.

“Transfer application” means a signed request for assistance from a recipient who is presently receiving assistance under the same program in another county or municipality in the State.

“Unrestricted payments” means checks drawn to the order of and delivered to the recipient or authorized payee and received by such person without direction of any kind as a condition of receiving the payment.

“Vendor payment” means a payment drawn to the order of a person or facility for providing goods or services to or for the client, representing payment for such goods or services.

“Vocational training” means providing recipients with classroom training experience and instruction related to specific occupational areas in demand in their labor market area. Training may be combined with CWEP.

“Voluntary acknowledgment of paternity” means consent to the parentage of a child(ren) by signing a Certificate of Parentage. This includes a request by the alleged father and/or the non-custodial parent for genetic testing.

“WFNJ/TANF” means the Work First New Jersey/Temporary Assistance for Needy Families Program.

“WFNJ/GA” means the Work First New Jersey/General Assistance Program.

“Withdrawn application” means an oral or written request by an applicant that the WFNJ entity terminate its activity on his or her application.

“Work activity” means, but is not limited to, the following: employment, on-the-job-training, job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalency, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

“Work First New Jersey participants” means all individuals in the assistance unit.

“Work First New Jersey program” means the single public assistance program established pursuant to P.L. 1997, c.13, c.14, c.37 and c.38, which provides assistance to single adults, couples without dependent children and families with dependent children.

Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Inserted “Legal custody” and “Legally-related”; and in “Parent”, added a reference to legal guardians.

Amended by R.1999 d.66, effective March 1, 1999.

See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

Inserted “Substance abuse research demonstration (SARD)”.

Amended by R.2000 d.347, effective August 21, 2000.
See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Inserted "Cooperation with child support", "Good faith effort for WFNJ/GA" and "Good faith effort for WFNJ/TANF".

Amended by R.2000 d.371, effective September 18, 2000.

See: 32 N.J.R. 2203(a), 32 N.J.R. 3435(a).

In "Substance Abuse Research Demonstration (SARD)", deleted a reference to applicants.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Rewrote "Parent-person".

SUBCHAPTER 16. CHILD SUPPORT AND PATERNITY

10:90-16.1 Introduction

(a) P.L. 93-647 establishes Title IV-D of the Social Security Act, which mandates procedures for locating non-custodial parents, establishing paternity for children born out-of-wedlock and establishing, enforcing and/or modifying support obligations owed by non-custodial parents to their children. Title IV-D services with regard to paternity determinations and support collections shall be available to a WFNJ individual, a Medicaid individual, a Title IV-E individual or any other individual not receiving WFNJ who files an application for child support services.

(b) The WFNJ program is designed to promote self-sufficiency. Support collections are a vital financial resource to all individuals attempting to attain and/or maintain self-sufficiency. Applicant/recipient cooperation with the county welfare agency child support unit (CWA/CSU) is a necessary step in obtaining support collections. Child support cooperation is an interactive ongoing process based on individual case circumstances. The applicant/recipient has a continuing responsibility to provide all necessary and new information available to them. The CWA/CSU is responsible for assisting the clients in obtaining information in its efforts to make paternity determinations and to obtain support collections from their responsible parent(s).

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Added the second sentence.

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Rewrote the section.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), substituted "CWA/CSU" for "CWA/CSP".

10:90-16.2 Cooperation with child support for WFNJ eligibility

(a) The first step in the WFNJ application process is cooperation with child support. In addition to the eligibility requirements contained in N.J.A.C. 10:90-2.2 and 3.2 or 3.4, requirements for WFNJ eligibility shall include the following:

1. The application process for WFNJ benefits for both WFNJ/TANF and WFNJ/GA individuals begins with the agency worker assigned to ascertain cooperation requirements of child support. For TANF purposes, at the time of the IV-D interview with the WFNJ/TANF applicant/recipient, the CWA/CSU worker shall explain the child support cooperation requirements set out in this section and N.J.A.C. 10:90-16.3, the good faith effort requirement set out in N.J.A.C. 10:90-16.4 and what constitutes a claim for good cause exceptions from the child support requirements, as outlined at N.J.A.C. 10:90-16.5 and the related procedures for those individuals affected by family violence at N.J.A.C. 10:90-20. The CWA/CSU worker, as an agency program contact person, shall notify all WFNJ/TANF individuals having contact with the CWA/CSU of the WFNJ Family Violence Option (FVO) in accordance with N.J.A.C. 10:90-20.2, and explain the purpose of the WFNJ FVO and of the availability and opportunity for referral to the CWA FVO representative. Except in extraordinary circumstances, the IV-D interview shall be conducted at the time of application.

i. For TANF purposes, the IV-D interview to establish cooperation shall begin with the applicant/recipient signing the affidavit of cooperation and completing the child support questionnaire which includes providing information related to the non-custodial parent in accordance with N.J.A.C. 10:90-16.4(b) and (c), unless the WFNJ/TANF individual requests a WFNJ FVO Waiver in accordance with N.J.A.C. 10:90-16.5 and 20.6 for reason of family violence as a good cause exception from child support requirements, or any of the other reasons for good cause exemption from child support requirements in accordance with N.J.A.C. 10:90-16.5. The WFNJ FVO Waiver and WFNJ/TANF Waiver mean the same as a good cause exception from the child support requirements for reason of family violence or the risk of family violence and are used interchangeably throughout this subchapter.

(1) The WFNJ/TANF applicant/recipient is required to provide information related to the non-custodial parent at the time of the IV-D interview but no later than 30 calendar days from the date of the notice of initial cooperation with child support in accordance with N.J.A.C. 10:90-16.4(d).

(2) During any IV-D contact of a WFNJ/TANF applicant/recipient with the CWA/CSU as a component of the WFNJ/TANF application processing, WFNJ/TANF redetermination processing, IV-D case processing, or after completion of these processes, the WFNJ/TANF applicant/recipient shall be informed of the right to speak with a CWA FVO representative and offered the opportunity to do so in accordance with N.J.A.C. 10:90-20.2. During any of the aforementioned types of contact with the CWA/CSU, should the WFNJ/TANF applicant/recipient request a WFNJ/TANF Waiver, that is, a good cause exception

from the child support requirements for reason of family violence, then corroborative evidence concerning the violence and the client's circumstances is not and shall not be required by the CWA/CSU. The individual's case shall be handled in accordance with the rules for the WFNJ FVO Initiative at N.J.A.C. 10:90-20 and involves completion of the WFNJ FVO Risk Assessment process, as delineated at N.J.A.C. 10:90-20.8 and 20.12, to determine possible risks of harm to the WFNJ/TANF individual and family members.

ii. The CWA/CSU shall make the determination as to whether or not the WFNJ/TANF applicant/recipient has initially cooperated in good faith in accordance with N.J.A.C. 10:90-16.3.

iii. During the period after initial cooperation has been determined, if the CWA/CSU finds that the information provided by the WFNJ/TANF applicant/recipient is insufficient and additional information is necessary, the CWA/CSU shall make a determination as to whether or not the applicant/recipient has continued to cooperate in meeting the good faith effort requirement in accordance with N.J.A.C. 10:90-16.4.

iv. If later CWA/CSU efforts to verify a WFNJ/TANF applicant's/recipient's information show that inaccurate information related to the non-custodial parent was deliberately provided, the applicant/recipient shall be found to have failed to cooperate.

v. At the point of initial intake, for WFNJ/GA applicants, initial cooperation in good faith with the child support requirements shall be established by the completion and signing of the affidavit of cooperation, which shall include the identification of his or her child(ren) and their respective custodial parent(s). Although completion of the Affidavit of Cooperation satisfies the WFNJ eligibility requirement to cooperate with child support, a WFNJ/GA applicant/recipient may have continuing child support requirements, which do not impact the individual's eligibility for WFNJ benefits.

vi. At the time of any adverse action, the applicant/recipient shall be advised of his or her rights to a fair hearing and to appeal any adverse action in accordance with N.J.A.C. 10:90-9.3.

2. If at the time of application, it is not possible to complete the IV-D interview due to extraordinary circumstances, the following procedures shall apply:

i. When the WFNJ/TANF applicant is applying for multiple benefits, for example, WFNJ, Medicaid and food stamps, the CWA shall determine if the IV-D interview and work registration requirement can be completed on the day of initial contact with the agency. Where the IV-D interview and/or work requirement cannot be completed on the day of application, the applicant shall be afforded the opportunity to file the

application for food stamps and Medicaid if appropriate, that day. At a minimum, the applicant shall provide his or her name and signature, as well as the date of filing, on the application. The applicant shall also complete the questions on the application which are relevant in determining whether the household is entitled to food stamp expedited service and all questions relevant to determining Medicaid eligibility. In addition, the applicant shall be provided with an appointment to return to the agency to comply with the IV-D interview and/or the work registration requirement.

ii. When the WFNJ/TANF applicant is applying for multiple benefits, for example WFNJ, Medicaid and food stamps, and fails to cooperate with the CWA/CSU, the application process shall continue for food stamps and Medicaid for any eligible children and any applicant who meets the Medicaid exception requirement in accordance with N.J.A.C. 10:90-16.3(f)1.

iii. In cases of immediate need, where the IV-D interview and/or work registration requirement cannot be completed on the day of application, the application process is to continue and immediate need determined, with the WFNJ/TANF applicant being provided an appointment to return to the CWA to comply with the IV-D interview and/or the work registration requirement.

iv. All child support activities shall be coordinated with the WFNJ/TANF applicant's/recipient's work activities as delineated in the individual responsibility plan (IRP) and/or the emergency assistance service plan.

v. A WFNJ/GA applicant's lack of cooperation with the child support requirement shall not delay a referral to the CWA to apply for the Food Stamp program or the Medicaid program for those individuals who meet the exception requirement in accordance with N.J.A.C. 10:90-16.3(f)1 or the processing of such application, if applicable.

vi. All child support activities shall be coordinated with the WFNJ/GA applicant's/recipient's work activities as delineated in the IRP and/or the emergency assistance service plan.

vii. In cases of immediate need, where the affidavit of cooperation and/or work registration requirement cannot be completed on the day of application, the application process is to continue and immediate need determined with the WFNJ/GA applicant being provided an appointment to return to the municipal or county agency to complete the affidavit of cooperation and/or the work registration requirement.

(b) WFNJ/TANF applicants, as a condition of eligibility for WFNJ, automatically assign to the CWA all rights to support from the children's non-custodial parent(s) or any other support to which the eligible children, or the applicant when he or she is included in the eligible unit, may be entitled (see N.J.A.C. 10:110-6.1). An assignment of rights is also

required for DYFS cases under Section 471(a)17 of the Social Security Act and as a condition of Medicaid under 42 C.F.R. 433.146.

(c) Title IV-D services with regard to paternity determinations and support collections shall be available to the Division of Youth and Family Services (DYFS) upon application and referral on behalf of the child(ren) for whom services are requested.

(d) Child support and paternity regulations contained in this subchapter are not required for the Refugee Resettlement Program (RRP). Although CWAs will not receive incentive payments for amounts collected for individuals in this program, there is no bar to providing child support services to this population.

Amended by R.1998 d.42, effective January 20, 1998.

See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Rewrote (a); recodified former (a)2 as (b); added new (c); recodified former (b) as (d); deleted former (c) and (d).

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Rewrote the section.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.

Amended by R.2011 d.068, effective February 22, 2011 (operative April 25, 2011).

See: 42 N.J.R. 1466(a), 43 N.J.R. 424(a).

In the introductory paragraph of (a)1, deleted a comma following "10:90-16.4"; and in (a)1v, inserted the last sentence.

10:90-16.3 Cooperation in good faith in establishing paternity and support

(a) The cooperation requirement herein is applicable pursuant to the Work First New Jersey Act, P.L. 1997, c.14.

(b) Applicants/recipients of WFNJ/TANF are required to cooperate in good faith as defined at N.J.A.C. 10:90-16.4 with the CWA/CSU unit to establish parentage and establish, modify and enforce child support orders, subject to good cause exceptions as set forth at N.J.A.C. 10:90-16.5.

(c) Cooperation in good faith for WFNJ/TANF applicants/recipients shall include, but is not limited to, providing the CWA/CSU with information related to the non-custodial parent as specified at N.J.A.C. 10:90-16.4(b) and (c). The CWA/CSU shall conduct an investigation based upon the information provided in an effort to identify and locate non-custodial parents, establish parentage and establish, modify and/or enforce child support orders. If an applicant/recipient of WFNJ/TANF fails to cooperate by not providing the necessary information as outlined at N.J.A.C. 10:90-16.4(b) and fails to make a good faith effort as outlined at N.J.A.C. 10:90-16.4(c), or fails to meet the criteria for continuing cooperation as outlined at N.J.A.C. 10:90-16.4(e), and good cause for failure to cooperate is not established, the CWA/CSU shall notify the WFNJ/TANF applicant/recipient that a determination of non-cooperation shall be made unless he or she takes certain specified actions to cooperate.

(d) A WFNJ/GA applicant/recipient shall be required to cooperate in good faith with the child support requirements by identifying his or her children and their respective custodial parent(s) and by providing the custodial parents address, date of birth and social security number or by providing all of the requested information he or she reasonably can through the completion and the signing of the affidavit of cooperation.

1. If an applicant/recipient refuses to provide information or sign the affidavit of cooperation, a determination of non-cooperation with the WFNJ/GA agency shall be made. See N.J.A.C. 10:90-16.2(a)2v regarding eligibility for other programs.

(e) An applicant/recipient of Medicaid benefits shall be required to cooperate in good faith in obtaining a child support order and medical support to which members of the eligible unit are entitled (see N.J.A.C. 10:90-16.4).

(f) Once a determination of non-cooperation is made, the WFNJ/TANF applicant/recipient and the children in the assistance unit shall be ineligible for cash benefits under WFNJ and the applicant/recipient shall be ineligible for Medicaid. The exception to this Medicaid ineligibility requirement is listed in (f)1 below. The applicant/recipient shall have the opportunity to challenge a determination of non-cooperation by requesting a fair hearing.

1. The exception to this Medicaid ineligibility requirement is that Medicaid does not sanction pregnant women and children. If a client is pregnant at the time a determination of non-cooperation with child support is made, Medicaid eligibility shall continue until pregnancy and the 60 day post-partum eligibility period are concluded.

(g) WFNJ applicants/recipients shall be required to cooperate fully with the CWA/CSU by:

1. Appearing at the appropriate child support agency, as necessary, to provide oral or written information, additional information or documentary evidence relevant to obtaining support health care coverage, which is known to, possessed by, or reasonably obtainable by the applicant/recipient and to provide information to establish parentage and establish, modify and/or enforce a child support order. A WFNJ/GA individual will have his or her case reviewed for appropriate action;

2. Appearing as a witness at judicial or administrative hearings necessary to obtain a support order(s);

3. Appearing for and submitting appropriate samples for scheduled genetic tests, along with the respective child(ren) of the alleged father, to determine paternity;

4. Providing information, or attesting to the lack of information, under penalty of perjury;

5. Permitting the CWA/CSU to obtain pertinent information not otherwise obtainable from third parties, as appropriate; and

i. If the individual indicates that he or she has a drug or alcohol problem, the individual shall not be referred to the EEI entity for participation during this WFNJ application process and the family's eligibility determination for WFNJ cash assistance shall continue without interruption. In such instances, when the family's WFNJ application is approved, the individual's self-identified drug or alcohol problem shall be taken into consideration and addressed, as appropriate.

2. For those adult applicants who meet the EEI eligibility criteria for participation and maintain that they do not have a drug or alcoholic problem, participation in the EEI shall be mandatory. Likewise, those adult family members who choose not to respond to the Cage-Aid drug and alcohol questions and who meet the eligibility criteria for EEI participation at (a) or (b) above, shall also be referred to the EEI entity for mandatory participation.

(d) Once it is determined that an adult individual meets all the criteria for mandatory participation in the EEI, the WFNJ agency shall immediately take action to refer that adult to the EEI entity as follows:

1. The county WFNJ agency shall provide a verbal explanation of what participation in EEI means as well as provide a copy of an "EEI Important Notice."

2. The county WFNJ agency shall require the mandatory EEI participant to sign form WFNJ/EEI-1, Early Employment Initiative Participation Agreement. Refusal by the participant to sign this form shall constitute non-cooperation with the EEI, in accordance with the EEI cooperation provision at N.J.A.C. 10:90-17.3(b), and shall result in the denial of the applicant family's WFNJ application for cash assistance. In addition, the WFNJ agency shall complete a WFNJ Agency Referral to EEI which shall include the earned income amount that would render the family ineligible for WFNJ/TANF cash assistance, if an EEI participant secures employment. The originals of the WFNJ/EEI-1 and the WFNJ Agency Referral shall be retained at the WFNJ agency and attached to the WFNJ application. The EEI participant shall be provided a copy of the EEI Participant Agreement. The WFNJ agency shall immediately fax, to the appropriate EEI entity, a copy of the signed WFNJ/EEI-1, along with a copy of the referral form.

3. At the time the county WFNJ agency refers the EEI participant to the EEI agency, the WFNJ agency shall also refer the EEI participant to the child care resource and referral (CCR&R) agency for post-EEI child care service arrangements. The WFNJ agency shall provide notification to the CCR&R agency of the need for post-EEI child care services by preparing a WFNJ Agency Referral to the CCR&R agency and immediately faxing it to the CCR&R agency. The WFNJ agency shall retain the original CCR&R agency referral and attach it to the EEI participant's WFNJ/TANF application.

Amended by R.2000 d.205, effective May 15, 2000.

See: 32 N.J.R. 639(a), 32 N.J.R. 1771(a).

In (a)1, substituted a reference to four months for a reference to six months.

Amended by R.2003 d.226, effective June 16, 2003.

See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

In (b), in the first sentence deleted "a high school diploma or a GED or" preceding "a work history".

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Substituted "Cage-Aid" for "CAGE-8" throughout.

Amended by R.2004 d.335, effective September 7, 2004.

See: 36 N.J.R. 2292(a), 36 N.J.R. 4145(a).

In (b), inserted "high school diploma or a GED or a" preceding "work history that equals or exceeds".

Administrative correction.

See: 42 N.J.R. 2322(a).

10:90-17.3 EEI participation

(a) For those WFNJ adult applicants who meet EEI eligibility criteria at N.J.A.C. 10:90-17.2(a) or (b), participation in the EEI shall be mandatory and non-cooperation shall result in denial of the WFNJ cash assistance application for both the applicant and the applicant's entire family.

1. EEI participant's shall be required to comply with all aspects of the cooperation and participation provisions of the EEI, as set forth in this subchapter, unless good cause exists, which aspects include, but are not limited to:

- i. Keeping all scheduled appointments timely;
- ii. Giving reasonable notice and explanation of the inability to keep an appointment;
- iii. Cooperating in the development of an WFNJ individual responsibility plan (IRP);
- iv. Signing the Early Employment Initiative Participation Agreement, and abiding by the provisions of that Agreement, which includes the agreement to withdraw the family's WFNJ application effective the date unsubsidized employment is secured when the gross earnings from that employment, along with any other countable income, of the family, exceed the maximum allowable income level for WFNJ financial eligibility; and
- v. Contacting the child care resource and referral (CCR&R) agency to arrange for post-EEI participation child care services, as appropriate.

(b) Participation in EEI shall be for a minimum period of 15 days to a maximum period of 30 days (which shall run parallel to the time frame for determining WFNJ program eligibility).

1. The applicant shall be referred to the administering entity charged with the responsibility for providing the up-front job search/placement service for EEI. The EEI entity shall develop an EEI plan with the participant, which shall identify the dates and times of the activities, as appropriate, as well as the desired employment goal. In addition, the plan shall state whether an activity support payment is to

be provided to cover necessary employment-related expenses to allow participation in the job search/placement activity outlined in the plan. The EEI plan shall be signed by the EEI participant and a copy of the plan shall be provided to the EEI participant.

2. The family's application for WFNJ, Medicaid and/or Food Stamps shall continue to be processed by the county agency, as appropriate, without delay.

i. Activity support payments and one time lump sum payments associated with participation in the EEI program, as set forth in (c) below, are disregarded as income in accordance with the State Plan for Title XIX when determining eligibility for AFDC-Related Medicaid.

3. All EEI participants shall be required to participate in an up-front job search/placement activity for the sole purpose of obtaining unsubsidized employment during which time the WFNJ county agency shall continue to process their application for WFNJ cash assistance. The EEI participation requirement is a minimum period of 15 days to a maximum period of 30 days or anytime after the 15 day minimum period when a final decision is reached on the client's WFNJ application (but not to exceed the 30-day maximum period). During the EEI participation period, the EEI family shall be eligible for an activity support payment, in accordance with the EEI Payment Schedule at (d) below, to cover employment-related expenses necessary to allow participation in the EEI, when such services are not available without charge from any other source. This activity support payment shall be based on identified job search/placement needs and shall not exceed the maximum activity support payment for the family size as indicated in the EEI Payment Schedule at (d) below.

i. If the WFNJ/TANF application was denied because of non-cooperation with EEI (see (a)1 above), and the family reapplies for WFNJ/TANF within 30 calendar days of that original WFNJ application date, any activity support payment provided to the family shall be considered as unearned income when determining WFNJ/TANF eligibility and calculating the WFNJ/TANF grant.

(c) When an EEI participant secures employment, the EEI entity shall determine whether or not the participant's gross earnings shall render the participant's family ineligible for WFNJ cash assistance by comparing the participant's gross earnings to earned income amount which the WFNJ agency entered on the "WFNJ Agency Referral to the EEI Entity" form.

1. If the EEI participant's gross earnings are equal to or less than the earned income amount indicated for that family on the referral form, the family may remain eligible for WFNJ cash assistance and the EEI entity shall refer the family to the WFNJ agency for a final determination of eligibility for cash assistance.

2. EEI participants who are successful in obtaining full-time unsubsidized employment and whose anticipated gross earnings, when combined with all other countable income available to the WFNJ assistance unit, exceed the earned income amount indicated for that family on the referral form, which exceeds the initial maximum allowable income eligibility level for WFNJ/TANF (Schedule I at N.J.A.C. 10:90-3.3(b)), shall be required to withdraw their family's WFNJ application for cash assistance. Before requiring the participant to initiate a withdrawal of the applicant family's WFNJ/TANF application, the EEI entity shall inquire whether any changes in the applicant family's assistance unit size or other countable income has occurred as of the date of the WFNJ application. If the participant states that changes have occurred, the EEI entity shall contact the WFNJ agency to ascertain the impact of such changes on the applicant family's WFNJ eligibility for cash assistance. If it is determined, by the WFNJ agency, that the changes reported by the EEI entity indicate that the applicant family may remain eligible for the WFNJ cash assistance, the EEI agency shall refer the participant back to the WFNJ agency for a final determination of eligibility for WFNJ cash assistance. If, however, the participant expresses that no changes have occurred since the date of the WFNJ application and the applicant family withdraws the WFNJ application, the participant's family shall be eligible to receive the following under the EEI, as appropriate:

i. A one-time lump sum payment to cover expenses necessary to avoid loss of housing or for other employment-related expenses necessary to enable the employed individual to continue to engage in his or her employment such as, but not limited to, transportation, uniforms, car maintenance, tools, supplies, licenses and testing fees. This one-time lump sum payment shall be provided to the family by the EEI entity based on specific need and shall not exceed the one-time lump sum payment ceiling for the participant's family size as designated in the EEI Payment Schedule at (d) below; and

ii. Up to two years of child care in accordance with the WFNJ child care services provisions at N.J.A.C. 10:90-5.2.

(d) The EEI Payment Schedule below identifies the activity support and one-time lump sum payment ceilings for EEI. These ceiling amounts are based on the WFNJ assistance unit size; therefore, the ceiling amounts shall remain constant even if more than one adult of the WFNJ applicant family is participating in EEI. The activity support payment and the one-time lump sum payment issued by the EEI entity shall not count toward the 60 month lifetime limit for receipt of WFNJ cash assistance.

1. The activity support payment ceiling represents the maximum amount an EEI family would be eligible to receive up front during the EEI participation period to cover

any expenses necessary to allow participation in the job search/placement activity.

2. The one-time lump sum payment ceiling represents the lump sum amount an EEI family would be eligible to receive, when full-time employment is secured during the EEI participation period, to cover expenses necessary to avoid housing loss or for other employment related expenses to enable the employed individual(s) to continue to engage in his or her employment. The EEI entity shall explain to the participant that the one-time lump sum payment is being issued in lieu of public cash assistance.

i. If a family reactivates the WFNJ/TANF application within a 60 day period from the date of the original WFNJ/TANF application in accordance with the provisions for reactivation at (f) below, the lump sum payment issued to the family shall be prorated for a two month period and applied as unearned income when determining the family's WFNJ/TANF financial eligibility and calculating the WFNJ grant amount.

E EI PAYMENT SCHEDULE

Number in WFNJ Assistance <u>Unit</u>	Activity Support Payment <u>Ceiling</u>	One-time Lump Sum Payment <u>Ceiling</u>
1	\$ 350	\$135
2	450	515
3	750	521
4	950	513
5	1,150	505
6	1,350	497
7	1,450	580
8	1,550	633

(e) An EEI participant shall be referred back to the WFNJ/TANF agency for WFNJ/TANF cash assistance when:

1. The EEI participant fully cooperates and participates in EEI as required and full-time unsubsidized employment is not found; or

2. Full-time employment is secured, however, the family continues to be considered financially eligible for WFNJ cash assistance because the participant's gross earnings combined with the family's other countable income is equal to or less than the WFNJ maximum allowable income eligibility level for the assistance unit, in accordance with N.J.A.C. 10:90-3.3 (Schedule I), and the family's countable income is less than the applicable WFNJ benefit level at N.J.A.C. 10:90-3.3 (Schedule II).

(f) Under certain circumstances, it may be necessary for a family, which has secured employment and has withdrawn its WFNJ/TANF application, to return to the WFNJ/TANF program for cash assistance. If the situation occurs within 60 days from the date of the original WFNJ application, the application shall be reactivated and the date of that original WFNJ application shall apply. Any of the following cir-

cumstances shall render the family eligible to reactivate its WFNJ/TANF application:

1. Child care services cannot be secured; or

2. The unsubsidized employment obtained while participating in EEI is no longer available, for reasons of good cause, in accordance with the good cause provisions under the WFNJ program at N.J.A.C. 10:90-4.10;

i. If the unavailability of the unsubsidized employment is due to a voluntary quit situation, the family shall not be eligible to reactivate its WFNJ/TANF application and shall be required to make reapplication to determine its eligibility for WFNJ/TANF cash assistance. At the time of reapplication, the individual who voluntarily quit the employment shall be subject to a 90-day voluntary quit penalty in accordance with N.J.A.C. 10:90-1.5. The other family members, however, shall be eligible to apply for cash assistance.

(g) If the WFNJ/TANF application is reactivated within 60 days of the original date of the WFNJ/TANF application, any lump sum payment amount received under EEI shall be prorated from the date of the original WFNJ/TANF application to the date the client contacted the WFNJ county agency for reactivation and subtracted from the WFNJ/TANF monthly grant amount(s) for which the assistance unit is eligible for that period of time. If the lump sum payment received under EEI is in excess of the family's monthly grant amount(s) for that period, the excess amount shall be counted as unearned income when calculating the WFNJ/TANF monthly grant amount for the assistance unit for any subsequent month.

(h) If the individual loses unsubsidized employment after 60 days from the date of the original WFNJ/TANF application, reapplication for WFNJ/TANF cash assistance shall be required.

(i) If a family experiences an emergency housing situation, in accordance with the emergency assistance provision at N.J.A.C. 10:90-6.1(b), while participating in EEI, the family shall immediately notify the EEI entity which in turn shall advise the client to return to the WFNJ agency for assistance. If the EEI participant is employed and an emergency situation occurs within 60 days from the original WFNJ/TANF application date, the family shall be eligible to reactivate its original WFNJ/TANF application. In all other instances in which the EEI family experiences an emergency situation, reapplication for WFNJ/TANF shall be required.

(j) Once a WFNJ/TANF adult participates in EEI, he or she may be considered an eligible candidate to repeat EEI participation if the county welfare agency determines that EEI participation would be beneficial in helping the client move toward self-sufficiency. An individual is considered suitable for participation in EEI at the county agency's discretion when determining subsequent eligibility.

(k) If the participant fails to cooperate with the terms of the EEI, in accordance with (a)1 above, without good cause (see good cause provisions at N.J.A.C. 10:90-4.10), the EEI entity shall report the incident of noncooperation to the WFNJ agency by completing Form WFNJ/EEI-2, EEI Agency Report/Referral. Upon receipt of the EEI entity's report of noncooperation, the WFNJ agency shall review the report to determine if the EEI agency correctly determined noncooperation and, if appropriate, send an adequate notice in accordance N.J.A.C. 10:90-9.1, to the WFNJ/TANF family advising that the WFNJ/TANF application for cash assistance for the participant and the participant's entire family is being denied because of noncooperation with the EEI and reapplication for WFNJ/TANF shall be required. The notice shall also include the family's right to a fair hearing.

1. If a fair hearing is requested and scheduled, the county WFNJ agency shall notify the EEI entity of the scheduled hearing. The EEI entity shall arrange for the required attendance of the appropriate EEI representative at the scheduled hearing.

Amended by R.2000 d.205, effective May 15, 2000.
See: 32 N.J.R. 639(a), 32 N.J.R. 1771(a).

Inserted (b)2i.

Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote (j).

Administrative correction.
See: 42 N.J.R. 2322(a).

SUBCHAPTER 18. SUBSTANCE ABUSE

10:90-18.1 General provisions and purpose

(a) Based on P.L. 1997, c.14 (Work First New Jersey Act), approved January 29, 1997 and P.L. 1999, c.427, approved January 18, 2000, the WFNJ Substance Abuse Initiative (SAI) is established to help promote the goals of the WFNJ program, to move WFNJ recipients from dependency on WFNJ cash assistance benefits to self-sufficiency, to the extent possible.

(b) The New Jersey Department of Human Services (DHS) in collaboration with the New Jersey Department of Health and Senior Services (DHSS) has established a substance abuse treatment program entitled the "SAI". The SAI addresses the needs of WFNJ recipients who are abusing drugs and/or alcohol to the extent that WFNJ recipients are unable to move forward and take advantage of work, work readiness

activities, or other service offered through the WFNJ program. The SAI shall provide substance abuse screening, assessment, treatment placement, utilization management, care coordination and case management. The screening and assessment services are available at the local WFNJ county welfare agency (CWA). The referral of WFNJ recipients to and participation in the SAI shall be either voluntary or mandatory. A substance abuse assessment shall be administered to each WFNJ recipient referred to the SAI by a professional clinical care coordinator (CCC) using nationally recognized standardized assessment tools. The CCC shall meet the requirements for Alcohol and Drug Counselors as established in the Alcohol and Drug Counselor Licensing and Certification Act, P.L. 1997, c.331. This subchapter is for use by the WFNJ CWAs/MWAs in the administration of this ongoing DHS initiative that shall provide an equal and meaningful opportunity for WFNJ recipients to participate in substance abuse treatment.

(c) All WFNJ CWAs/MWAs shall make referrals to the SAI program.

(d) The purposes of the SAI program are as follows:

1. To make no cost substance abuse treatment services, that include screening and assessment administered by a CCC, treatment, placement and follow-up as determined clinically appropriate by a CCC, available to WFNJ TANF/GA recipients who have substance abuse problems;

2. To assist SAI participants in removing substance abuse barriers to employment, as determined by a CCC, and to enable participants to obtain treatment with the goal of moving towards self-sufficiency, to the extent possible;

i. Supportive services shall be provided in accordance with N.J.A.C. 10:90-5;

3. To provide SAI participants with an integrated combination of work activity and substance abuse treatment as determined clinically appropriate by the CCC, by requiring individuals who are able to work to participate in job readiness activity that ultimately leads to work; and

4. To allow an SAI participant's hours spent in treatment to count towards the required hours of a WFNJ work activity.

i. For WFNJ recipients required to participate in a work activity, substance abuse treatment counts as a participant's work activity only if the CCC assesses the individual and monitors the participant's treatment.

(e) Unless good cause for temporary excused participation exists or other good cause for work deferral exists in accordance with N.J.A.C. 10:90-4.11(b), the SAI program provides for participant requirements that include, but are not limited to, the following requirements:

1. Completion and signing of the required SAI program forms, which include the Work First New Jersey Substance Abuse Initiative Care Coordinator Referral Form, WFNJ-125; the Consent for the Release of Confidential Alcohol or Drug Treatment Information to the National Council on Alcoholism and Drug Dependence Work First New Jersey Substance Abuse Initiative, WFNJ-126 and the Consent for the Release of Confidential Alcohol or Drug Treatment Information to State of New Jersey Welfare Information Systems, WFNJ-127 in accordance with the Federal Confidentiality regulations at 42 C.F.R. Part 2;

2. Participation in the completion of the substance abuse assessment administered by the CCC, using nationally recognized, standardized assessment tools.

i. WFNJ recipients shall also cooperate with intake interviews at the treatment facility and any follow-up activities as determined by the CCC;

3. For WFNJ recipients required to participate in the SAI, mandatory participation in substance abuse treatment, as determined to be clinically appropriate by the CCC, in accordance with N.J.A.C. 10:90-18.3;

4. WFNJ recipients who are referred for voluntary participation in the SAI that do not complete and sign the required SAI forms, or do not complete the assessment, cannot obtain substance abuse treatment services through the SAI. However, these individuals cannot be sanctioned for failure to comply with treatment services;

5. WFNJ recipients subject to mandatory participation in the SAI, when participation is considered a work activity, shall complete and sign the required SAI forms; complete the assessment and follow through with the recommended treatment or the recipient shall be sanctioned in accordance with N.J.A.C. 10:90-4.13; and

6. WFNJ applicants/recipients, who want to establish eligibility in accordance with N.J.A.C. 10:90-18.6 and are subject to mandatory participation in the SAI, shall complete and sign the required SAI forms; complete the assessment and follow through with the recommended treatment as a condition for WFNJ initial or continued eligibility and the receipt of WFNJ/GA cash assistance benefits.

10:90-18.2 Referral to the SAI

(a) WFNJ recipients who may be referred for voluntary participation in the SAI, include, but are not limited to, the following:

1. WFNJ TANF/GA recipients who are pregnant and choose to voluntarily participate in the SAI beyond the

third trimester, when the recipient is otherwise deferred, without the risk of sanction;

2. WFNJ TANF/GA recipients who are participating in work or a work activity other than substance abuse treatment, self-identify a substance abuse problem, and believe that treatment will be beneficial;

3. WFNJ/TANF deferred recipients with substance abuse problems and other physical, medical or mental health problems, including chemical addiction;

4. WFNJ/GA unemployable recipients with substance abuse problems and other physical, medical or mental health problems, including chemical addiction;

i. Substance abuse treatment services offered through the SAI to WFNJ/GA applicants/recipients identified in (a)4 above are subject to the availability of funding; or

5. WFNJ TANF/GA recipients, who are required to participate in a work activity and who choose to participate in the SAI as his or her assigned work activity.

i. A WFNJ TANF/GA recipient who chooses to participate in the SAI as his or her assigned work activity shall be required to participate in a substance abuse assessment. The WFNJ agency worker shall advise the recipient in accordance with N.J.A.C. 10:90-20.2(e)2.

(b) WFNJ applicants/recipients who must be referred for mandatory participation in the SAI include, but are not limited, to the following:

1. WFNJ TANF/GA recipients who have been sanctioned for non-compliance with work or a work activity, in accordance with N.J.A.C. 10:90-4.13, unless the WFNJ agency worker determines that the reason for the non-compliance is other than substance abuse;

2. WFNJ TANF/GA recipients who are required to participate in substance abuse treatment as stipulated in the IRP, unless the provisions at N.J.A.C. 10:90-18.2(e)3 apply;

3. WFNJ TANF/GA recipients who are in sanction status, for failure to comply with SAI treatment, and want to have the sanction removed in accordance with N.J.A.C. 10:90-4.18;

4. WFNJ/TANF recipients who are deferred when the sole reason for the deferred status is substance abuse;

5. WFNJ/GA recipients who are unemployable when the sole reason for the unemployable status is substance abuse;

6. WFNJ TANF/GA recipients in receipt of EA who meet the criteria established at N.J.A.C. 10:90-6.1(c)1iii for demonstrating functional incapacity; or

7. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involv-

ing possession or use of a controlled substance who want to establish eligibility for WFNJ cash assistance benefits, unless the person meets the good cause criteria set forth at N.J.A.C. 10:90-18.6.

i. Persons convicted of possession or use of a controlled substance who are required to demonstrate good faith effort in accordance with N.J.A.C. 10:90-18.6(e) shall be required to participate in substance abuse treatment at the time that a facility is able to accommodate the person's request for enrollment. At that time, treatment shall become mandatory and a condition for WFNJ initial and continued eligibility and receipt of WFNJ TANF/GA cash assistance.

(c) The following are WFNJ recipients that are not eligible for referral to the SAI program.

1. Drug Court Initiative (DCI) participants;

2. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involving possession, use or distribution of a controlled substance that want to establish eligibility only for Food Stamp (FS) program benefits; and meet the good cause requirements in accordance with N.J.A.C. 10:90-18.6(c); and

3. Mutual Agreement Program (MAP) inmates who are on parole, residing in the community and under the custody of correctional authorities are not eligible for WFNJ cash assistance in accordance with N.J.A.C. 10:90-2.8(a)5, and therefore, cannot be referred to the WFNJ SAI. Treatment decisions and/or recommendations for such individuals fall under the purview of correctional authorities.

(d) WFNJ recipients shall be referred, by the WFNJ agency worker, for participation in the SAI at any time:

1. During the WFNJ application or re-determination process;

2. During the application for EA;

3. When the WFNJ recipient has incurred a sanction, unless the worker determines that the reason for the sanction is a reason other than substance abuse; or

4. The person self-identifies a substance abuse problem and requests to voluntarily participate in the SAI.

(e) Before a WFNJ recipient signs an IRP or otherwise agrees to participate in the SAI, the WFNJ agency worker shall advise WFNJ applicants/recipients referred for participation in the SAI of the following:

1. All of the information provided is confidential;

2. Substance abuse treatment is available at no cost.

i. A WFNJ applicant who is required to participate in work or a work activity has the option of participating in the SAI as his or her assigned work activity when the

person becomes WFNJ eligible, or attending work or another work activity.

(1) A WFNJ recipient who chooses to participate in the SAI, as his or her assigned work activity, shall be required to participate in the substance assessment as administered by the CCC. The CCC and the WFNJ recipient shall discuss the results of the assessment and recommendations for treatment. If the recommendations for treatment are incorporated in the IRP, then substance abuse treatment shall become mandatory. However, when the recommendations for treatment are not included in the IRP, the WFNJ recipient shall be required to participate in the usual WFNJ work requirements or incur a sanction.

ii. Individuals referred for mandatory participation in the SAI shall be advised orally and in writing that failure to attend the SAI program without good cause may result in a sanction;

3. When a decision is made to sanction a WFNJ recipient for not participating in substance abuse treatment services, the individual shall be given an opportunity to begin or continue in an assigned work activity.

i. The CCC may recommend that the WFNJ recipient be reassigned to another work activity other than substance abuse treatment, if it is determined that treatment is not clinically appropriate for the recipient at that time;

4. A CCC shall conduct the substance abuse screening and assessment and determine the treatment plan and placement service, with the involvement of the WFNJ applicant/recipient, if such a plan and/or service is necessary;

5. Treatment counts toward the required hours of the WFNJ recipient's work activity only if the CCC assesses the individual and monitors the participant's treatment;

6. WFNJ individuals may be referred to the CCC in order to initiate having a sanction removed; and

7. SAI participants have a right to a fair hearing on any adverse action in accordance with the provisions at N.J.A.C. 10:90-9.

Amended by R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

In (c)1, deleted "and" from the end; in (c)2, substituted "; and" for the period at the end; and added (c)3.

Special amendment, R.2008 d.182, effective June 3, 2008.

See: 40 N.J.R. 4232(a).

In the introductory paragraph of (e)3, deleted "during the conciliation process, in accordance with N.J.A.C. 10:90-4.12(a)1i," following "opportunity".

10:90-18.3 Mandatory SAI treatment

(a) For WFNJ applicants/recipients subject to mandatory participation in the SAI, the following shall apply:

1. Substance abuse treatment, as determined clinically appropriate by the CCC, shall be mandatory for WFNJ TANF/GA applicants/recipients identified at N.J.A.C. 10:90-18.2(b).

i. WFNJ individuals shall demonstrate active participation in a DHSS' licensed or approved RSATP in accordance with the definition established at N.J.A.C. 10:90-15.1, or in-patient, or out-patient substance abuse treatment programs.

ii. Enrollment of WFNJ individuals in a DHSS' licensed or approved RSATP shall be required in accordance with the definition established at N.J.A.C. 10:90-15.1, or in-patient, or out-patient substance abuse treatment programs.

iii. Failure to participate in the treatment plan shall result in a sanction in accordance with N.J.A.C. 10:90-4.13.

2. A WFNJ GA unemployable individual shall be required to participate in the mandatory SAI program, if substance abuse is the sole reason for the unemployable status and shall have his or her WFNJ status changed from GA unemployable to GA employable once the individual is well enough, as determined by the CCC, to participate in work or work activities. Such a change in status shall be supported by medical documentation, and shall be in the therapeutic interest of the WFNJ recipient as determined by the CCC and the CCC clinical supervisor.

i. In the instances as noted in (a)2 above, the CCC shall advise the WFNJ agency worker to request a new WFNJ/MED-1, Examination Report that states that substance abuse is the reason for the unemployable status. If the updated WFNJ/MED-1, Examination Report indicates that the WFNJ/GA recipient is no longer unemployable, then the WFNJ/GA employable requirements at N.J.A.C. 10:90-3 shall apply.

3. WFNJ recipients who shall not be required to participate in substance abuse treatment include, but are not limited to, the following:

i. WFNJ individuals who, as a result of the assessment by the CCC, are determined not to be dependent on alcohol and/or drugs or abusing alcohol and/or drugs shall cease involvement with the SAI program at that time;

ii. A WFNJ eligible individual who is able to function at work or in a work activity and scores high on the "Cage-Aid" form; or

iii. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involving possession, use or distribution of a controlled substance that meet the good cause requirements in accordance with N.J.A.C. 10:90-18.6(c).

Amended by R.2004 d.292, effective August 2, 2004.
See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).
In (a), rewrote 2i.

10:90-18.4 SAI sanctions

For WFNJ recipients subject to mandatory participation in the SAI, failure to comply with the completion and signing of the required SAI forms, the substance abuse assessment and/or the requirements of the treatment plan, including biological testing if appropriate, and follow-up, when it is clinically appropriate and in the therapeutic interest of the SAI participant, shall result in a sanction in accordance with N.J.A.C. 10:90-4.13, unless the CCC determines that treatment is not clinically appropriate for the WFNJ recipient at the time.

Special amendment, R.2008 d.182, effective June 3, 2008.
See: 40 N.J.R. 4232(a).

Deleted "or the criteria established for conciliation at N.J.A.C. 10:90-4.12 apply" from the end.

10:90-18.5 Continued SAI treatment when the WFNJ TANF/GA case closes

(a) WFNJ recipients are eligible for continued substance abuse treatment as follows:

1. WFNJ/GA recipients are eligible for continued treatment for a period of six months from the date the WFNJ/GA case is closed due to earnings; and

2. WFNJ/TANF recipients are eligible for continued treatment for up to two years from the effective date the WFNJ/TANF case is closed due to earnings.

10:90-18.6 Eligibility rules for convicted drug felons

(a) The following convicted drug felons may establish eligibility for WFNJ TANF/GA cash assistance benefits and/or Food Stamp program benefits:

1. A person convicted on or after August 22, 1996 under Federal or State law of any offense which occurred on or after August 22, 1996 which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the 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. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense ... for which a sentence of imprisonment in excess of 6 months is authorized."

ii. A person convicted in accordance with (a)1 above of possession or use of a controlled substance may be eligible for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits, if the person enrolls in and actively participates in or completes a DHSS' licensed or approved RSATP at the conclusion of which

the person is certified drug free by an authorized program representative or the person is able to establish good cause in accordance with N.J.A.C. 10:90-18.6(c).

(1) Eligibility for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits shall commence upon the person's enrollment in a DHSS' licensed or approved RSATP.

(2) Eligibility for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits may continue after the person has completed a DHSS' licensed or approved RSATP provided that:

(A) During the first 60 days after completion of a RSATP or at the time of application or case re-determination, it must be determined, via testing by an entity designated by DFD, that the person is free of any non-prescribed 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 immediately.

(B) WFNJ TANF/GA cash assistance and/or Food Stamp program benefits cannot be granted or reinstated until the person re-enrolls in another RSATP, and remains drug free for a minimum of 60 days and is determined via testing to be free of any non-prescribed controlled substance.

iii. Juvenile drug convictions are not classified as felonies, high misdemeanors or crimes. Therefore, a juvenile who committed an offense involving possession or use of a controlled substance, who was not convicted of the offense until he or she was 18 years of age or older, shall not be found ineligible for WFNJ cash assistance and/or Food Stamp program benefits solely because of a drug conviction.

(b) The following convicted drug felons may establish eligibility only for Food Stamp program benefits and WFNJ/GA medical services:

1. The provisions at (a)1 above, with respect to Federal and State law, also apply to persons convicted of distribution of a controlled substance.

i. The provisions at (a)1i above, with respect to the State's definition of a crime, also apply to persons convicted of distribution of a controlled substance.

ii. A person convicted in accordance with (a)1 above of distribution of a controlled substance may be eligible only for Food Stamp program benefits, if the person enrolls in and actively participates in or completes a licensed or approved DHSS' RSATP at the conclusion of which the person is certified drug free by an authorized program representative; and WFNJ/GA medical services, which shall not exceed benefits offered in the WFNJ/GA program, that are limited to the time

the person is receiving treatment in a DHSS' licensed or approved RSATP.

(1) Eligibility for Food Stamp program benefits and WFNJ/GA medical services shall commence upon the person's enrollment in a DHSS' licensed or approved RSATP.

(A) A person convicted of distribution of a controlled substance is only eligible for WFNJ/GA medical services while at the facility. The person is not eligible for GA medical services after completing a DHSS' licensed or approved RSATP.

(2) The provisions at (a)1ii(2) above, with respect to continued eligibility for Food Stamp program benefits, also apply to persons convicted of distribution of a controlled substance.

(A) The provisions at (a)1ii(2)(A) and (B) above, with respect to drug testing, also apply to persons convicted of distribution of a controlled substance.

(3) Persons convicted on or after August 22, 1996 of an offense which occurred on or after August 22, 1996 involving distribution are not eligible for WFNJ cash assistance benefits.

iii. The provisions at (a)1iii above, with respect to juvenile drug convictions, also apply to persons convicted of distribution of a controlled substance.

(c) Good cause exceptions, from participation in substance abuse treatment, shall be established for persons convicted of possession or use of a controlled substance who are willing to participate in a DHSS' licensed or approved RSATP in order to establish eligibility for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits and are unable to do so for the following reasons:

1. Persons that want to establish eligibility for Food Stamp program benefits only and meet the good cause criteria established at (c)2 through 6 below, including the good faith effort requirements, can not be referred to the SAI for assessment or substance abuse treatment.

2. The person already completed a substance abuse treatment program as noted below:

i. Individuals who have been incarcerated and have completed a substance abuse treatment program as a result of the incarceration and are determined to be drug free;

ii. Individuals who have completed a DHSS' licensed or approved in-patient or out-patient substance abuse treatment program and are determined to be drug free; or

iii. Individuals who test free of drugs, and are therefore not appropriate for substance abuse treatment in a

DHSS' licensed or approved RSATP, or in an in-patient or out-patient program.

(1) As a result of the substance abuse assessment, the CCC can determine that:

(A) The person is not in need of substance abuse treatment at this time and his or her involvement in the SAI shall cease;

(B) Periodic completion of the "Cage-AID" form or the "Pre-Assessment Checklist" shall be done to verify the person's continued compliance with the good cause reasons identified in (c)2i through ii above. The periodic assessment shall become mandatory and a condition for WFNJ

initial and continued eligibility and receipt of WFNJ TANF/GA cash assistance; or

(C) The person is in need of in-patient or out-patient substance abuse treatment at a DHSS' licensed or approved facility. Treatment shall become mandatory and a condition for WFNJ initial and continued eligibility and receipt of WFNJ TANF/GA cash assistance.

(2) The person is a participant in the Drug Court Initiative (DCI) and provides written verification, on agency letterhead confirming the following:

(A) A Treatment Assessment Services for the Courts (TASC) evaluator's substance abuse assessment has been completed;

(B) The level of treatment required by the court; and

(C) The name and telephone number of the DCI liaison to the WFNJ agency.

3. The person entered a DHSS' licensed or approved RSATP on his or her own.

4. The person was enrolled in a DHSS' licensed or approved RSATP then later discharged as a result of the participant's physical or mental health problems including pregnancy.

i. Individuals discharged from a facility in accordance with (c)4 above shall provide written documentation from the facility the person was discharged from, on agency letterhead, confirming the reason for the discharge and the date of discharge.

5. The person meets the good faith effort requirements in accordance with (e) below and the person is denied entry in a DHSS' licensed or approved RSATP due to the following:

i. The facility's inability to provide services to accommodate the person's physical or mental health problems (including pregnancy);

ii. The facility reached its capacity and cannot accommodate the person's request for enrollment at the time of application for WFNJ cash assistance benefits only; and

6. Individuals experiencing other unusual circumstances as determined by the DHS.

(d) The provisions at (c)1 through 6 above, with respect to good cause reasons, also apply to persons convicted of distribution of a controlled substance that want to establish eligibility only for Food Stamp program benefits.

(e) Persons convicted of possession or use of a controlled substance that establish good cause for the reasons identified in (c)5i or ii above, shall be required to make a "good faith" effort to enter a facility as noted below:

1. The person shall make a good faith effort by attempting to enroll in at least three DHSS' licensed or approved RSATPs.

i. Attempts by the individual to enroll in a facility may be pursued by telephone.

2. The person shall provide documentation of his or her good faith efforts.

i. Documentation shall consist of a written verification from each licensed or approved RSATP, on agency letterhead, confirming that the person sought entry in the facility; and, the date(s) and reason (mental or physical health reasons or capacity issues in the treatment programs) the facility denied the individual's request for enrollment.

ii. The required documentation shall be provided promptly, as a condition of eligibility, so that the eligibility determination can be completed within the 30-day time frame in accordance with N.J.A.C. 10:90-1.5.

iii. If the person making the good faith effort wants to establish eligibility for WFNJ TANF/GA cash assistance benefits and indicates that the facility will not provide the requested documentation, then the county or municipal WFNJ agency, with the cooperation of the applicant, shall follow-up by contacting the DHSS' licensed or approved RSATP(s) by telephone.

iv. Individuals who establish eligibility for WFNJ TANF/GA cash assistance benefits through the good cause process shall be referred to the SAI immediately at the time of application, unless the person submits written documentation from a substance abuse treatment program, that he or she is free of any non-prescribed controlled substance at the time of application.

(f) The provisions at (e) above, with respect to making a good faith effort also apply to persons convicted of distribution of a controlled substance that want to establish eligibility only for Food Stamp program benefits.

Administrative correction.
See: 39 N.J.R. 652(a).

10:90-18.7 Responsibility of the SAI CCC

(a) The responsibilities of the CCC are to:

1. Notify the WFNJ agency worker, through a liaison, within 24 hours of the scheduled assessment of a WFNJ recipient;

2. Conduct the assessment and provide the WFNJ agency worker with the individual's status as to assessment, treatment plan and placement in treatment, if it is determined that treatment is necessary;

3. Monitor and follow-up on treatment service;

4. Evaluate, authorize and pre-approve treatment for persons convicted of possession or use of a controlled substance who are referred to the SAI for participation in treatment service or payment of treatment service; and

5. Inform the WFNJ agency worker of any changes during a WFNJ participant's course of treatment as well as when it is appropriate for an individual to engage in an additional work activity.

10:90-18.8 Responsibilities of the county/municipal WFNJ agency for SAI

(a) The responsibilities of the county and/or municipal WFNJ agencies are to:

1. Refer eligible WFNJ recipients for participation in the SAI;
2. Perform system updates;
3. Provide transportation;
4. Provide supportive services; and
5. Notify the CCC immediately when the SAI participant's case will be closed and provide the effective closing date.

Amended by R.2004 d.292, effective August 2, 2004.
Sec: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).
In (a)1, deleted "/SARD" after "SAI".

10:90-18.9 Fair hearings

WFNJ recipients have a right to a fair hearing on any adverse action in accordance with the provisions at N.J.A.C. 10:90-9.

SUBCHAPTER 19. KINSHIP CARE SUBSIDY PROGRAM (KCSP)

10:90-19.1 Purpose and scope

(a) Based on P.L. 2001, c.250, the Kinship Care Subsidy Program (KCSP) is being established. The KCSP involves providing monthly cash subsidies for children residing with low income individuals, known as kinship legal guardians, who take responsibility for raising a child whose parents are unable or unwilling to do so. The KCSP is designed to provide cash assistance for the needs of children residing with kinship legal guardians, in accordance with the provisions set forth in this subchapter.

(b) The KCSP shall provide subsidies for eligible children up to the financial cap allotted to the program. The KCSP slots shall be allocated by county to serve eligible children on a first come, first served basis.

(c) P.L. 2001, c.250 creates a new type of court awarded kinship legal guardianship, which addresses the needs of

children and caregivers in long-term kinship relationships. Participation in the KCSP is subject to the caregiver's establishment of a court ordered kinship legal guardianship arrangement.

(d) A child is determined eligible for the KCSP if the child's caregiver has been granted kinship legal guardianship and has an annual family income of less than or equal to 150 percent of the Federal Poverty Level (FPL). Children whose caregivers meet the specific KCSP eligibility criteria will be eligible for up to a \$250.00 per month/per child subsidy.

10:90-19.2 Defining kinship legal guardianship

(a) "Kinship legal guardianship" is defined as a caregiver who is willing to assume care of a child due to parental incapacitation, with the intent to raise the child to adulthood, and who is appointed the kinship legal guardian of the child by the court pursuant to P.L. 2001, c.250.

1. "Parental incapacity" means incapacity of such a serious nature as to demonstrate that the parent is unable, unavailable or unwilling to perform the regular and expected functions of care and support of the child.

2. This form of legal guardianship provides permanency for children and stronger legal protection for caregivers, without termination of parental rights and adoption.

i. A kinship legal guardian shall be responsible for the care and protection of the child and providing for the child's health, education and maintenance.

ii. Under kinship legal guardianship, the child's parent(s) retain the power to consent to the adoption or name change of the child, the obligation to pay child support and the right to maintain a continued relationship with the child through visitation as determined by the court. An award of kinship legal guardianship does not limit or terminate any rights or benefits derived from the child's parents, including inheritance and social security or insurance benefits.

3. Any adult family friend or person with a biological or legal relationship to a child, other than the child's parent, who has been providing care and support for the child living in the caregiver's home for 12 consecutive months, may petition the court for kinship legal guardianship.

(b) Caregivers who have obtained other forms of guardianship through the Surrogate and Probate Departments of the Superior Court must receive kinship legal guardianship to be eligible to apply for the subsidy. A kinship legal guardian shall have the same meaning as the term "legal guardian," as defined in 42 U.S.C. § 675, except that the process, procedure and ruling for kinship legal guardianship shall be apart from and shall not amend, supplant or contravene N.J.S.A. 3B:12-1 et seq.

(c) The Superior Court, Chancery Division, Family Part has jurisdiction to award kinship legal guardianship. Consistent with rules and procedures adopted by the Supreme Court, the determination will be based on a petition filed by the caregiver that contains a kinship caregiver assessment

certifying to the ability of the petitioner to care for the child. The assessment shall also contain the results from a criminal history record background check, domestic violence central registry check and a child abuse record check of the caregiver and any adult residing in the caregiver's household.

1. The Department of Human Services (DHS) may, subject to the availability of funding, provide payments for assessments associated with obtaining kinship legal guardianship for caregivers meeting the definition of a Temporary Assistance for Needy Families (TANF) parent person with family incomes of less than or equal to 150 percent of the FPL. The costs for the assessment shall be borne by DHS in cases where an eligible individual is applying for cash assistance provided by the Division of Family Development for which kinship legal guardianship is a requirement and for the Division of Youth and Family Services cases. In cases where DHS is paying for the assessment associated with obtaining kinship legal guardianship, after filing an application for child support services the caregiver may contact the Kinship Navigator Program for a referral to an appropriate entity. The caregiver assessment shall be conducted by a designated entity contracted by the DHS or by the Division of Youth and Family Services.

(d) Kinship legal guardianship terminates when the child reaches 18 years of age or when the child is no longer continuously enrolled in a secondary education program, whichever event occurs later, or when kinship legal guardianship is otherwise terminated.

1. An order or judgment awarding kinship legal guardianship may be vacated by the court prior to the child's 18th birthday if the court finds that the kinship legal guardianship is no longer in the best interests of the child or, based upon clear and convincing evidence, the court finds that the parental incapacity or inability to care for the child that led to the original award of kinship legal guardianship is no longer the case, and termination of kinship legal guardianship is in the child's best interests.

2. An order or judgment awarding kinship legal guardianship may be vacated by the court if, based upon clear and convincing evidence, the court finds that the guardian failed or is unable, unavailable or unwilling to provide proper care and custody of the child, or that the guardianship is no longer in the child's best interests (see N.J.A.C. 10:90-19.3(h)).

10:90-19.3 Determining eligibility for the KCSP

(a) When it has been confirmed that kinship legal guardianship has been granted, eligibility for KCSP participation shall be approved if the kinship legal guardian's family income is less than or equal to 150 percent of the FPL and funds are available.

(b) Based upon the total gross income of the kinship legal guardian's family and the child, the designated entity shall calculate the annual income to determine if the family's income is less than or equal to 150 percent of FPL eligibility requirement. Income definitions reflective of those used to determine WFNJ/TANF eligibility will be utilized when determining eligibility for the KCSP.

1. All countable earned and unearned income of the kinship legal guardian's family and the child, with the exception of Work First New Jersey (WFNJ)/TANF benefits received on behalf of the child, is to be counted in the financial determination. Kinship subsidy eligibility shall not exist if the total countable gross annual income exceeds 150 percent of the FPL guidelines 66 Fed. Reg. 10,695 (February 16, 2001) for the appropriate family size.

(c) For purposes of determining eligibility for the kinship care subsidy, the kinship legal guardian's family shall include the kinship legal guardian(s), his or her spouse, his or her children and the child or children for whom kinship legal guardianship has been awarded. The family also includes dependent children who are over the age of 18 or other adults who are not legally responsible for the children for whom kinship legal guardianship has been awarded but who are dependent on the kinship legal guardian and who live in the household.

(d) Sources of countable income reflect WFNJ/TANF income definitions found at N.J.A.C. 10:90-3.9(b) and include, but are not limited to, employment (including self-employment), rental income, Social Security (disability, retirement or survivor's) benefits, State disability, rental property managed by an agent, worker's compensation, pensions/annuity/401K payments, alimony received, railroad retirement, General Assistance payments, TANF payments (excluding payments for the kinship child), unemployment, interest and dividend income, veterans benefits and any child support received.

1. For purposes of determining kinship family eligibility, exempt income, as stipulated at N.J.A.C. 10:90-3.19, includes, but is not limited to, SSI benefits, and foster care payments and shall be excluded from the 150 percent FPL income eligibility test in the same manner that such benefits are excluded when determining WFNJ/TANF eligibility. Any member of the family who receives SSI or foster care benefits is not counted as a member of the kinship family for this determination.

(e) Resources shall not be considered when determining financial eligibility for the kinship subsidy.

(f) Kinship subsidy eligibility calculations shall be based on an estimate of the gross annual income of the kinship legal guardian's family, using income averaging and a prospective budgeting methodology reflective of that used to determine WFNJ/TANF eligibility as stipulated at N.J.A.C. 10:90-3.11. To determine the estimated income of the family, all earned and unearned income shall be considered.

1. For purposes of determining financial eligibility for the kinship subsidy, the entity shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application or redetermination. Likewise, all unearned income received within this four-week period shall be verified and documented in the case file.

(g) Once it is determined that a kinship legal guardian meets the criteria for participation in the KCSP, the designated entity shall refer him or her to the appropriate county welfare agency (CWA) to apply for the subsidy benefit for the child.

1. Eligibility for the kinship subsidy shall be redetermined on an annual basis (12 months from the date of application) by the designated entity.

i. Once determined KCSP eligible, the recipient shall continue to receive the subsidy for the remaining balance of the 12-month eligibility period. However, there are circumstances that may result in termination of the kinship subsidy payment prior to the 12-month re-determination date. These include, but are not limited to, termination of kinship legal guardianship, if the child leaves the kinship legal guardian's home, if the child moves out of New Jersey or if the child's countable income exceeds \$250.00 per month.

(h) Kinship subsidy eligibility shall extend beyond the age of 18 if the child is a full-time student in a secondary school (or equivalent level of vocational or technical training) and expected to complete the program before reaching age 19. Kinship subsidy eligibility shall be extended to age 21 if the child is enrolled in a special education program per N.J.A.C. 10:90-2.7(a). If the court terminates kinship legal guardianship prior to the child's 18th birthday, eligibility for the KCSP shall no longer exist.

(i) Continued participation in the KCSP shall not be affected by time limitations on WFNJ/TANF benefits for the kinship legal guardian's family. If a TANF recipient who has kinship legal guardianship reaches the 60 month time limit, the child may continue to receive the kinship subsidy with the caregiver continuing to act as the "payee." If the family meets WFNJ/TANF exemption or extension criteria, the case continues unchanged. The child remains eligible for the subsidy until eligibility is redetermined.

10:90-19.4 Kinship Care Subsidy Program application process

The Kinship Care subsidies shall be administered through the CWAs. The kinship legal guardian must apply for the KCSP in order to receive the kinship subsidy benefit for the child. All kinship legal guardians are considered the "payee" for a related child in his or her care when the child is not their natural or adopted child. The applicant shall provide his or her case file papers that were completed by the designated entity, including the original eligibility determination, which shall be retained and attached to the kinship subsidy application. In order to receive a WFNJ kinship subsidy, all eligible children up to 16 years old must be attending school on a full-time basis and 16 through 18 year old children must be attending school on a full-time basis or participating in an appropriate work activity (see N.J.A.C. 10:90-1.2(f)10iv, 2.2(c) and (d)1, 4.2(f) and 4.8(a)). To receive the kinship

subsidy for the eligible child, the kinship legal guardian shall sign the application and agree to cooperate with efforts to collect child support from the parents of the child. The decision to apply rests with the applicant.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Added the fifth sentence.

Amended by R.2008 d.324, effective November 3, 2008.

See: 40 N.J.R. 2188(a), 40 N.J.R. 6459(a).

In the fifth sentence, substituted "a WFNJ kinship subsidy, all eligible children up to 16 years old must be" for "an" and updated the first N.J.A.C. reference.

10:90-19.5 Kinship Care subsidy payments

(a) A calculation utilizing WFNJ/TANF income definitions will be performed by the CWA to determine the amount of the kinship subsidy. Any countable income (see N.J.A.C. 10:90-3.9) the child receives shall be considered and will reduce the subsidy benefit. If there is more than one child eligible for a kinship subsidy in one household, the children shall be considered a "kinship unit." In a kinship unit, the combined subsidy amount is reduced by the combined countable income of the kinship unit members.

1. The subsidy amount shall be the full subsidy benefit of \$250.00, multiplied by the number of eligible children in the unit, less all combined countable income of the eligible children.

(b) When calculating the subsidy for children living with kinship legal guardians receiving WFNJ/TANF cash benefits, the CWA worker will re-calculate the TANF benefit for the assistance unit without counting the kinship child(ren) or the kinship subsidy income. The kinship child is not a member of the TANF unit for purposes of cash assistance. An additional calculation will issue the kinship subsidy for each child. The subsidy issuance will be sent to EBT along with the TANF issuance, if applicable, for the designated payee on the case.

(c) When calculating the subsidy for children who do not receive WFNJ/TANF benefits, the CWA worker shall initiate the application process for the kinship subsidy as a child only case at the request of the kinship legal guardian. If the child is already receiving a WFNJ/TANF child only benefit, the CWA worker will re-calculate the payment to issue the kinship subsidy.

10:90-19.6 Kinship subsidy supportive services

(a) Although a child who is eligible to receive the kinship subsidy is not a member of the assistance unit for purposes of receipt of WFNJ cash assistance, the child is considered a member of the WFNJ/TANF assistance unit for all benefits and support services. These include, but are not limited to, child care, medical assistance, emergency assistance and food stamp benefits.

1. Any penalties imposed on the assistance unit related to a WFNJ sanction shall not affect eligibility for or issuance of the kinship subsidy.

(b) The CWA worker shall determine Medicaid eligibility for the kinship child. The kinship subsidy shall be disregarded in determining Medicaid eligibility.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), inserted “, emergency assistance” after “medical assistance” in the second sentence.

**SUBCHAPTER 20. THE FAMILY VIOLENCE
OPTION INITIATIVE**

Authority
N.J.S.A. 30:1-12.

Source and Effective Date
R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

10:90-20.1 General provisions and purpose

(a) Based on P.L. 1997, c.13, c.14, c.37, and c.38 (Work First New Jersey Act), approved January 29, 1997; the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996; and the final Federal Temporary Assistance for Needy Families (TANF) regulations, issued on April 12, 1999, the WFNJ Family Violence Option (FVO) Initiative is established to help promote the goals of the WFNJ program. The objective of the WFNJ FVO Initiative is to safely move WFNJ TANF/GA applicants/recipients, who may be past or present victims of family violence or are at risk of family violence, from dependency on WFNJ TANF/GA cash assistance benefits to employment and self-sufficiency, to the extent possible.

1. Past or present situations involving family violence or any situation that places the WFNJ individual and/or family member(s) at risk of family violence may affect the individual's current ability to cooperate with the WFNJ TANF/GA program requirements because the individual has or fears emotional or physical harm. Family violence means situations involving domestic violence and/or sexual assault in accordance with the definition at N.J.A.C. 10:90-15.

2. Family violence circumstances may affect a WFNJ TANF/GA individual's and/or his or her family member's safety, may limit the person's ability to move beyond the violence or trauma of the violence and, as such, may affect the individual's current ability to comply with WFNJ TANF/GA program requirements such as, but not limited to:

- i. Cooperating in establishing paternity or in establishing and enforcing orders of support on a non-custodial or alleged non-custodial parent;
- ii. His or her ability to work or participate in a work activity;
- iii. The length of time of receipt of public assistance; and
- iv. His or her ability to maintain housing and/or comply with EA requirements.

(b) The New Jersey Department of Human Services' (DHS) Division of Family Development (DFD) in collaboration with the New Jersey Coalition for Battered Women (NJCWB) established the WFNJ FVO Initiative. The WFNJ FVO Initiative provides WFNJ TANF/GA applicants/recipi-

ents with notification of the WFNJ FVO process; screenings which may identify individuals with a past or present history of family violence or who may be at risk of family violence; provides for the safety provision that allows one or more of the WFNJ TANF/GA program requirements to be considered for a WFNJ FVO Waiver, including a good cause exception from the WFNJ/TANF child support requirements and requests for EA for reason of family violence, if and when a waiver is necessary, and for as long as the waiver may be needed.

1. All requests for a WFNJ FVO Waiver of any WFNJ TANF/GA program requirement(s) are coupled with the requirement for participation in the standardized WFNJ FVO Risk Assessment process. This involves the formal referral of WFNJ TANF/GA individuals applying for or in receipt of WFNJ TANF/GA cash assistance benefits to the designated victim service provider agency for completion of the Federally required WFNJ FVO Risk Assessment and for possible referral to intervention services.

i. The WFNJ FVO Risk Assessment includes a safety and service plan strategy consistent with the identified needs and safety concerns of the individual, as determined by the WFNJ TANF/GA individual and the victim service provider agency's risk assessor.

ii. The EA service plan completed at the CWA/MWA for WFNJ TANF/GA individuals requesting EA for reason of family violence or the risk of family violence must be coordinated with any services offered through the designated victim service provider agency and included in the family violence safety and service plan.

2. The CWA/MWA notifies, screens for, and processes any WFNJ FVO Waiver requests made by WFNJ TANF/GA/EA individuals for reason of family violence.

3. Designated WFNJ CWA/MWA staff shall refer any individual who requests help in accessing victim services, in their community, to the designated victim service provider agency of that county.

i. The WFNJ FVO Initiative provides for the informal referral of WFNJ TANF/GA individuals, who are victims/survivors and do not request a WFNJ FVO Waiver, to the designated victim service provider agency for information and/or services. Such informal referrals are also available, upon request, to anyone from the public at large having contact with the WFNJ CWAs/MWAs and for CWA/MWA employees.

(c) All WFNJ CWAs/MWAs shall make referrals to the designated victim service provider agency.

1. The MWA shall make a referral for the WFNJ FVO Risk Assessment when the WFNJ/GA individual requests a WFNJ FVO Waiver of one or more WFNJ/GA program requirements, unless the individual is making application for or participating in the WFNJ/GA program

in an area of the Statewide program where the WFNJ FVO Initiative process has not yet administratively been implemented or made operational. In these excepted case situations, the WFNJ/GA process for waivers shall follow that operational process that preceded the WFNJ FVO Initiative, until such time as that process becomes effective for that MWA.

(d) The purposes of the WFNJ FVO Initiative are as follows:

1. To provide all WFNJ TANF/GA applicants/recipients with the following:

i. Safety and flexibility in meeting the WFNJ TANF/GA work requirements and WFNJ/TANF child support requirements;

ii. Notification of the right to request a WFNJ FVO Waiver of one or more WFNJ TANF/GA program requirements, including a good cause exceptions from the WFNJ/TANF child support requirements, and requests for EA for reason of family violence;

iii. Identification of the specific WFNJ TANF/GA program requirements that may be waived;

iv. An explanation of the WFNJ FVO Waiver process and the WFNJ FVO Risk Assessment requirements;

v. Advice that any individual, who wants information about or who is in need of victim services, of his or her right to request a referral to the designated victim service provider agency, where certified professionals trained in the area of domestic violence or sexual assault may assist the person with specialized services, including completion of the WFNJ FVO Risk Assessment, when a WFNJ FVO Waiver has been requested; and

vi. Basic written and oral information about the New Jersey Address Confidentiality Program (NJACP);

(1) Applications for the NJACP shall be made through the designated victim service provider agency in accordance with State law at N.J.S.A. 47:4-1 et seq.;

(A) If the applicant/recipient does not meet the criteria for the NJACP, or is in the process of applying for the NJACP, then the CWA address may be used for the individual on appropriate agency documents to protect the individual's location due to safety concerns;

(B) If a WFNJ TANF/GA applicant/recipient is placed in a domestic violence shelter (DV) or is currently residing in a DV shelter, the WFNJ agency shall not use the DV shelter address for the individual in order to ensure the safety of the WFNJ applicant/recipient and other families placed in the shelter; and

2. To educate WFNJ TANF/GA applicants/recipients, the public at large having contact with the CWAs/MWAs, including Medicaid and Food Stamp applicants/recipients, and CWA/MWA employees about access to and availability of family violence services in the community.

10:90-20.2 WFNJ FVO notification process for WFNJ TANF/GA applicants/recipients

(a) Each CWA/MWA shall provide every WFNJ TANF/GA applicant/recipient with the following:

1. Basic written and oral information about the WFNJ FVO Initiative; and

2. Information regarding the WFNJ TANF/GA applicant's/ recipient's right to request a WFNJ FVO Waiver of one or more WFNJ TANF/GA program requirements, at any point in the WFNJ process throughout the individual's association with the CWA/MWA for WFNJ program benefits, that includes, but is not limited to, the following:

i. The purpose and availability of, and process for obtaining, a WFNJ FVO Waiver of WFNJ TANF/GA program requirements;

ii. The WFNJ TANF/GA program requirements that may be waived, including a good cause exception from the WFNJ/TANF child support requirements and requests for EA for reason of family violence;

iii. Mandated participation in the WFNJ FVO Risk Assessment process when such waiver is requested in accordance with the provisions of C.F.R. 260.55 concerning requirements for Federal recognition of good cause domestic violence waivers;

iv. All requests for a WFNJ FVO Waiver, including good cause exceptions from the child support requirements and requests for EA for reason of family violence require completion of a WFNJ FVO Risk Assessment with a certified victim service provider agency's risk assessor, and discussion about access to and the availability of intervention services; and

v. Basic written and oral information about the NJACP.

(1) Applications for the NJACP shall be made in accordance with the provisions at N.J.A.C. 10:90-20.1(d)1iv(1).

(b) Each CWA/MWA shall provide the public at large having contact with the WFNJ CWAs/MWAs, including Medicaid and Food Stamp applicants/recipients and CWA/MWA employees, with basic written and oral information about the WFNJ FVO Initiative.

10:90-20.3 Rights of WFNJ applicants/recipients and other program applicants/recipients to speak with CWA FVO representative or designated MWA worker concerning family violence and to confidentiality

(a) Self-disclosure of past or present family violence concerns or the risk of family violence by WFNJ TANF/GA applicants/recipients, or other program applicants/recipients, shall be handled in a confidential and private manner by all CWA/MWA staff. Self-disclosure of family violence concerns by individuals is a voluntary admission. The decision to self-disclose is the individual's alone to make. An applicant/recipient may self-disclose and/or, under WFNJ TANF/GA, request a WFNJ FVO Waiver of one or more WFNJ TANF/GA programs requirements at any time, such as, but not limited to, the following situations:

1. At any point of contact with CWA/MWA staff;
2. At any time during the WFNJ TANF/GA application or redetermination processes for WFNJ TANF/GA program benefits including child support services when the non-custodial or alleged non-custodial parent may place the individual at risk of harm;
3. During the Comprehensive Social Assessment (CSA) process;
4. During discussion with staff of the Substance Abuse Initiative (SAI) or the Mental Health Initiative (MHI);
5. At the time of request for EA benefits, including individuals receiving Supplemental Security Income (SSI);
6. At the time of WFNJ TANF/GA program sanctioning, when an individual is questioned as to why he or she failed to comply and what concerns precluded his or her complying with the WFNJ TANF/GA program requirements; or
7. At any time during the program process (including WFNJ TANF/GA, Food Stamps, child support, EA or Medicaid) throughout the individual's association with the CWA/MWA for program benefits.

(b) A WFNJ applicant, recipient or employee of any program administered by the CWA/MWA has the right to voluntarily discuss any issues or requests for information about available community resources with a CWA FVO representative or designated MWA worker. CWA/MWA program contact staff shall offer all WFNJ and other program applicants/recipients a referral to the CWA FVO representative or designated MWA worker.

1. For WFNJ/GA applicants/recipients handled by the CWA, voluntary discussion with the CWA FVO representative is also possible.
 - i. Details concerning the specifics of the violence, relayed by the individual, shall not be written into any CWA/MWA case record document.

(c) A WFNJ/GA applicant/recipient being serviced by a MWA shall be provided with information about victim ser-

vices by the designated MWA worker as determined by the MWA. The designated MWA worker shall offer the WFNJ/GA applicant/recipient a referral to the designated victim service provider agency in that county.

Amended by R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

In (a)4, substituted "(MHI)" for "(MH)".

10:90-20.4 WFNJ TANF/GA program requirements that may be waived

(a) WFNJ/TANF applicants/recipients may request a WFNJ FVO Waiver of the following WFNJ/TANF program requirements, under the WFNJ FVO Initiative:

1. The WFNJ work requirement (see N.J.A.C. 10:90-2.6 and 4.10(a)11);
2. The WFNJ time limit (see N.J.A.C. 10:90-2.4, 2.5 and 2.6);
3. A good cause exception from the child support requirements when the non-custodial/alleged non-custodial parent may place the individual at risk of harm (see N.J.A.C. 10:90-2.6, 16.5, and N.J.A.C. 10:110-9.5);
4. Limitation on an increase of WFNJ/TANF cash assistance benefits as a result of a child conceived as a result of family violence, (see N.J.A.C. 10:90-2.18(a)4);
5. Good cause exceptions for WFNJ/TANF parent minor living arrangements (see N.J.A.C. 10:90-2.17(c));
6. Residency requirements pertaining to qualified aliens.
 - i. An alien, regardless of program eligibility/non-eligibility may be referred to the designated victim service provider agency for help with family violence concerns; and/or
7. Requests for EA, to cover needs, for reason of family violence or the risk of family violence in accordance with N.J.A.C. 10:90-6.1(c)4.

(b) WFNJ/GA applicants/recipients may request a WFNJ FVO Waiver of the following WFNJ/GA program requirements, under the WFNJ FVO Initiative:

1. The WFNJ/GA work requirement (N.J.A.C. 10:90-2.6 and 4.10(a)11);
2. The WFNJ/GA time limit (N.J.A.C. 10:90-2.4, 2.5 and 2.6); and/or
3. Residency requirements pertaining to qualified aliens (N.J.A.C. 10:90-2.10(b)3).
 - i. An alien, regardless of program eligibility/non-eligibility may be referred to the designated victim service provider agency for help with family violence concerns; and/or
4. Requests for EA, to cover needs, for reason of family violence or the risk of family violence in accordance with N.J.A.C. 10:90-6.1(c)4.

10:90-20.5 Referral of WFNJ TANF/GA individuals to the CWA FVO representative or designated MWA worker

(a) When a WFNJ TANF/GA individual initially requests a WFNJ FVO Waiver of a WFNJ TANF/GA program requirement(s) or seeks to continue the WFNJ FVO Waiver at redetermination, a referral shall be made to the CWA FVO representative or designated MWA worker.

(b) The following individuals who self-disclose family violence concerns shall be referred to the CWA FVO representative or designated MWA worker for further discussion:

1. WFNJ TANF/GA individuals who do not request a WFNJ FVO Waiver of WFNJ program requirements;
2. The public at large having contact with the CWA/MWA, including Medicaid and Food Stamp applicants/recipients, and CWA/MWA employees; and
3. Persons who request a referral.

(c) Each CWA shall follow the procedures established in its agency for the referral of any individual to the CWA FVO representative.

(d) MWAs do not utilize the function of the FVO representative but rather follow internal procedures for discussion of the WFNJ FVO Initiative with applicants/recipients and for referral to the victim service provider agency.

10:90-20.6 WFNJ/TANF Waiver process

(a) When a WFNJ/TANF applicant/recipient requests a WFNJ FVO Waiver of one or more WFNJ/TANF program requirements (see N.J.A.C. 10:90-20.4), including a good cause exception from the child support requirements and requests for EA for reason of family violence, the individual shall be granted a WFNJ FVO Waiver, by the CWA. The appropriate WFNJ FVO forms shall be completed by the responsible CWA worker, be signed by the individual as appropriate to his or her case circumstances, and a referral shall be made immediately to the CWA FVO representative. The CWA FVO representative shall explain the WFNJ FVO Waiver and WFNJ FVO Risk Assessment processes to the WFNJ/TANF applicant/recipient. The explanation shall include informing the individual that he or she must complete the WFNJ FVO Risk Assessment process within 10 calendar days of the referral to the victim service provider agency in accordance with N.J.A.C. 10:90-20.8(b); and that failure to complete the WFNJ FVO Risk Assessment will result in cancellation of the waiver in accordance with (a)4 below. The CWA FVO representative shall refer the WFNJ/TANF individual to the victim service provider agency for the required WFNJ FVO Risk Assessment.

1. The WFNJ FVO Waiver shall identify the specific WFNJ TANF program requirement(s) being waived.

i. A WFNJ FVO Waiver of a WFNJ/TANF program requirement applies to the TANF program requirements and is available to WFNJ/TANF partici-

pants. This waiver is not available for other program requirements, such as, Food Stamps and Medicaid. Individuals from these programs may be informally referred to the designated victim service provider agency for assistance. The individual may access services on his or her own if he or she chooses to do so.

2. A request for a WFNJ FVO Waiver can be made for one or more WFNJ/TANF program requirements, including a good cause exception from the child support requirements and requests for EA for reason of family violence. Therefore, multiple WFNJ/TANF program requirements can be waived simultaneously.

i. If an individual requests a waiver of more than one WFNJ/TANF program requirement, only one referral shall be made for the WFNJ FVO Risk Assessment to cover all circumstances waived, including EA requests.

ii. If at a later date an individual requests the waiver of an additional WFNJ/TANF program requirement(s), in the following six-month period, no risk assessment referral shall be made to the designated victim service provider agency. The update to the WFNJ FVO Risk Assessment shall be handled at the next case redetermination. The WFNJ/TANF applicant/recipient shall not be required to participate in the WFNJ/TANF program requirement(s) for which a WFNJ FVO Waiver has been requested pending the next case redetermination.

(1) Subsequent requests to waive additional WFNJ/TANF program requirements do require a referral to the CWA FVO representative for discussion.

3. While the FVO Risk Assessment process is taking place, the WFNJ/TANF applicant/recipient is not required to participate in the WFNJ/TANF program requirement(s) being waived or other activities, in order to complete this process.

4. When a WFNJ/TANF individual is unable to have the WFNJ FVO Risk Assessment completed within the 10-calendar day timeframe, he or she may seek the assistance of the CWA FVO representative in scheduling or rescheduling an appointment to have the assessment completed. The individual's WFNJ FVO Waiver shall be cancelled if the assessment is not completed, unless the individual has a good reason for not completing the WFNJ FVO Risk Assessment, including the need to make alternative arrangements for completing the assessment that will exceed the 10-calendar day timeframe. No sanction is incurred against a WFNJ/TANF individual when the assessment is not completed. Unless the individual is otherwise deferred or exempt from WFNJ program requirements, WFNJ/TANF individuals shall be required to participate in the specific program requirement(s)/activities for which the waiver had been requested prior to cancellation. If the individual fails to participate in the WFNJ program requirement(s)/activities after the WFNJ FVO Waiver is cancelled, and is not otherwise deferred or exempt, he or she may be sanctioned for failure to participate in a

WFNJ/TANF program requirement/activity. The WFNJ/TANF individual may request another WFNJ FVO Waiver at any time throughout the individual's association with the

CWA for program benefits and will be required to complete the WFNJ FVO Risk Assessment.

(b) The "WFNJ FVO Risk Assessment Referral/Report," WFNJ FVO-115, when returned to the CWA from the designated victim service provider agency shall serve as confirmation that the initial WFNJ FVO Risk Assessment or updated risk assessment has or has not been completed.

10:90-20.7 WFNJ/GA Waiver process

(a) When a WFNJ/GA applicant/recipient requests a WFNJ FVO Waiver of one or more WFNJ/GA program requirement(s), including requests for EA for reason of family violence, the individual shall be granted a WFNJ FVO Waiver by the CWA/MWA. The appropriate WFNJ FVO forms shall be completed by the responsible CWA/MWA worker, be signed by the individual as appropriate to his or her case circumstances, and a referral shall be made immediately to the CWA FVO representative when the case is handled by the CWA or the designated MWA worker. The CWA FVO representative or the designated MWA worker shall explain the WFNJ FVO Waiver and WFNJ FVO Risk Assessment processes to the WFNJ/GA applicant/recipient. The explanation shall include informing the individual that he or she must complete the WFNJ FVO Risk Assessment process within 10-calendar days of the referral to the victim service provider agency in accordance with N.J.A.C. 10:90-20.8(b); and that failure to complete the WFNJ FVO Risk Assessment shall result in cancellation of the waiver in accordance with (b)4 below. The CWA FVO representative or the designated MWA worker shall refer the WFNJ/GA individual to the designated victim service provider agency for the required WFNJ FVO Risk Assessment, unless the provisions at N.J.A.C. 10:90-20.1(c)1 apply.

(b) When the WFNJ/GA case is handled by a MWA, the MWA worker shall explain the WFNJ FVO Waiver and WFNJ FVO Risk Assessment processes to the WFNJ/GA applicant/recipient based on its agency's procedures for the referral of the GA individual to the designated victim service provider agency for the required WFNJ FVO Risk Assessment.

(c) The WFNJ FVO Waiver shall identify the specific WFNJ/GA program requirement(s) being waived (see N.J.A.C. 10:90-20.4).

1. A WFNJ FVO Waiver of a WFNJ/GA program requirement applies to the GA program requirements and is available to WFNJ/GA participants.

2. A request for a waiver can be made for one or more WFNJ/GA program requirements, including requests for EA for reason of family violence, and multiple WFNJ/GA program requirements can be waived simultaneously.

i. If an individual requests a waiver of more than one WFNJ/GA program requirements, only one referral shall be made for the WFNJ FVO Risk Assessment to cover all circumstances waived, including EA requests.

ii. If at a later date an individual requests the waiver of an additional WFNJ/GA program requirement(s), in the following six-month period, no risk assessment referral shall be made to the designated victim service provider agency. The update to the WFNJ FVO Risk Assessment shall be handled at the next case re-determination. The WFNJ/GA applicant/recipient shall not be required to participate in the WFNJ/GA program requirement(s) for which WFNJ FVO Waiver has been requested pending the next case redetermination.

(1) Subsequent requests to waive additional WFNJ/GA program requirements do require a referral to the CWA FVO representative for discussion when the case is handled by the CWA; or discussion with the appropriate designated MWA staff, in accordance with MWA procedures.

3. While the WFNJ FVO Risk Assessment process is taking place, the WFNJ/GA applicant/recipient is not required to participate in the WFNJ/GA program requirement(s) being waived or other activities, in order to complete this process.

4. When a WFNJ/GA individual is unable to have the FVO Risk Assessment completed within the 10-calendar day timeframe, he or she may seek the assistance of the CWA FVO representative or designated MWA worker in scheduling or rescheduling an appointment to have the assessment completed. The individual's FVO Waiver shall be cancelled if the assessment is not completed, unless the individual has a good reason for not completing the assessment, including the need to make alternative arrangements for completing the WFNJ FVO Risk Assessment that will exceed the 10-calendar day timeframe. No sanction is incurred against a WFNJ/GA individual when the assessment is not completed. Unless the individual is otherwise deferred or exempt from WFNJ/GA program requirements, GA individuals shall be required to participate in the specific program requirement/activities for which the waiver had been requested prior to cancellation. If the individual fails to participate in the WFNJ/GA program requirements/activity after the WFNJ FVO Waiver is cancelled, and is not otherwise deferred or exempt, he or she may be sanctioned for failure to participate in a WFNJ/GA program requirement/activity. The individual may request another WFNJ FVO Waiver at any time and will be required to complete the WFNJ FVO Risk Assessment.

(d) The "WFNJ FVO Risk Assessment Referral/Report," WFNJ FVO-115, when returned to the CWA/MWA from the designated victim service provider agency shall serve as confirmation that the initial WFNJ FVO Risk Assessment or updated risk assessment has or has not been completed unless the provisions at N.J.A.C. 10:90-20.1(c)1 apply.

(e) The FVO Risk assessment process is available to WFNJ/GA applicants/recipients to the extent that State

funds are available to fund these services. When FVO Risk Assessments are unavailable due to lack of State funds, the WFNJ/GA applicant/ recipient shall be granted the requested WFNJ FVO Waiver of WFNJ/GA program requirements.

1. If a WFNJ/GA applicant/recipient is unable to have a FVO Risk Assessment completed due to lack of State funds, the CWA/MWA shall make an informal referral to the designated victim service provider agency so the individual may access the intervention services of the provider agency that may assist the individual in handling barriers to becoming self-sufficient.

10:90-20.8 Required standardized WFNJ FVO Risk Assessment for WFNJ/TANF applicants/recipients

(a) The designated victim service provider agency in the county shall complete the required standardized WFNJ FVO Risk Assessment for WFNJ/TANF applicants/recipients in accordance with this section.

1. The designated victim service provider agency shall provide a WFNJ FVO Risk Assessment, reviewing the WFNJ/TANF individual's circumstances with regard to the existence of past or present violence or the risk of violence.

i. The WFNJ FVO Risk Assessment shall be completed by the WFNJ/TANF individual and the victim service provider agency's risk assessor, as follows:

- (1) At the WFNJ agency;
- (2) By telephone;
- (3) At the victim service provider agency; or

(4) Any other alternative means as determined by the WFNJ agency in collaboration with its designated victim service provider agency, if extenuating circumstances involving safety considerations warrant such an arrangement.

ii. The "WFNJ FVO Risk Assessment Referral/Report," WFNJ FVO-115, when returned from the designated victim service provider agency, shall serve as confirmation that the WFNJ/TANF individual's initial WFNJ FVO Risk Assessment or updated risk assessment has or has not been completed.

iii. The completed WFNJ FVO-115 shall be maintained in the CWA TANF case record with a copy in the applicable Child Support and/or EA files. The WFNJ FVO-115 covers the six-month period from the date of application/redetermination through to the next WFNJ/ TANF redetermination date, unless the WFNJ FVO-115 is completed in the middle of a redetermination cycle, at which time an updated referral and assessment via the WFNJ FVO-115 are required.

(1) The exception to the six-month referral and reassessment may be the WFNJ FVO Waiver in capped assistance situations. The CWA may determine based on case circumstances whether repeat referrals for assessment are necessary for the specific WFNJ/TANF requirement waiver request.

2. Supports, such as, but not limited to, child care and transportation, are available to WFNJ/TANF individuals to assist such individuals in the completion of the WFNJ FVO Risk Assessment process and/or participation in intervention services.

3. The completed WFNJ FVO Risk Assessments for all WFNJ/TANF individuals shall be maintained by the designated victim service provider agency, at its agency, and are kept confidential in accordance with New Jersey law, N.J.S.A. 2A:84A-22.13 of the Criminal Justice Code, "Victim-Counselor Privilege" protection.

i. The completed WFNJ FVO Risk Assessment records for WFNJ/TANF individuals are subject to review by State and/or Federal auditors of the WFNJ/TANF program in accordance with 45 C.F.R. 265.7(e) and (f).

4. When a WFNJ/TANF individual fails to have the WFNJ FVO Risk Assessment completed within 10-calendar days of referral to the designated victim service provider agency, the individual's WFNJ FVO Waiver request shall be cancelled unless a good reason exists, in accordance with (b) below, for not scheduling an appointment initially, or rescheduling an appointment for completion of the assessment.

i. There is no sanction other than cancellation of the WFNJ FVO Waiver if the WFNJ/TANF individual fails to have the WFNJ FVO Risk Assessment completed in accordance with N.J.A.C. 10:90-20.6(a)4.

ii. Cancellation of the WFNJ FVO Waiver may result in the person's required participation in the WFNJ/TANF program requirement(s) for which the waiver was requested. Failure to participate in the applicable WFNJ/TANF program requirement(s) may result in a sanction in accordance with N.J.A.C. 10:90-4.13.

iii. A WFNJ/TANF applicant/recipient whose WFNJ FVO Waiver is cancelled for failure to complete the WFNJ FVO Risk Assessment shall be permitted to request another WFNJ FVO Waiver at any time throughout the individual's association with the CWA for program benefits.

(b) If a WFNJ/TANF individual fails to complete the WFNJ FVO Risk Assessment within 10-calendar days of referral to the designated victim service provider agency, the individual must show that he or she has a good reason for not scheduling the appointment initially or to reschedule the appointment. Good reasons include, but are not limited to, the following: