CHAPTER 81

PUBLIC ASSISTANCE MANUAL

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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 Chapter 81 was repealed and new rules were adopted as R.1975 d.29.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

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 As a part of R.1994 d.429, Subchapter 12, Newark/Camden Teen Progress Demonstration, was repealed effective August 15, 1994.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

Cross References

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

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SUBCHAPTER 1. PUBLIC ASSISTANCE IN NEW JERSEY

Subchapter Historical Note

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

10:81–1.1 Purpose and scope

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

tions of interpretation will be resolved by the Division of Economic Assistance.

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

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

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

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

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

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

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

(f) This manual sets forth the policies and procedures necessary to the orderly and equitable provision of public assistance on a Statewide basis. It is binding on the county welfare boards and enforceable by the Division of Public Welfare. Questions of interpretation will be resolved by the Division of Public Welfare.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1979 d.426, effective December 1, 1979.
See: 11 N.J.R. 376(b), 11 N.J.R. 560(d).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Stylistic changes.

Case Notes

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

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

10:81–1.2 Opportunity and decision to apply

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

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

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

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

Cross References

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

Case Notes

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

10:81–1.4 Prompt disposition by county welfare agency

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

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

10:81–1.5 Primary source of information

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

Case Notes

Aid recipient's relationship to child established by her statement and that of her mother: request for blood test to prove maternity denied as not dispositive of issue; burden of proof of parentage rests upon recipient by preponderance of believable evidence. A.H. v. Bergen Cty. Welfare Bd., 4 N.J.A.R. 52 (1981).

10:81–1.6 Confidential nature of information

(a) Information about applicants or recipients will be used or disclosed only for purposes directly connected with the administration of public assistance and related services, including Title IV–E (foster care and adoption assistance programs), which cannot be offered without such information in accordance with the provisions at N.J.A.C. 10:81–7.31.

1. Such safeguards shall not apply to the furnishing of recipient address information to State and local law enforcement officers attempting to locate a fugitive felon in accordance with the provisions at N.J.A.C. 10:81–7.32(c).

2. Information concerning applicants or recipients may also be released to appropriate individuals in instances involving child abuse and neglect situations as described at N.J.A.C. 10:81–3.12(e), 7.29 and 7.46(c)2.

Amended on emergency basis, R.1984, d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(a)1: added.
Readopted, R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Reference to 7.31 added.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–1.7 Nondiscrimination

There shall be no discrimination on grounds of race, color, religion, sex, national origin, marital, parental or birth status, or disability by State or local agencies in the administration of any public assistance program.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–1.8 Appeal from county welfare agency procedures

A client shall have the right to appeal any action or inaction of the county welfare agency affecting him or her or his or her family.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

10:81–1.9 Adherence to law and regulations

There must be strict adherence to Federal and State law and regulations. Requirements other than those established pursuant to Federal and State law and regulations shall not be imposed as a condition to receiving assistance.

10:81–1.10 No duplication of assistance

Financial assistance for maintenance requirements or other needs shall not be authorized through public assistance when during the same period such needs are actually being provided by any other source. Supplementary programs such as Medicaid and food stamps are not considered as duplication.

10:81–1.11 Income maintenance programs

(a) This manual describes policy for the income maintenance programs which are:

1. Aid to Families with Dependent Children, which is composed of three segments:

i. AFDC–C, through which financial assistance is provided for children and their natural or adoptive parents or certain designated relatives with whom they are living, when they are financially eligible and deprived of parental support or care by reason of death, continued absence, or incapacity of one or both parents.

ii. AFDC–F, through which financial assistance is provided to families with children when both parents are in the home, neither is incapacitated and the principal earner meets the Federal definition of unemployment.

iii. AFDC–N, through which financial assistance is provided to families with children when both parents are in the home and are not incapacitated but have inadequate income or resources for support of the family.

2. The Realizing Economic Achievement (REACH) program is the AFDC education, training and employment program whose purpose is to assure that needy families with children participate in employment directed activities which lead to economic independence. Participation in REACH is required of AFDC individuals who meet the criteria established at N.J.A.C. 10:81–14. REACH makes available a variety of employment, training and educational opportunities as well as supportive services to ensure participation in REACH activities.

3. The Family Development Program (FDP) coordinates services and emphasizes educational opportunities for all family members (including remedial education and tutoring programs, and access to higher educational opportunities) and fosters the economic achievement and self-sufficiency of families. In those counties operating an FDP program, participation in FDP is required of AFDC individuals who meet the criteria established at N.J.A.C. 10:86. The FDP brings together the existing social, health, and educational/vocational resources in the State and offers a one-stop approach to meeting an

AFDC family's needs. In those counties operating under the FDP, references in this chapter to REACH/JOBS shall be interpreted as FDP (see N.J.A.C. 10:86).

4. Refugee Resettlement Program (RRP), through which financial assistance is provided to a citizen of any country who meets the Immigration and Naturalization Service (INS) statuses outlined in N.J.A.C. 10:81–10.

(b) Information, applications and staff agency personnel shall be available to assist non-English speaking applicants for income maintenance programs listed in N.J.A.C. 10:81–1.11 and 1.12. Spanish language program material is routinely prepared by the Division and distributed to county and municipal assistance agencies. Minority program materials in languages other than Spanish may be prepared, based on knowledge of the population served by programs under the auspices of the Division.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended on an emergency basis, R.1981 d.397, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a). Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), N.J.R. 102(c).
(a)ii "are not" deleted; "neither is" added; "father" deleted and "principal earner" substituted therefor.
Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Deleted old (a)2. and 3. and inserted new language.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Cuban/Haitian program deleted; REACH program added at (a). Provisions added for information to assist non-English speaking applicants.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text added at (a)3 regarding the Family Development Program.

Case Notes

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

10:81–1.12 Other programs

(a) Other related assistance programs include (also see N.J.A.C. 10:81–8):

1. Food Stamp Program, through which food coupons are issued to certain persons who are in economic need. This program is a joint responsibility of the United States Department of Agriculture and the Division of Economic Assistance, with the purpose of increasing the food purchasing power of low income households and the nutritional adequacy of their diets. (The Food Stamp Manual provides detailed information).

2. General Assistance, the program under which financial and medical aid is provided by municipal departments of welfare to persons not eligible for or receiving other public assistance programs. (The General Assistance Manual provides detailed information.)

3. Medical Assistance for the Aged, a State program for individuals 65 years of age or older who can normally maintain themselves, are not eligible for Medicaid, but who are in need of hospitalization, home health care or long-term care and are unable to meet such costs. (The Medical Assistance for the Aged Manual provides detailed information.)

4. Medical assistance (Medicaid), which is provided through the Division of Medical Assistance and Health Services to persons who are eligible to receive public assistance or Supplemental Security Income (SSI) and to certain other individuals. This benefit is available whether or not the client(s) chooses to receive a money payment (Medicaid Only).

5. The Realizing Economic Achievement (REACH) program assists AFDC recipients to achieve independence from public assistance through employment and activities leading to employment. The REACH program incorporates the provisions of the Federal Job Opportunities and Basic Skills Training (JOBS) Program and serves as New Jersey's employment and training program for eligible AFDC families. The Division of Economic Assistance, Department of Human Services, supervises the administration of the REACH/JOBS program.

6. The Family Development Program (FDP) enhances New Jersey's JOBS program by promoting self reliance, offering intensified and coordinated services, emphasizing educational opportunities for all family members and by fostering economic achievement of families. The FDP brings together the existing social, health, and educational/vocational resources in the State and offers a one-stop approach to meeting an AFDC family's needs. The objective of the FDP is to enable public assistance recipients to secure permanent full-time unsubsidized jobs with wages and benefits that are adequate to support their families by ensuring that family members obtain the necessary educational skills and vocational training to secure those kinds of jobs, in addition to other health-related, social, educational and vocational services that may be necessary to assist the family. In those counties operating under the FDP, references in this chapter to REACH/JOBS shall be interpreted as FDP (see N.J.A.C. 10:86).

7. Child Care Programs/Services are administered by the Division of Family Development with the goal of assisting both AFDC and non-AFDC individuals in their efforts to achieve self-sufficiency.

i. JOBS/FDP child care benefits as a supportive service to participants actively participating in New Jersey's REACH/JOBS and FDP program are made available as an entitlement. Participants may receive child care benefits as described at N.J.A.C. 10:81–14 to the extent that such child care is necessary to permit an AFDC eligible family member to accept employment, to remain employed or to participate in an educational or employment-directed activity.

ii. JOBS/FDP Transitional Child Care (TCC) benefits, described at N.J.A.C. 10:81–14, are a supportive service available to families whose eligibility for AFDC has ceased due primarily to increased earnings, increased hours of employment (including new employment), which result in increased earnings, or as a result of the loss of earned income disregards due to the expiration of time limits. This supportive service is an entitlement and is available for 12 months post-AFDC, to the extent that child care is necessary to permit a member of the AFDC family to accept or maintain employment. The eligible parent must request such benefits and will be required to pay a co-pay fee based on annual gross income, family size, hours of child care needed and the number of children needing care.

iii. DFD administers, through the county Boards of Social Services, the payment of special circumstance child care utilizing Title IV–A funds. This supportive service benefit is available when payment for such care is not available through other resources and the county Board of Social Services determines, while adhering to established guidelines, that such care is essential. This supportive service and the guidelines are outlined at N.J.A.C. 10:82–5.

iv. New Jersey Cares for Kids (NJCK) Child Care Certificate Program is made possible through block grant monies of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law 101–508. The block grant child care service programs are the At–Risk Child Care (ARCC) Program as implemented by Section 5081 of OBRA 1990, and the Child Care and Development Block Grant (CCDBG) Act of 1990, as implemented by Section 5082 of OBRA 1990. The NJCK Certificate Program is implemented by community child care agencies in each county via contract with DFD. The program is made available to income eligible families to the extent that such child care is necessary to permit a family member to accept employment, to remain employed, or to participate in employment/training/educational activities as specified in Federal regulations. To receive services from this program the family must pay a co-pay fee which is based on gross annual income, family size, hours of care needed and the number of children in care. This program is further described in the DFD Child Care Services Manual at N.J.A.C. 10:15, 10:15A, 10:15B and 10:15C.

8. Division of Youth and Family Services, supportive and protective services for eligible children, families and individuals provided through the Division of Youth and Family Services.

(b) The Social Security Administration, United States Department of Health, Education and Welfare, administers the Supplemental Security Income (SSI) program, under which persons who are 65 years of age or older or who are blind or disabled (including children) may receive financial assistance and be eligible for supportive services through the county welfare board.

(c) Other governmental programs providing assistance to needy families or individuals are described in subchapter 8 of this chapter.

Amended by R.1976 d.63, effective March 1, 1976.
See: 8 N.J.R. 69(b), 8 N.J.R. 195(b).
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a)5: deleted WIN reference and replaced with REACH program.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Added explanation of Family Development Program and relationship to REACH/JOBS program(s).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–1.13 Issuance of manual

(a) Rules concerning assignment and responsibility are:

1. The director of the county welfare board shall assign copies of this manual to administrative staff and all other income maintenance staff members working with applicants and recipients and to social services staff as appropriate and shall ensure that each staff member is thoroughly familiar with its contents and applies the required policy and procedures consistently.

2. The Division of Economic Assistance shall issue revisions and changes to this manual as necessary. It is the responsibility of each holder of the manual to maintain its accuracy by inserting new material and removing obsolete pages promptly.

3. One administrative copy of obsolete material related to this manual shall be kept by the county welfare board.

(b) This manual is a public document. It is extremely important that all copies in use be absolutely accurate and up-to-date. It is available as follows:

1. Copies are available in the State office of the Division of Economic Assistance and in each county welfare board office for examination or review during regular office hours or regular work days.

2. Specific policy material necessary for an applicant or recipient or his/her representative to determine whether a hearing should be requested or to prepare for a hearing shall be provided to such persons without charge.

3. All public and university libraries which have agreed to keep the manual up-to-date will have a copy available under their regulations.

4. Each legal services office will be furnished with a copy of this manual.

5. Welfare, social service and other nonprofit organizations will be furnished with a copy of this manual at no

cost by an official written request to the Division of Economic Assistance.

6. A current up-to-date copy of the manual or any part of it is available from the Division of Economic Assistance at the cost of printing and mailing to anyone who requests it in writing.

7. All supplementary State policy directives will routinely be sent to those who have been supplied with the manual. A mailing list will be maintained by the Division.

10:81-1.14 Welfare Board Minutes

(a) The county welfare board in each county in which a welfare board exists shall maintain in permanent archives formal Minutes of the proceedings of all regular and special meetings.

(b) Purpose: The maintenance of Minutes is legally and administratively essential to:

1. Serve as the official and permanent record of all action duly authorized by the board and of all policy decisions, whether of general or special nature, established by the board for the governing of staff operations;

2. Establish the validity of executive acts of the director and ministerial acts of staff members in carrying out the board's authorization and policies;

3. Provide an official medium for monthly reporting to the State office of those actions of which the State office must be apprised in order to accomplish its functions and for which no other reporting medium is prescribed.

(c) Preparation, attest, maintenance:

1. The Director of Welfare, as the legally designated clerk of the county welfare board where such board exists, shall:

i. Prepare the Minutes or supervise and direct their preparation; and

ii. Attest by personal signature to the official character and correctness of the Minutes; and

iii. Provide for and supervise the retention of one official copy in the permanent archives of the agency; and

iv. Provide for and supervise the retention of attachments to the Minutes as directed elsewhere in this section.

(d) General requirements/content: Subject to the requirements of this section, the Minutes may be prepared in whatever style and form the director of welfare, with the approval of the board, may determine. They shall include as a minimum the following:

1. Time and place of meeting.

2. Roll call: Identification of members in attendance and establishment of a legal quorum. Also, identification of guests of the board; counsel, if present; staff members; consultants; persons with specific business with the board; and others in attendance who may voluntarily identify themselves, including representatives of interest groups with identification of the groups when voluntarily supplied.

3. Sunshine Law compliance: A statement in a form prescribed by counsel as required under the Sunshine Law (Open Public Meetings Act).

4. Previous Minutes: Approval or correction of Minutes of the previous meeting.

5. Disposition of cases: Statement of authorization and/or ratification of the director's action in all case determinations. Individual case identification is required only for those cases in which the welfare board is called upon to make a special individual determination.

6. Fund requisitions: Authorization for the secretary-treasurer to requisition from the State and county treasurers specified amounts of funds for assistance and administration.

7. Disbursements: Approvals and authorizations for payments from the various accounts maintained by the agency.

8. Communications: Record of receipt and disposition, where appropriate, by the board of all communications addressed specifically to the board or otherwise requiring board attention.

9. Personnel transactions: Statement of authorization and/or ratification of the director's action in all personnel transactions. Identification of individuals or positions is required only for those transactions in which the welfare board is called upon to make special individual determinations. All personnel transactions are subject to final approval by the Division of Economic Assistance.

10. Asset and recovery transactions: Record of transactions authorized and intermediate decisions and instructions for executive guidance developed by the board in matters of claims, assets, and recoveries.

11. Staff reports: Record of receipt of regular or special staff reports and of actions taken.

12. Reports of special projects, grants or programs with approvals of expenditures and of decisions made as appropriate.

13. Policy decisions: Record of discussions and decisions on all matters of general or special policy considered by the board and not covered elsewhere in the Minutes, including transactions requiring individual authorization, intermediate decisions, and instructions for executive guidance.

14. Adjournment with announcement, if appropriate, of time and place of next meeting.

(e) Attachments: Copies of any reports, schedules, correspondence or other documentary material which may be necessary to an understanding of the Minutes are to be attached to those copies of the Minutes transmitted to the State office and at the instruction of the board to the individual board members and to such others as may be designated by the board. The attachments need not be maintained as a part of the permanent archives of the agency but if not so maintained, shall be maintained in such a way as to be accessible to those reviewing the Minutes. They shall be retained for such periods as may be directed by the board but not less than three years or such longer periods as may be directed in writing by the State office.

(f) Transmittal to State office: A copy of the complete Minutes with attachments of each regular and special meeting of the board shall be transmitted to the Chief, Bureau of Management Services, Division of Economic Assistance on or before the fifth working day of the month following the close of business for that month. Such submittal and subsequent review by State staff does not in any way mean that the contents of the Minutes are approved by the State office.

(g) Optional segregation: Each county welfare board may, at its option and by instruction to the welfare director as clerk of the board, maintain the Minutes of its closed meetings separately from those of its open meetings. When so maintained, both parts comprise the Minutes of a meeting subject to permanent retention but only the open meeting portion need be supplied on request (and payment when appropriate) to persons other than board members and the State office. The attachments should be similarly separated.

(h) When separated (and appropriately marked) copies of Minutes arrive in the State office, the portion relating to the executive and closed meeting sessions which often deals with confidential matters that should not be a matter of general knowledge and the attachments thereto are subject to restricted circulation on a "need to know" basis. Those portions of the Minutes dealing with executive or closed sessions should be submitted separately to the Personnel Officer, Division of Economic Assistance and will be maintained exclusively by the Office of Personnel. The portion relating to the open meeting (and the closed meeting as well for Minutes which are not separated) are circulated throughout the State office.

R.1982 d.151, effective May 17, 1982.
See: 13 N.J.R. 877(b), 14 N.J.R. 473(d).

SUBCHAPTER 2. THE APPLICATION PROCESS

10:81–2.1 General provisions

(a) This subchapter describes briefly the steps followed by the income maintenance (IM) worker in determining an applicant's eligibility to receive public assistance. The objective of eligibility determination is to assist all eligible persons in qualifying for AFDC and participating in the Family Development Program (FDP) or Realizing Economic Achievement (REACH) program. Detailed information regarding eligibility factors is in N.J.A.C. 10:81–3, 10:81–14, N.J.A.C. 10:86 and N.J.A.C. 10:82.

(b) The application process begins with an individual's initial contact with the agency and ends with a decision by the county welfare agency (CWA) as to eligibility for Aid to Families with Dependent Children (AFDC). Both the applicant and the IM worker have an affirmative responsibility in verifying and documenting eligibility.

(c) Initial contact may be an inquiry, a referral or an application:

1. Inquiry means any request for information about assistance programs which is not a request for an application. A record is necessary only when the inquiry requires follow-up action.

2. Referral means a request from a public or private agency or individual for assistance on behalf of another individual. All referrals must be recorded with appropriate facts, and the disposition noted.

3. Application means a written request for public assistance by natural or adoptive parent(s), parent-person(s), parent-minor, or responsible person acting on his/her behalf.

(d) There are four types of applications:

1. New application: A written request for assistance by an individual who has never previously applied under that program in any county in the State.

2. Reapplication: A written request for assistance by an individual who has previously applied for, but never received, assistance under that program in any county in the State.

3. Reopened application: A written request for assistance by an individual who has previously received assistance under that program in any county in the State.

4. Transfer application: A written request for assistance from an individual who is presently receiving assistance under the same program in another county in the State.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
REACH provisions added.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Reference to Family Development Program added.

Case Notes

Applicant entitled to general assistance payments without reapplication; questionable disbursements. C. H. v. Franklin Township Municipal Welfare Department, 94 N.J.A.R.2d (DEA) 7.

10:81–2.2 Purpose and scope of first contact

(a) Responsibility of the agency during the initial contact shall include, but not be limited to:

1. Determining and explaining the programs (services and assistance) which are appropriate and for which the client may be eligible. Informing the client how and where to apply.

2. Advising individual of general requirements of the application process, e.g., the necessity of contacting certain relatives and of certain other collateral contracts with an explanation of the right of the applicant to confidentiality and to be primary source of information. The application form includes a blanket consent statement. The client should be informed that he/she is consenting to have the CWA contact others by signing this form. The applicant is also required to sign a waiver allowing the CWA to obtain State income tax information. The IM worker must specifically advise each applicant that by signing the waiver he/she is granting such an authorization. In addition to such oral explanations, the individual shall be provided with the pamphlet, Your Rights and Responsibilities (Form PA–197).

3. Advising individual that Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination in determining eligibility for public assistance and furnishing him/her with a copy of PA–197, Your Rights and Responsibilities.

4. Determining whether the individual does indeed wish to apply, with full understanding of the need to verify essential eligibility factors and the requirement for a personal interview.

5. Informing individual of availability of the Food Stamp (FS) Program to recipients of assistance and to certain nonpublic assistance households, specifying the requirements for qualification and assisting the individual to apply if he/she so chooses and it is appropriate.

6. Taking the application without delay. When immediate need is apparent, immediate assistance shall be given under presumptive eligibility.

7. Advising a pregnant woman that she may make application for assistance up to 60 days before the expected birth date of her child.

8. Providing an orientation to the FDP or REACH program to each applicant for assistance in accordance with N.J.A.C. 10:86 or N.J.A.C. 10:81–14, respectively. The IM worker will determine the need for each individual to participate in FDP or REACH as a condition of eligibility for AFDC (see N.J.A.C. 10:86 or N.J.A.C. 10:81–14.3). Further, the IM worker shall:

i. Determine if AFDC applicants or recipients are exempt from FDP or REACH participation in accordance with N.J.A.C. 10:86 or N.J.A.C. 10:81–14.3(b);

ii. Refer AFDC applicants and recipients who do not meet the exemption criteria at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.3A to case management for initial FDP or REACH evaluation of employability (individual evaluation) and assessment of the individual's skill level and/or literacy level by the appropriate county entity; and

iii. Perform other related functions concerning the FDP or REACH program as described in N.J.A.C. 10:86 or N.J.A.C. 10:81–14.

Amended by R.1976 d.408, effective January 1, 1977.
See: 8 N.J.R. 467(c), 9 N.J.R. 23(c).
Amended by R.1979 d.277, effective September 1, 1979.
See: 11 N.J.R. 281(a), 11 N.J.R. 383(a).
Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
CWA responsibilities regarding the REACH program delineated.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a)8: changed "overview of" to "orientation to" the REACH program and revised N.J.A.C. internal reference.
In (a)8ii: Added specific reference procedures for initial REACH evaluation of employability.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Reference to Family Development Program added.

Case Notes

Gilbert v. Tull, 145 N.J. Super. 53, 366 A.2d 1012, 60 (Law Div.1976) (regulation cited as PAM § 2110 et seq.).

10:81–2.3 Completion of forms

(a) The applicant will be fully assisted by the IM worker or by any person of his or her choice in completing the Application and Affidavit for Public Assistance (PA–1J). Form PA–1J is used to apply for AFDC, AFDC-related emergency assistance, refugee resettlement, categorically related Medicaid and food stamp benefits. The applicant will also be given the pamphlets "Your Rights and Responsibilities in the AFDC Program" (Form PA–197) and "Fair Hearing in the Aid to Families with Dependent Children Program (AFDC)" (Form PA–196). The client's obligation to report changes, as stated in Form PA–197, will be carefully explained by the IM worker.

(b) Signature(s) and date of application are required. The application (Form PA–1J) requires three signatures of the applicant(s). In addition to the first page and the affidavit, the applicant(s), with the exception of non-needy parent-persons who do not request assistance for themselves, shall sign a release which authorizes the CWA to obtain State income tax information.

1. In AFDC–C, a written application and the authorization to obtain State income tax information is to be signed under oath by the applicant himself/herself or, when the applicant is incapacitated or alleged incompetent, by someone acting responsibly for him/her.

i. When both parents are in the home both will be required to sign the application and the authorization to obtain State income tax information except that if a parent is unavailable to sign the application and the authorization to obtain State income tax information for reasons beyond the family's control, one signature will suffice. In that event, the nonsignatory parent shall be required to annex his/her signatures as promptly as he/she is available for such purposes.

ii. A non-needy parent-person who does not make application for AFDC for himself/herself is required to sign the application but is not required to sign the authorization to obtain State income tax information. This exception does not apply to natural or adoptive parents.

2. In AFDC–F and -N, a written application and the authorization to obtain State income tax information shall be completed and signed by both parents. If one parent is unavailable to sign the application, see this subsection.

(c) As a further condition of eligibility for AFDC–C or -F, AFDC-related Medicaid and food stamp benefits, a written declaration of citizenship/legal alien status shall be obtained for each member of the eligible family. An adult eligible family member or applicant for the family in the absence of an adult family member shall sign for members under 18 years of age.

(d) The IM worker will look over the application to make sure it is complete and to check any apparent discrepancy of confusion in the information provided by the applicant with him/her, arriving at a resolution, if possible, in order to process the application.

(e) The application will be registered immediately and a number assigned in the series designed for the applicable program. A reapplication or reopened application will be reassigned its previous number if within the same county.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.277, effective September 1, 1979.
See: 11 N.J.R. 281(a), 11 N.J.R. 383(a).
As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
N.J. Form number changed. Written declaration of citizenship/alien status required for eligibility determination.

Cross References

Designated payee in AFDC, see N.J.A.C. 10:81–4.6.

10:81–2.4 Eligibility for Aid to Families with Dependent Children (AFDC)

(a) Eligibility for AFDC is based upon certain criteria such as age, relationship, residence in the State and upon other criteria relevant to each segment. (See section 5 of this subchapter.)

(b) Eligibility for the AFDC–C segment is based on financial need and deprivation of parental support and care because of incapacity, absence or death of one or both parents.

(c) Eligibility for the AFDC–F segment is based on financial need when both parents are in the home, neither is incapacitated and the parent who is the principal earner meets the Federal definition of unemployment.

(d) Eligibility for the AFDC–N segment must be determined when both parents are present in the home, are not incapacitated, there is insufficient income or other resources for support of the family and family does not meet the Federal criteria for the AFDC–F segment.

(e) All AFDC–F and -N clients will be advised that their eligibility for these segments is based on the fact that there are two parents who are not incapacitated in the home and that, if a parent dies, becomes incapacitated or leaves the household, this fact should be brought to the attention of their IM worker so that an application for AFDC–C or referral to SSI can be considered. Each AFDC–N applicant shall also be given a copy of Form PA–910, An Important Reminder to Families Applying for AFDC–N, which provides this information in detail.

(f) Payment standards for persons eligible under the AFDC–C, -F and -N appear in schedule II or III, as appropriate, at N.J.A.C. 10:82–1.2(b).

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended on an emergency basis, R.1981 d.397, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a). Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(c): "are not" deleted, "neither is" added, "father" deleted and "parent who is . . . unemployment" substituted therefor.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Reference to "CODES" replaced with "FAMIS".
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text referencing equalization of payment standards added.

Case Notes

Mother's assignment of father's court-ordered child support payments to county division of welfare valid and enforceable; order designating mother as support payment beneficiary violated the AFDC assignment program. Essex Cty. Div. of Welfare v. Simon, 178 N.J.Super. 523, 429 A.2d 609 (App.Div.1981).

Respondent's AFDC beneficiary status should not have been terminated due to daughter's bank account. Mercer County Board of Social Services v. C.R., 94 N.J.A.R.2d (DEA) 2.

Live-in boyfriend's unemployment insurance benefits were not income for mother and her child. Passaic County Board of Social Services v. M.H., 93 N.J.A.R.2d (DEA) 37.

10:81–2.5 Financial need

The IM worker shall determine financial eligibility (need) of the eligible family members by preparing Form PA–3A (Worksheet and Authorization for Public Assistance) or Form 105, if appropriate, in accordance with N.J.A.C. 10:82–2 and the Family Assistance Management Information System (FAMIS).

10:81–2.6 Eligibility factors other than need

(a) In verifying eligibility, the IM worker shall take whatever action is necessary to assure that all relevant documentation is promptly obtained. The IM worker will assist in obtaining verification documentation if the applicant wants help. The applicant will cooperate fully consistent with his/her rights, including confidentiality and consent.

(b) Age: The IM worker shall explain to the applicant that children up to the age of 18 and children up to the age of 19 if they are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19, are eligible for AFDC. Program completion is defined as the day of ceremonial graduation.

(c) The relationship between adoptive parent and child(ren) in AFDC is:

1. AFDC: The IM worker will explain to the applicant that in order to apply for AFDC, he or she shall be either the natural or adoptive parent or eligible to serve as a parent-person of the eligible child(ren). An applicant who is a parent-person has the option of applying either for the child(ren) or him or herself as a needy parent-person, or for the child(ren) only. The advantages and disadvantages of each option shall be thoroughly discussed.

2. The IM worker will explain that for AFDC–F and -N segments the child(ren) shall be natural or adoptive to the two parents who are applying.

3. If not eligible for AFDC, eligibility for SSI will be explored.

(d) Rules concerning Social Security numbers are as follows:

1. The AFDC applicant shall supply the CWA with the Social Security number of each member of the eligible unit or apply for a Social Security number for any such person who does not already have one (see (d)3 and 5 below).

2. The IM worker shall record, in the appropriate spaces on FAMIS Form 105 and Form PA–1J (Application and Affidavit for Public Assistance), the Social Security number of each person who is included in the AFDC assistance payment.

3. The CWA shall obtain a supply of Social Security Form SS–5, sufficient to accommodate all AFDC applicants and eligible individuals who do not already have Social Security numbers. Upon application for AFDC, the applicant shall be required to sign as many SS–5 forms as needed for the eligible family. The IM worker shall complete Form SS–5 on the basis of information provided by the applicant. Completed forms shall be forwarded to the county's respective Social Security Administration District Office (SSA/DO). A copy of the SS–5 form shall be retained in the case record, and a copy given to the client if so requested.

i. The IM worker shall record in the case record the date upon which Form SS–5 was prepared.

ii. If any applicant refuses to provide or apply for the appropriate Social Security number(s), the CWA shall declare such person ineligible for AFDC benefits. The needs of that individual shall be deleted in accordance with N.J.A.C. 10:82–2.4.

(1) For a "newborn" child, whose birth certificate may not be readily available, the completion of time for the SS–5 is extended to the first day of the second month after the birth of the child.

(2) A signed and certified hospital document may be accepted in lieu of a birth certificate, provided that it contains the same information that would appear on a birth certificate, that is, child's name, date of birth, place of birth, mother's name, mother's residence, and father's name.

iii. Public assistance applicants who are legal residents of the United States in accordance with the provisions of the U.S. Immigration and Naturalization Service (INS), but not United States citizens, shall have Form PA–55, County Welfare Agency Alien Referral to Social Security (SSA) District Office for Social Security Number Application, processed at the SSA/DO in order to be enumerated.

(1) For enumeration purposes, not all U.S. born individuals are U.S. citizens. These individuals may include former U.S. citizens who are now citizens of another country. Additionally, children of foreign diplomats or other temporary aliens who are born in the U.S. while their parents are in the U.S. are considered citizens of the parents' home country. Such individuals shall not be referred to the SSA/DO unless the individual is a legal U.S. resident as stated above.

(2) Form PA–55 is to be used to refer legal residents of the United States as determined by the Immigration and Naturalization Service, who are not U.S. citizens, to the SSA/DO. Liaisons in the SSA/DO have been instructed to return the bottom portion of that form to the specified CWA. For quality control purposes, the bottom portion of Form PA–55 is to be filed in the case record and will serve as acceptable documentation that the individual has applied for a Social Security number.

(3) Each CWA is to create a tickler file to monitor the flow of referral forms (PA–55s) and receipts of acknowledgement (bottom portions of Form PA–55). Immediately upon receipt of such acknowledgement, CWAs shall input the filing date of the SS–5 form on the 105 form, thereby providing tracking for the issuance of Social Security numbers, and file the acknowledgment in the case record.

4. Procedures for verifying Social Security numbers are as follows:

i. The CWA shall verify the Social Security numbers (SSNs) provided by the eligible family with the Social Security Administration (SSA) by submitting them through FAMIS. Benefits shall not be denied, delayed or terminated for an otherwise eligible family pending SSN verification. Once the SSNs have been verified, the CWA shall make a permanent annotation to the case file to prevent unnecessary reverification of the SSN in the future.

5. AFDC benefits shall not be denied, delayed or terminated pending issuance or verification of a Social Security number so long as the applicant/recipient has complied with the provisions of (d)1 through 4 above.

6. Every applicant for and recipient of Medicaid benefits is required to furnish a valid Social Security number to the CWA as a condition of eligibility for Medicaid. Any applicant or recipient who does not already have a Social Security number shall be required to apply for same. In addition, (d)2 through 5 above shall apply to Medicaid recipients.

(e) Rules concerning enumeration at birth are as follows:

1. Participating hospitals have entered into an agreement with the New Jersey Department of Health, Bureau of Vital Statistics to initiate the enumeration process for newborns while the parent is in the hospital at time of the birth. This process is undertaken through a program implemented by SSA entitled "Hospital Enumeration at Birth Project". This process is for the convenience of the parent and is optional.

2. If the service is available at the hospital and the parent elects to apply, the parent is given Form SSA–2853/OP4, "Message From Social Security", that bears the name of the newborn for whom SSN application has been made and the dated signature of an authorized hospital official.

3. If Form SSA–2853/OP4 contains the foregoing identifying information, it serves as satisfactory verification that the family has applied for a SSN on behalf of the newborn for AFDC purposes provided that other documentation is available to connect the child to the parent.

4. In instances of "enumeration at birth," the CWA worker will not need to complete Form SS–5, "Application for a Social Security Number Card," for the newborn. Block QM/92 on FAMIS Form 105B will be completed by utilizing the "888" coding option for the infant in such situations.

5. Parents who elect to enumerate their newborn child(ren) through this process are required to furnish the assigned SSN to the CWA when it is received. The CWA shall, however, request proof of receipt of the SSN after six months from the child's birth have lapsed or at time of the recipient's next redetermination, whichever occurs first. If an SSN has not been assigned to the newborn at that time, then the CWA shall complete the SS–5 form for such newborn.

6. If the family is unable to provide Form SSA–2853/OP4, then the child shall be enumerated by the CWA through completion of an SS–5 following current application procedures.

7. CWAs shall not contact hospitals to verify that a child was enumerated through those facilities.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1978 d.190, effective June 8, 1978.
See: 10 N.J.R. 286(a).
As amended, R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Deleted participation of 19 to 21 year olds.
Amended by R.1987 d.349, effective August 17, 1987 (operative September 1, 1987).
See: 19 N.J.R. 618(a), 19 N.J.R. 1559(a).
Added text to (b) "Program completion is . . ."
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Reference to AFWP program deleted.
Amended by R.1994 d.233, effective May 16, 1994.
See: 26 N.J.R. 324(a), 26 N.J.R. 2099(a).
Amended by R.1994 d.612, effective December 19, 1994 (operative January 1, 1995).
See: 26 N.J.R. 3930(a), 26 N.J.R. 5022(a).

10:81–2.7 Deprivation of parental support in AFDC–C

(a) Deprivation under AFDC–C can result from death, incapacity or continued absence of one or both natural or adoptive parents.

(b) The IM worker will inform the applicant of the need to prove the death of the eligible child(ren)'s parent(s) and of the sources available for such documentation (see N.J.A.C. 10:81–3.4).

(c) Physical or mental incapacity of a parent shall be deemed to exist when both parents are in the home and one has a physical or mental defect, illness or impairment. The incapacity shall be supported by competent medical testimony and must be of such a nature as to reduce substantially or eliminate the parent's ability to support or care for the eligible child and be expected to last for at least 30 days:

1. When immediate need is apparent and the applicant provides evidence of eligibility and of one of the following, a grant shall be issued, effective as of the date of application, if:

i. The applicant is receiving benefits not due to age alone under the Supplemental Security Income (SSI) program administered by the Social Security Administration (SSA); and/or

ii. The applicant is receiving disability insurance benefits under the Federal RSDI program; or

iii. The applicant is receiving inpatient care in a medical facility and the attending physician indicates in writing that such care shall be required for at least 30 days.

2. If the applicant claims to be in immediate need and none of the factors in paragraph 1 of this subchapter exist, he/she shall be evaluated for AFDC–F or -N (see N.J.A.C. 10:82–1.4(f)).

3. If the applicant has been receiving assistance under the AFDC–F or -N segment and incapacity is found not to exist, the CWA will so notify the applicant promptly of the denial of the application as to incapacity. (See N.J.A.C. 10:81–7.1(i).) While the notice will show no grant change as a result of the denial, fair hearing rights nonetheless apply.

4. To establish eligibility for persons not covered by (c)1 above, see N.J.A.C. 10:81–3.

5. Where appropriate, the IM worker shall review with the applicant the desirability of applying for SSI. The IM worker shall explain to the applicant that if he/she decides to apply he/she will be required to sign forms PA–30 and PA–30A and the CWA will be reimbursed for any AFDC–N payments made on his/her behalf from the initial SSI award. (See N.J.A.C. 10:81–3.46 for an explanation of procedures.)

(d) Absence: Continued absence of the parent from the home constitutes deprivation of parental support or care. Absence will be considered continued when it interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes the parent's performance of his or her function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he or she may have left only recently or sometime previously.

1. When information is received that an AFDC recipient and his or her children are "living with" or being "frequently visited" by the allegedly absent parent of one or more of the children, the CWA shall immediately commence a comprehensive investigation of the family situation. Such investigation shall include:

i. Checking with appropriate authorities, for example, the Division of Motor Vehicles, the Postal Service, utility and telephone companies, employers and landlords to ascertain whether the allegedly absent parent's address is the same as the recipient's address;

ii. Obtaining information from collateral sources to determine whether the parent is living at the recipient's address, or, if he or she only visits, how often and for how long (affidavits of these circumstances or, more importantly, agreements to testify, if necessary, should be obtained);

iii. Observing the family home (on more than one occasion);

iv. Interviewing both the AFDC recipient and the allegedly absent parent as to the status of their living arrangements, the frequency, duration, and nature of his or her visits to the family home, the present financial arrangements between them, confronting them with the information previously obtained from independent sources, and permitting them an opportunity to admit, deny, contradict or explain any or all of it; and

v. Following up all leads obtained during the interview, to confirm or disapprove assertions made during the interview.

2. When the investigation is completed, the CWA shall determine whether the parent is continually absent. If it is determined that the parent is residing with the eligible unit, such parent is not to be considered continually absent. If it has been determined that the parent is not residing with the eligible unit, in order to establish that such parent is not to be considered continually absent, evidence must exist of the parent's provision of three parental functions: maintenance, physical care, and guidance to the child(ren). Unless all three parental functions are present, the "absent" parent shall be considered continually absent. Evidence supporting the determination of continued absence must be fully documented in the case record.

3. If the CWA is convinced that the parent is not absent and the family is no longer eligible for AFDC–C based on deprivation of parental support or care, the CWA shall terminate assistance. The adverse action notice shall give as the reason for the action that the "absent" parent is either living in the home or that his or her presence in the home is such that he or she can no longer be considered to be continually absent therefrom, and cite the appropriate regulations.

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

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

As amended, R.1977 d. 452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.423, effective December 1, 1979.
See: 11 N.J.R. 446(a), 11 N.J.R. 559(e).
As amended, R.1980 d.118, effective March 19, 1980.
See: 11 N.J.R. 625(a), 12 N.J.R. 194(c).
Added second sentence and cross reference.
As amended, R.1984 d.415, effective September 17, 1984.
See: 16 N.J.R. 825(a), 16 N.J.R. 2440(a).
Amended by R.1986 d.9, effective February 3, 1986.
See: 17 N.J.R. 2333(a), 18 N.J.R. 272(a).
(d)1–3 added.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text deleted at (c)3 to conform to equalization of payment standards.

Case Notes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Determine the participant status for FDP or REACH;

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

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

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

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

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

Repeal and New Rule: R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was "WIN registration in AFDC–C and -F segments (WIN counties only)."
Prior rulemaking activity is as follows:
Amended by R.1976 d.63, effective March 1, 1976.
See: 8 N.J.R. 69(b), 8 N.J.R. 169(a).
Amended by R.1977 d.226, effective July 1, 1977.
See: 9 N.J.R. 223(b), 9 N.J.R. 370(a).
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.428, effective October 18, 1979.

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

10:81–2.9 (Reserved)

Repealed by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was: "Employment in AFDC–N." Prior rulemaking activity and "Case Note" follows.
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Case Notes

Olds v. Klein, 166 N.J. Super. 28, 398 A.2d 1311, 32 (App.Div.1979), certif. den., 81 N.J. 63, 404 A.2d 1162 (1979).

10:81–2.10 Residence law

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

10:81–2.11 Support from relatives

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

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

10:81–2.12 Repayment (all segments)

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

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

Case Notes

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

10:81–2.13 Administrative action on application

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

(b) For those CWAs still using the PA–3A, the following applies:

1. Following the supervisor's approval, the director's approval shall be obtained and indicated on the PA–3A form.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–2.14 Ratification by welfare agency

(a) If immediate need is apparent and applicant provides evidence of eligibility, a grant will be issued on the director's approval and prior to the welfare agency ratification.

(b) If immediate need is not apparent a grant will be issued as soon as eligibility is established, with subsequent ratification by the welfare agency.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–2.15 Notice and information to client

(a) If immediate need is not apparent and a decision of approval or disapproval is not reached within 30 days of application, the CWB shall notify the applicant in writing of this fact and the reason for the delay. If the lack of decision is due to circumstances within the control and knowledge of the applicant, the welfare board will remind the applicant of the steps he/she must take to enable the welfare board to make a decision. (This notice shall include a sentence in Spanish cautioning the client that it relates to his/her eligibility for public assistance and if he/she does not understand the notice he/she should contact the CWB.)

(b) When a decision is reached, the applicant shall be notified in writing of this decision (approved or disapproved). If the application is denied, the notice shall provide information regarding food stamp eligibility requirements for nonpublic assistance households and financial and medical assistance available through general assistance.

(c) Client will also be advised in writing that if he/she is dissatisfied with any action or inaction of the welfare agency, he/she may request a hearing. He/she shall be informed of the steps that are to be followed in making such a request.

(d) If the application is approved, the client will be advised in writing:

1. Of his/her obligation to report all relevant changes in circumstances, for example, family size, income, employment, and so forth.

2. Of the use of the medical assistance stub included with the assistance check.

3. That he/she may qualify for a number of additional services which the IM worker will describe briefly and explain where to apply for these services.

(e) Upon request, the client will be given a copy of his/her executed application form, with any attachments.

As amended, R.1979 d.428, eff. October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

Case Notes

Due process held to not require bilingual notices; cited as example of agency requirements for Spanish translation of notices. Alfonso v. Bd. of Review, Dept. of Labor and Industry, 89 N.J. 41, 444 A.2d 1075 (1982), appeal dismissed, certiorari denied 103 S.Ct. 30, 459 U.S. 806, 74 L.Ed.2d 45.

10:81–2.16 Photo identification cards

Photo identification cards will be issued routinely to recipients as a condition of eligibility for assistance (also see N.J.A.C. 10:81–7.15(d)3 and 4).

Amended by R.1986 d.6, effective February 3, 1986.
See: 17 N.J.R. 2335(a), 18 N.J.R. 273(a).
Old text deleted and new text substituted.

10:81–2.17 Verification

(a) Verification of facts essential to eligibility is required in all segments of the AFDC program.

(b) In all cases where immediate need is apparent and a grant of assistance issued, the case must be validated within two months following the month in which assistance is initially granted. Validation means the verification of essential eligibility factors. Verification shall be appropriately documented in the case record.

1. The county welfare board shall try to verify all necessary information within the required time but shall not penalize the client if the county welfare board, through no fault of the client, is unable to obtain documentation.

(c) The county welfare board must verify the age of all children for whom application is made and their relationship to the natural or adoptive parent(s) or parent-person(s) with whom they live.

(d) The CWA must verify the deprivation factor in AFDC.

1. The death of the parent(s) must be verified.

2. Incapacity must be validated through the medical review team's action expressed in Form PA–8.

3. Continued absence shall be verified in accordance with criteria in N.J.A.C. 10:81–3.

(e) For AFDC–N cases, if the condition of insufficient income is the result of the applicant having left a job within 90 days of the date of application, the IM worker will verify with the employer that the termination was not voluntary or will ask the applicant to demonstrate good cause for leaving. The IM worker will also verify that the applicant has registered with the Division of Employment Services. If the client does not have evidence of having registered, registration Form NJES–1A (Job Service Self–Registration Application) shall be completed at initial application and for subsequent registration renewals and redeterminations (see N.J.A.C. 10:81–2.18). If the termination was voluntary, without good cause (see N.J.A.C. 10:81–14.8(e)), then both parents shall not be eligible for assistance for a period of 90 days beginning with the date of termination of employment.

(f) The IM worker must verify all income and resources.

(g) The CWA shall verify school attendance in a school, college, training or vocational program of dependent children ages 16 to 19 at the time of application as an eligibility criterion of AFDC (see N.J.A.C. 10:82–1.5(a) and 1.9).

(h) The CWA will verify the client's county of residence, whether temporary or permanent.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended on an emergency basis by R.1981 d.397, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(c) Renumbered as (b)1.
(d) Renumbered as (c).
(d)-(d)3 added.
(e)-(i) added (see historical note).
Amended by R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Citations to N.J.A.C. added, ASH cites deleted.
Amended by R.1983 d.319, effective July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cites changed.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (e): added last sentence regarding voluntary termination.
In (g): replaced prior WIN text with current school attendance verification text.
Deleted old (h) and recodified (i) as (h).
Administrative Change to (e).
See: 23 N.J.R. 1705(a).

Historical Note

N.J.A.C. 10:81–2.18—2.22 were amended and recodified as part of N.J.A.C. 10:81–2.17 by emergency amendment, R.1981 d.397, eff. September 30, 1981 (oper. October 1, 1981), exp. November 30, 1981. See 13 N.J.R. 759(a).

10:81–2.18 State Employment Service registration (AFDC)

(a) AFDC applicants/recipients required to register with the State Employment Service: AFDC–F or -N principal earners exempt from REACH participation due to remoteness shall register with the State Employment Service.

1. Form NJES–1A (Job Service Self–Registration Application) must be completed for the initial registration of appropriate AFDC clients and for renewals.

i. Submittal of Form NJES–1A to the local ES office will constitute verification of work registration and renewals, respectively.

ii. Applicants and/or recipients currently receiving unemployment benefits are not required to complete the registration form. However, upon termination of such benefits, such individuals must be registered through Form NJES–1A.

iii. Employment registration shall be renewed every 90 days through Form NJES–1A.

iv. Form NJES–1A will also be used by the Job Service office to notify the CWA of action taken with regard to active registrants (e.g., refusal to cooperate in job referrals). The CWA will be required to then complete and return the yellow copy of the NJES–1A form indicating current status.

2. The client will be required to complete Form NJES–1A in duplicate; one copy shall be retained in the client's case record and the other transmittal to the Job Service office.

3. Where an AFDC recipient is terminated from assistance and subsequently reapplies after the Job Service office has been notified of the termination through Form NJES–1A, a new Form NJES–1A must be completed.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Recodified from N.J.A.C. 10:81–2.24 on an emergency basis, R.1981 d.397, effective September 30, 1981, (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a). Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(a): "Principal earners" was "fathers"; cross-reference to "3.19" was "3.43"; added "(residing in non-WIN counties)".
Amended by R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
18 year olds changed to 17.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a): updated WIN text to REACH text.
Administrative changes in (a)1, (a)1i, (a)1ii, 2 and 3.
See: 23 N.J.R. 1705(a).

10:81–2.19 through 10:81–2.22 (Reserved)

10:81–2.23 (Reserved)

Repealed on an emergency basis, R.1981 d.397, effective September 30, 1981, (oper. October 1, 1981), exp. November 30, 1981.
See: 13 N.J.R. 759(a). Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).

10:81–2.24 (Reserved)

SUBCHAPTER 3. ESTABLISHING PROGRAM ELIGIBILITY IN AFDC AND AFWP

10:81–3.1 Program eligibility factors related to AFDC

This subchapter presents in detail the program eligibility factors which shall be considered in making determinations related to the AFDC–C, -F and -N segments.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1978 d.190, effective June 8, 1978.
See: 10 N.J.R. 286(a).
As amended, R.1982 d.484, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Deletes participation of 19 to 21 year olds. New language added to Table.
Amended by R.1989 d.496, effective September 18, August 24, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Informational tables deleted.

10:81–3.2 Documentation and recording of program eligibility requirements

Fundamental to the establishment of eligibility for public assistance is the documentation of eligibility requirements. Under certain conditions, presumptive eligibility may be recognized.

As amended, R.1980 d.77, effective April 1, 1980.
See: 11 N.J.R. 554(a), 12 N.J.R. 126(b).
Added second sentence.

Case Notes

See Atty. Gen. F.O. 1977, No. 17.

10:81–3.3 Presumptive eligibility

(a) Presumptive eligibility shall be determined when, based on the applicant's written statement signed under oath, immediate need exists and other program requirements appear to be met (see N.J.A.C. 10:81–2.6 through 2.12 and N.J.A.C. 10:82–2.2.

1. Immediate need shall be recognized when the available resources of an applicant are insufficient to meet current living expenses.

2. When presumptive eligibility is determined in accordance with this section, a grant of assistance shall be issued on the date of application and continued as necessary during completion and verification of the applicable eligibility requirements (see N.J.A.C. 10:81–4.3). If a condition of immediate need develops during the verification process, a grant shall be issued as soon as immediate need is apparent in the same manner as if it had existed at the time of application.

i. See N.J.A.C. 10:82–2.3 for determination of the initial grant.

3. The CWA must validate all applicable eligibility requirements within two months following the month in which assistance is initially granted. This shall be accomplished by reliance upon documentary (factual recorded information) or nondocumentary (factual oral or written statements by reliable individuals possessing personal knowledge) sources of evidence. Failure of CWA to complete validation which is not due to lack of client cooperation shall not jeopardize the client's continued assistance.

4. Applicants are usually able to help select the most likely sources for corroboration of essential eligibility information. If they are not willing to have the necessary inquiries made or to secure the required information from such sources themselves, it shall be explained that the CWA will be unable to grant assistance. This choice and the consent form printed on the application which allows others to be contacted will be explicitly explained (see N.J.A.C. 10:81–1.2 and 1.5).

As amended, R.1980 d.77, effective April 1, 1980.
See: 11 N.J.R. 554(a), 12 N.J.R. 126(b).
Recodified (a), (b), and (c) as (a)2, (a)4 and (a)3. Added new (a), (a)1 and (a)2i.
Amended first clause and cross references in (a)2. County Welfare Board changed to CWA.
As amended, R.1983 d.319, effective July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Deleted citation to 2.23.

Case Notes

Initial eligibility for AFDC grant may be determined on the basis of all income available at any time during the month the application was received (Director's Final Decision). In the Matter of P.B., 8 N.J.A.R. 329 (1980), affirmed 175 N.J.Super. 158 (App.Div.1980).

10:81–3.4 Sources of evidence regarding eligibility

(a) The client's statement regarding his/her eligibility are evidence. For purposes of public assistance, the client's statement must be consistent and certain facts must be documented. The applicant will be informed that the county welfare board needs to document the facts regarding certain eligibility criteria and that this process will include contacting collateral sources as necessary:

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

2. Sources of collateral evidence to establish eligibility include but are not limited to the following:

i. Birth, death and marriage certificates, church records, immigration and naturalization papers, census records, school records, military service record, court records, employment records, records of public or private welfare agencies, voting records, medical records, personal records and affidavits from knowledgeable persons.

(b) Only evidence to corroborate facts essential to eligibility shall be sought. In determining the relative validity of sources of evidence in subsection (a) of this section, the agency should bear in mind the type and source of document.

(c) Affidavits shall be used only when other sources have failed or have produced inconclusive data. Documentation obtained in this manner shall be taken under oath from a person who has factual knowledge of the relevant circumstances. The affidavit shall show the circumstances under which this person has known the applicant as well as the factual basis of his/her statements relating to the applicable eligibility requirements.

(d) While it is usually desirable to obtain evidence in written form, personal inspection of records by the agency personnel, where permission can be secured, is an acceptable practice and is often quicker and simpler. (Also see N.J.A.C. 10:81–3.6.)

(e) With respect to "enumeration at birth," the CWA shall request proof of receipt of the SSN after six months from the child's birth have lapsed or at time of the recipient's next redetermination, whichever occurs first. If an SSN has not been assigned to the newborn at that time, then the CWA shall complete the SS–5 form for such newborn.

Amended by R.1994 d.233, effective May 16, 1994.
See: 26 N.J.R. 324(a), 26 N.J.R. 2099(a).

Case Notes

Public records as evidence of eligibility. Atty.Gen.F.O.1977, No. 17.

Information derived from State income tax forms cannot, without the consent of the applicant, be compared with information maintained by the division of public welfare and/or county welfare agencies to insure that persons receiving aid to families with dependent children under s 44:10–1 et seq. have reported the correct amount of their income to the division of public welfare. Atty.Gen.F.O.1977, No. 17.

Blood relationship not established by grandmother. V.S. v. Essex County Division of Welfare, 92 N.J.A.R.2d (DEA) 13.

Public records and documents are preferred evidence and should be exhausted before other sources are used; burden of proof of parentage lies with aid applicant by a preponderance of believable evidence. A.H. v. Bergen Cty. Welfare Bd., 4 N.J.A.R. 52 (1981).

10:81–3.5 Verification of income and resources

(a) All recipients of public assistance must meet the criteria for financial need. These are delineated in the assistance standards handbook.

(b) Earned and unearned income verification is as follows:

1. The IM worker will verify, either through examination of paystubs or with the client's employer, the amount of gross income.

2. All unearned income shall be verified by examination of benefit check or by contact with the company or agency granting such benefit. Social Security benefit

information verification may be accomplished through the Automated Benefit Information Exchange (ABIE)/Beneficiary and Earnings Data Exchange (BENDEX) and/or Third Party Query (TPQY) (see N.J.A.C. 10:81–8.2 concerning TPQY).

3. Previous sources of support shall be explored with the applicant.

4. All resources shall be evaluated and, where appropriate, a plan for their liquidation shall be developed and carried out (see N.J.A.C. 10:82–3).

i. Legally responsible relatives must be contacted for evaluation of their capacity to support (see N.J.A.C. 10:81–3.35 and 3.36).

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.444, effective November 13, 1979.
See: 11 N.J.R. 505(d), 11 N.J.R. 626(a).
As amended on an emergency basis, R.1981 d.397, effective September 30, 1981, (oper. October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a).
Recodified, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(b)1: "earned" added; "In AFDC- . . . 2–10)" deleted.
Administrative correction to (b).
See: 21 N.J.R. 1430(c).
Text regarding RSDI benefits deleted.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Provision for validation through ABIE, BENDEX, or TPQ added.

Case Notes

Net recovery in a personal injury action obtained before commencement of assistance is a factor in determining program eligibility; agreement for assistance repayment valid and enforceable rather than date of injury judgment; welfare board not chargeable with pro rate share of injury litigation counsel fee. In re: Guardianship of Jones, 170 N.J.Super. 478, 406 A.2d 1331 (App.Div.1979), certiorari denied 82 N.J. 290, 412 A.2d 797 (1980).

10:81–3.6 Recording of documentation

All information, written or oral, including sources and methods of documentation, shall be recorded on Form PA–1J, Application and Affidavit for Public Assistance and included in the case record. See N.J.A.C. 10:81–7.9 for Provisions concerning documentation procedure.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Stylistic changes.

10:81–3.7 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 welfare board director may:

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 welfare board 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 applicant.

10:81–3.8 Applicant in all segments

(a) The eligible unit shall be comprised of those family members who apply for and are eligible to receive public assistance. It shall include one or more eligible children unless such child is a recipient of SSI or is excluded from the eligible unit in accordance with (c) below.

1. The eligible unit for AFDC–C or -F shall include any blood-related or adoptive brothers and sisters living in the same household and who are otherwise eligible for AFDC–C or -F. This requirement does not apply to stepbrothers or stepsisters.

(b) When a recipient of SSI payments is a family member, he/she shall not be included in the eligible unit.

1. When all eligibility factors are present in a two-person family, the individual not receiving SSI benefits shall comprise an eligible unit of one; this applies to a parent as well as to a child; thus the only eligible individual may be the parent or parent-person, and the appropriate payment will be for that individual only.

2. There may be cases in which the recipient count will be one or two adults and no children depending on whether one or both parents are present in the eligible unit.

(c) The provisions in this subsection do not apply to AFDC families who have been randomly assigned to a control group for purposes of evaluation requirements pertaining to federally approved waivers. AFDC recipient parents shall not be entitled to incrementally increased AFDC benefits as a result of the birth of a child(ren). Any such child(ren) shall be excluded from the eligible unit, for cash assistance purposes only, until the requirement in (c)3 below applies. This provision is applicable to parents who have been in receipt of AFDC cash benefits for a period of one or more calendar months within 10 consecutive calendar months immediately preceding the birth of a child. This 10–month time frame is inclusive of any periods of ineligibility or case closure, either initiated on the part of the recipient or imposed by the county welfare agency, including the past-AFDC benefit periods for FDP or REACH/JOBS participation.

1. For families in receipt of assistance on October 1, 1992, a child born to the AFDC parent recipient on or after August 1, 1993 shall not be included in the eligible unit for the provision of AFDC cash assistance only, in accordance with (c) above. Such child shall, however, be included in the eligible unit for initial eligibility purposes as well as for the determination of all other categorically related benefits.

2. For families which apply for AFDC benefits on or after October 1, 1992, the 10–month timeframe specified in (c) above shall be applied from the date of application. For example, if the date of application is November 12, 1992 and the case was determined eligible for the benefits, any child born to that adult recipient on or after September 12, 1993 shall not be included in the eligible unit, for the provision of AFDC cash assistance only, in accordance with (a) above.

3. Beginning October 1, 1992, the 10–month timeframe addressed in (c) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and any child(ren) born into that family shall not be included in the eligible unit, for cash assistance purposes only, until such time as (c)4 below applies.

i. Any child included in AFDC eligible unit who subsequently becomes a parent-minor and either establishes his or her own separate AFDC eligible unit or remains in the eligible unit of the parent or caretaker relative shall be entitled to the 10–month timeframe specified in (c) above from the date of the birth of the parent-minor's first child. The parent-minor's first newborn child shall, therefore, be entitled to AFDC cash assistance.

4. Beginning October 1, 1992, when a parent(s) reapplies for AFDC benefits and no member of the eligible unit has been in receipt of AFDC–C, -F or -N benefits for a minimum of 12 consecutive months immediately preceding the date of application, that family is eligible for a new 10–month grace period from the date of reapplication. In such situations, any child(ren) previously excluded from the eligible unit in accordance with (c) above shall now be included in the eligible unit for cash assistance purposes.

i. When an AFDC–C, -F or -N family becomes ineligible for AFDC for any of the reasons listed in (c)4i(1) through (3) below, remains employed for a minimum of 90 days thereafter and subsequently reapplies for AFDC prior to expiration of the 12 consecutive month period in (c)4 above due to the loss of employment through no fault of their own, any child(ren) previously excluded from the eligible unit in accordance with (c) above shall now be included in the eligible 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 not be included in the eligible unit as set forth in (c)3 above.

(1) Earnings or increased earnings from employment, including earnings from new employment;

(2) Loss of the $30.00 or one-third disregards of earned income (see N.J.A.C. 10:82–4) because of the time-limited application of those disregards; or

(3) Increased hours of employment.

(d) An individual who incurs a penalty of ineligibility shall not be included in the eligible unit and his/her needs shall not be taken into account in determining the family's need for assistance. (See section 14 of this subchapter regarding income of a noneligible parent.)

(e) The term child in AFDC shall be understood to refer to one or more eligible children residing in the home of the applicant parent(s).

1. Relationship of the child(ren) to the parent or parent-person applying for AFDC–C or the child(ren) to the natural or adoptive parents applying for AFDC–F or -N shall be established by use of documentary or non-documentary sources of evidence. Some examples of these types of evidence are given in section 3.4(a)2 of this subchapter.

(f) Rules concerning potential eligibility for other programs are:

1. The CWA shall explore potential eligibility for AFDC–C or -F before determining eligibility for AFDC–N.

2. When applicant family members, including a disabled or blind child, appear to be eligible for other programs (for example, Supplemental Security Income), the advantages and disadvantages of each program shall be explained to the applicant. He/she shall have the right to decide under which program(s) he/she wishes to apply. In the event an applicant parent(s) is found to be eligible for another program of assistance, such parent(s) may nevertheless apply for AFDC–C, -F or -N as appropriate, for the eligible child(ren) only.

i. In the event the parent applies for SSI, the CWA will be allowed to obtain reimbursement of AFDC–N payments made to applicants or their dependents who are subsequently determined eligible for SSI benefits. The amount subject to reimbursement will be only the individual's per capita share of the adjusted AFDC–N allowance. (See N.J.A.C. 10:81–3.46.)

As amended, R.1976 d.408, effective January 1, 1977.
See: 8 N.J.R. 467(c), 9 N.J.R. 23(c).
As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1980 d.118, effective March 19, 1980.
Added (e)2i.
As amended on emergency basis R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(a)i added.
Readopted, R.1984 d.569, effective November 28, 1984.

See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
(a)1: Added "for AFDC–C or –F".
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Elimination of entitlement to increased benefits as a result of birth of a child.

Case Notes

Blood relationship not established by grandmother. V.S. v. Essex County Division of Welfare, 92 N.J.A.R.2d (DEA) 13.

Grandmother removed as primary caretaker for her daughter's children. Passaic County Board of Social Services v. G.B., 92 N.J.A.R.2d (DEA) 11.

Cited in support of holding that burden of proof of parentage to establish eligibility lies with aid applicant by preponderance of believable evidence. A.H. v. Bergen Cty. Welfare Bd., 4 N.J.A.R. 52 (1981).

10:81–3.9 Applicant in AFDC–C, -F and -N

(a) AFDC–C: The term applicant in AFDC–C refers to the parent(s) or parent-person(s) who makes an affirmative decision to apply for financial assistance or, when the applicant is incapacitated or alleged incompetent, someone acting responsibly for him or her (see N.J.A.C. 10:81–2.3(b)1) in order to maintain and provide for one or more dependent children of eligible age who are in his or her care or custody. It shall also include the stepparent when the natural or adoptive parent designates the stepparent as an individual whose presence in the home is essential to his or her well being and elects that such person shall be included (see N.J.A.C. 10:82–2.9). If the AFDC–C recipient parent marries a non-needy individual on or after October 1, 1992 and the provisions of N.J.A.C. 10:82–2.10 apply, the AFDC–C recipient natural or adoptive parent, the stepparent and that stepparent's own natural or adoptive child(ren) shall be excluded from the eligible unit, unless the family has been randomly assigned to a control group for purposes of evaluation.

1. When the applicant applying for AFDC–C based on continued absence of a natural or adoptive parent is himself or herself a natural or adoptive parent, he or she must apply for himself or herself and children of eligible age, unless such parent is an SSI recipient in which case he or she may apply for the eligible children only (see N.J.A.C. 10:81–3.8).

2. When the applicant in AFDC–C is a parent-person, he or she has the option of applying for himself or herself and the eligible children or only for the eligible children in his or her care and custody.

3. In all AFDC–C cases, an application must be signed by the adult member(s) or parent-minor (see section 12(a) of this subchapter) of the unit for which assistance is claimed. The designated payee may only be a person who has signed the application. (See N.J.A.C. 10:81–2.3(b) and 4.6.).

4. When the AFDC–C child(ren) lives with a parent-person(s), the application shall be executed by the parent-person who will be the designated payee.

5. Application during pregnancy (all segments): Upon presentation of documented medical evidence of pregnancy, which shall include the estimated date of conception and delivery, a pregnant woman may make application for medical assistance on behalf of her unborn child and for AFDC following the child's birth. One application form will be prepared to cover both requests.

i. A pregnant woman under age 21 who meets the criteria established in N.J.A.C. 10:81–8.23 would be eligible for prenatal care in her own right.

ii. The regulations below extend medical assistance (Medicaid Special) on behalf of the unborn child to women age 21 and over and to expectant mothers under age 21 who are not eligible in their own right for Medicaid Special (see N.J.A.C. 10:81–23(e)). Persons in either age group may make application for AFDC pending the anticipated birth of the child.

(1) The CWA will register the application immediately and determine eligibility for medical assistance until the birth of the child (see N.J.A.C. 10:81–8.23). Postnatal care for the mother is not covered unless eligibility for AFDC (and Medicaid) is established in accordance with the appropriate regulations or unless the woman is eligible for Medicaid Special in her own right.

(2) Within 30 days prior to the expected delivery date, the CWA will make a determination regarding eligibility for AFDC, including the evaluation of LRRs. If eligibility is established, money payments will begin following the birth of the child provided the client affirms that she desires assistance and intends to retain care and custody of the child. (See N.J.A.C. 10:82–2.3 regarding initial grants.)

(3) Eligibility for AFDC following the birth of the child is based on the requirements and standard for AFDC–C, -F or -N, whichever is applicable.

(4) After the birth of the child, the mother may be eligible for AFDC but decline a money payment. In such instances, mother and child are eligible for Medicaid Only.

(b) The term applicant in AFDC–F and -N refers to natural or adoptive parents, not incapacitated, both of whom shall be required to execute the formal written application unless one such parent is not available for reasons beyond the family's control. This parent shall be required to sign as promptly as he or she is available for such purpose. (See N.J.A.C. 10:82–1.5 and 2.13 relevant to companion cases.)

(c) To be eligible for AFDC–C, -F or -N, or AFDC-related Medicaid an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law, including any alien who is lawfully present in the United States as a result of the application of Section 207(c), Section 203(a)(7) (prior to April 1, 1980), Section 208, and Section 212(d)(5) of the Immigration and Nationality Act.

1. Each AFDC–C, -F or -N and AFDC-related Medicaid applicant shall, as a condition of eligibility, provide a written statement of citizenship or legal alien status. If the applicant(s) is not a United States citizen, he or she shall provide documentation, subject to verification, of satisfactory immigration status. When the applicant or other person for whom the application is being made is an alien, his or her legal status shall be verified through evidence provided by the applicant with the United States Immigration and Naturalization Service. (Refer to N.J.A.C. 10:81–13 for alien verification procedures through the Systematic Alien Verification for Entitlements (SAVE) program.)

i. A statement of citizenship/legal alien status and signature attesting to citizenship/legal alien status shall be provided before benefits can be issued to that individual. An adult eligible family member or applicant for the family in the absence of an adult family member shall sign for members under 18 years of age.

ii. If a signature is not provided for all eligible family members by the end of the 30–day processing standard, then only those individuals for whom there is a signature shall be eligible for benefits provided they meet all other eligibility requirements.

iii. The needs of ineligible members shall not be considered when determining eligibility and benefits for the remaining family members.

iv. Income and resources of those ineligible individuals who are parents of otherwise eligible children shall be considered available to the eligible family and shall be calculated in accordance with the stepparent deeming formula at N.J.A.C. 10:82–2.9.

2. Assistance through the AFDC–C, -F or -N segments and AFDC-related Medicaid shall not be granted to an illegal alien or to aliens admitted as students or visitors. However, United States citizen/lawfully admitted children of illegal aliens may still be eligible to receive AFDC–C, -F or -N segment benefits and AFDC-related Medicaid. The situations described in (c)2i through iii below serve as illustration of how to determine AFDC–C, -F, or -N status for U.S. citizen/lawfully admitted children of illegal aliens.

i. In the case of one illegal parent with U.S. citizen/lawfully admitted children, the children shall be eligible for AFDC–C due to parental deprivation (one parent is absent). The eligible unit will consist of the U.S. citizen/lawfully admitted children. There is no assistance payment for the illegal alien parent but his or her income shall be counted as available to the eligible unit in accordance with N.J.A.C. 10:82–2.9(d).

ii. If one parent is a legal alien, or a U.S. citizen and qualifies the children for AFDC–F segment, the children and legal alien/citizen parent shall be eligible under the -F segment. The other parent's income shall be counted as available to the eligible unit in accordance with 10:82–2.9(d) but his or her needs are not considered in determining the grant amount.

iii. If one or both parents are not legal aliens or legal alien/U.S. citizens and the parents do not meet the criteria to qualify the children for AFDC–F, the children may, if otherwise eligible, qualify for -N segment benefits if they are U.S. citizens/lawfully admitted aliens. If both parents are illegal aliens, the parents' income is counted as available to the eligible unit in accordance with N.J.A.C. 10:82–2.9(d) and the children form an -N segment unit of their own. If one parent is an illegal alien and the other parent is a legal alien/U.S. citizen, the children plus the legal alien/U.S. citizen parent form an AFDC–N segment unit.

3. Individuals who have been granted lawful temporary resident status by Immigration and Naturalization Services (INS) as a result of the Immigration Reform and Control Act (IRCA) of 1986, amended section 245A, shall be disqualified for AFDC–C and -F segment assistance payments for a period of five years from the effective date of that status. That period of ineligibility for AFDC payments shall remain in effect even though the temporary status may change to that of lawful permanent resident status during that interval.

4. Cuban and Haitian entrants, who have resided in the United States since January 1, 1982, may qualify for immediate permanent resident status and shall not be subject to the disqualification provision for AFDC–C and -F benefits.

Amended by R.1976 d.408, effective January 1, 1977.
See: 8 N.J.R. 467(c), 9 N.J.R. 23(c).
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1978 d.140, effective May 1, 1978.
See: 10 N.J.R. 106(c), 10 N.J.R. 225(a).
Amended by R.1979 d.233, effective June 14, 1979.
See: 11 N.J.R. 68(c), 11 N.J.R. 346(d).
Amended on an emergency basis, R.1981 d.397, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(c): "an alien ... residence or" deleted and "otherwise" added; "including ... Act" added.
Amended on emergency basis, R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(a) amended.
Readopted, R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
Amended by R.1985 d.99, effective March 4, 1985.
See: 16 N.J.R. 3282(a), 17 N.J.R. 594(a).
Section substantially amended.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Proof of citizenship/alien status required for eligibility; conditions placed upon applicants according to status.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Added exclusion of non-needy stepparent and his or her children.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

Amended by R.1994 d.612, effective December 19, 1994 (operative January 1, 1995).
See: 26 N.J.R. 3930(a), 26 N.J.R. 5022(a).

Case Notes

Grandmother removed as primary caretaker for her daughter's children. Passaic County Board of Social Services v. G.B., 92 N.J.A.R.2d (DEA) 11.

AFDC grant permitted to alien as U.S. resident under color of law, considering that her application for asylum was accepted by the Immigration and Naturalization Service, which issued work permit and had not decided asylum request. I.E. v. Passaic Cty. Bd. of Social Services, 3 N.J.A.R. 330 (1981).

10:81–3.10 (Reserved)

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Alien verification requirements added.
Repealed by R.1994 d.612, effective December 19, 1994 (operative January 1, 1995).
See: 26 N.J.R. 3930(a), 26 N.J.R. 5022(a).
Section was "Applicant in AFDC–N".

10:81–3.11 Parent in AFDC–C, -F and -N segments

(a) In AFDC–C, the term "parent" shall refer to the natural and/or adoptive parent(s) or parent-person(s).

1. By law, in AFDC–C certain relatives shall be recognized as taking the place of a parent. The term "parent-person" is used to designate one or more such relatives who include those of half-blood, those persons of preceding generations denoted by prefixes "grand", and "great", brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece. Such relative must be one with whom the dependent child is living, in a place of residence in New Jersey maintained by one or more such relatives as his/her or their own home.

i. A home is the family setting maintained or in process of being established as evidenced by assumption and continuation of responsibility for day to day care of the child by the relative with whom the child is living. A home exists so long as the relative exercises responsibility for the care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting.

ii. Initial payments are authorized on behalf of a child who goes to live with a specified relative within 30 days of the receipt of the first payment, provided payments are not made for a concurrent period for the same child in the home of another relative.

iii. Payments are authorized to persons acting for specified relatives in emergency situations that deprive the child of the care of the relative through whom he/she has been receiving aid, for a temporary period necessary to make and carry out plans for the child's continuing care and support.

2. Under New Jersey law, relatives of persons who adopt children become legally related to such adopted children to the same extent that they are related to natural children of the adopting parent.

3. Spouses of any persons named in the above groups may be considered "parent-persons" even though the marriage has been terminated by death or divorce.

(b) In AFDC–F, the term "parent" refers to the natural or adoptive parents who have at least one eligible child residing with them who is under age 18 or under age 19 and a full-time student in a secondary school or in the equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age 19.

(c) In AFDC–N, the term "parent" is used to refer to two adults of the opposite sex who have at least one eligible child residing with them who is under age 18 or under age 19 and a full-time student in a secondary school or in the equivalent level of vocational or technical training and is reasonably expected to complete the program before reaching age 19. This child must be the natural child of both parents or the natural child of one and adopted by the other or a child adopted by both.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1978 d.190, effective June 8, 1978.
See: 10 N.J.R. 286(a).
As amended, R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Deleted reference to participation of those under age 21, to 19 years.

Case Notes

First cousin once removed as relative in fifth degree of kinship was parent-person. A.E. v. Essex County Division of Social Services, 93 N.J.A.R.2d (DEA) 12.

10:81–3.12 Parent-minor in AFDC–C, -F and -N

(a) For purposes of this section the term parent-minor refers to a parent under age 18. (Special income deeming rules apply to a parent under the age of 18 residing in the same home as his or her parent(s) or guardian(s); see N.J.A.C. 10:82–3.14.) When application is made for AFDC–C by a parent who is under age 18 or for -F or -N where both parents are under age 18, the following action shall be taken in specific situations:

1. When a parent-minor who is maintaining or establishing a separate home for the child(ren), that is, in his or her own home or in the home of persons who would not qualify as parent-person, an application shall be accepted from such parent-minor. The parent-minor's parents shall be evaluated as legally responsible relatives (LRRs) for purposes of establishing capacity to support in accordance with the provisions of N.J.A.C. 10:82–3.10.

2. When a parent-minor and his or her child(ren) are living in the home of one or both of the parent-minor's natural or adoptive parents, or relative(s) who qualify as parent-person(s) of the parent-minor, and such parent(s) or parent-person(s) are themselves eligible for AFDC–C or -F, the eligible family shall consist of the following persons:

i. The parent-minor, brothers and sisters of the parent-minor described at N.J.A.C. 10:82–1.3(a)1, and the parent(s) or parent-person(s).

ii. There is no requirement that assistance be sought for the child(ren) of the parent-minor. However, if application is made for such children, then they must be included in the eligible family in (a)2i above.

3. When the parent-minor and child(ren) are living in the home both natural or adoptive parents (of the parent-minor) and the parents are not eligible for AFDC–C, then the application must be accepted from the parent-minor. This rule is made because in this situation the parent-minor, although perhaps a "needy child", is not a child "deprived of parental support or care"; hence, the parents cannot apply for AFDC for such a parent-minor. Deeming of income of parents and guardians of AFDC–C and -F adolescent parents shall be in accordance with the provisions of N.J.A.C. 10:82–3.14.

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

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

(c) Criteria for alleged incompetency of applicant include:

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

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

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

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

1. Physical or sexual abuse or cruel treatment;

2. Exploitation by prostitution or overwork, having the child beg or involving the child in illegal activities;

3. Neglect as shown by apparent malnutrition or lack of supervision necessary for the health and safety of the child;

4. These conditions, of themselves, will not affect eligibility of the children to receive assistance.

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

As amended, R.1977 d.332, effective October 1, 1977.
See: 9 N.J.R. 340(c), 9 N.J.R. 479(a).
As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended on an emergency basis, R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(a) amended.
Readopted, R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
(a): deleted "parent-minors" and inserted "AFDC–C and -F adolescent parents."
Amended by R.1987 d.379, effective September 21, 1987.
See: 19 N.J.R. 31(a), 19 N.J.R. 1738(a).
Text of (a) 2 replaced.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Threshold age changed to 18 from 19, for deeming purposes.

10:81–3.13 Age requirements

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

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

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

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

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

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

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1978 d.190, effective June 8, 1978.
See: 10 N.J.R. 286(a).
As amended, R.1977 d.212, effective July 1, 1977.
See: 9 N.J.R. 342(b).
As amended, R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Deleted (c); changed (d)-(f) to (c)-(e).
Amended by R.1987 d.349, effective September 1, 1987 (operative September 1, 1987).
See: 19 N.J.R. 618(a), 19 N.J.R. 1559(a).
Text added to (a) "Program completion is defined as the day of ceremonial graduation."

10:81–3.14 Noneligible persons in the household

When a noneligible individual is living in the household of an eligible unit, a monthly amount shall be recognized as the cost standard for that individual's share of household expenses (see N.J.A.C. 10:82–2.3).

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

10:81–3.15 (Reserved)

As amended, R.1975 d.64, effective April 15, 1975.
See: 6 N.J.R. 476(a), 7 N.J.R. 167(b).

Case Notes

Failure of agency to comply with former regulation regarding notice of intended AFDC reductions and recipient's burden of proof required remand for proper hearing (also citing predecessor regulation N.J.A.C. 10:81–28.1). Walker v. New Jersey Dept. of Institutions and Agencies, 147 N.J.Super. 485, 371 A.2d 739 (App.Div.1977).

10:81–3.16 Deprivation of parental support or care (AFDC–C)

(a) The statutory definition of "dependent child" sets forth two eligibility factors: economic "need" and "deprivation of parental support or care". These two factors are not identical, and the law requires that both be demonstrated in each case.

(b) "Need" refers to financial eligibility and is determined in accordance with provisions contained in the Assistance Standards Handbook.

(c) "Deprivation" is the result of death, physical or mental incapacity or continued absence from the home of a natural or adoptive parent.

1. A child may be found to be deprived of parental support or care by reason of the documented death of either or both natural or adoptive parent(s).

2. A child may be found to be deprived of parental support or care by reason of the physical or mental incapacity of either or both natural or adoptive parents, whether such parent is in the home or is receiving treatment away from home.

(d) The determination of incapacity for persons other than those delineated in N.J.A.C. 10:81–2.7 is made by the Disability Review Section, Division of Medical Assistance and Health Services, on the basis of medical evidence provided by the IM worker. This is done in the following way:

1. Forms DRS–1 (or DRS–1A) and DRS–2 (see appendix C) must be completed and forwarded with all pertinent medical and hospital records to the Disability Review Section, Division of Medical Assistance and Health Services. This should be done as quickly as possible and must be completed within 30 days.

i. Give Form DRS–1 or DRS–1A to applicant to be filled in by his or her physician and returned to the welfare agency. If applicant prefers, the IM worker will send the form with signed release to the doctor. The client should be warned that many physicians may not be as prompt in returning this form by mail as when filling it in the client's presence. When the form is returned, it must be reviewed for completeness, including the physician's signature.

ii. Complete Form DRS–2 (Medical Social Information Report). This requires full and careful discussion with applicant of the relevant information and possibly a home visit.

(e) The existence of a physical or mental defect, illness, or impairment must be substantiated by current medical information (pertinent within the past three months):

1. This requires evidence of a defect, illness or impairment that is described by an examining physician in such a manner that another physician would reasonably accept the concept that incapacity exists without examining the client.

2. The unsupported opinion of the examining physician that an incapacity exists may, in itself, be accepted. However, material presented under the heading of Social Evaluation and Plan on Form DRS–2 (see appendix C) or in other portions of the case record should also be evaluated in demonstrating that incapacity exists.

3. A specific diagnosis is not required.

4. Reports from attending physicians, recognized specialists, hospital or clinic reports or abstracts, photo copies of hospital discharge diagnoses or summaries, objective physical findings, diagnostic studies, and so forth, are all acceptable as supporting material.

(f) Parent incapacitated by mental defect, illness or impairment:

1. A medical determination that a parent requires institutional care by reason of a diagnosis of mental incapacity does not affect the eligibility of the family. However, the extent of the "incapacity" and its relationship to the ability of the parent to provide "support or care" must be determined.

2. It is not necessary for purposes of eligibility of the spouse and child to establish whether the incapacitated parent is competent to manage his/her own affairs since the spouse can be payee for the grant. It is probable that in an instance where the mental condition is of such degree as to raise these questions, the parent should apply for disability assistance under the SSI program.

3. Where the report of the examining physician, institutional or clinic records are available, and appear to provide current data adequate to a determination that "incapacity" exists, these shall be accepted. Whenever, in the judgment of the Disability Review Section, special psychiatric, neurological or psychological examination of testing is necessary or advisable, special consultants or facilities may be used. (See Form DRS–8 in appendix C.)

(g) "Incapacity" and its relation to employment.

1. When incapacity of a parent persists by reason of a permanent defect, illness or impairment but cannot be considered totally disabling because he/she can do some work, he/she may be considered "incapacitated" when there is evidence to demonstrate that his/her earning ability is limited by reason of the incapacity.

2. Thus, if because of his/her defect, illness or impairment he/she can engage only in part-time employment, (that is, less than 30 hours per week), or his/her wages (or rate of pay) are less than those of other workers in the same type of work, his/her earnings may be supplemented by an AFDC–C grant to provide adequate support for his/her otherwise eligible dependents and him/herself. However, a parent who is found able to engage in full time employment at normal rate of pay, but whose earnings are insufficient to adequately support his/her dependents, cannot be considered "incapacitated". In this situation, the CWA shall explore eligibility for AFDC–F or -N.

3. When a parent has been determined "incapacitated" by reason of a temporary defect, illness or impairment and no residual effects are anticipated upon recovery, such a parent shall be considered no longer "incapacitated" upon statement by the treating physician that he/she is able to resume full-time gainful employment in his/her previous or a similar occupation.

(h) Refusal to undergo diagnostic evaluation, treatment or related services:

1. In situations where a parent applicant claims to be "incapacitated" but refuses to undergo diagnostic evaluations considered by the Disability Review Section as essential to a determination of his or her "incapacity", the entire family is ineligible for the AFDC–C segment. However, refusal shall not affect the eligibility of his or her spouse and child for AFDC–F or -N.

2. The county welfare board will make every effort to establish the facts of eligibility on the basis of available evidence in spite of the refusal to undergo diagnostic evaluation.

3. If the family is eligible for assistance, the parent claiming incapacity will be included if the incapacity can be established and the agency determines that the refusal is reasonable based on any of the following criteria:

i. The client is fearful of undergoing treatment, although such fear may appear to be unrealistic or emotional in origin or even irrational, if it is intense enough to adversely affect the result of treatment and a physician recommends against it;

ii. The client might suffer loss of a faculty, or the residual use of a remaining faculty, and he/she is unwilling to take the risk;

iii. The client has religious convictions which do not, in his/her judgment, permit him/her to undergo the recommended treatment;

iv. The resistance to treatment is an element of the defect, illness or impairment itself.

4. An individual cannot be required to undergo treatment as a condition of eligibility.

(i) An incapacitated parent should be advised of services available through the social service unit and in the community.

(j) Payment for expenses incurred in medical eligibility determinations: Payment for medical expenses incurred on behalf of an AFDC–C (incapacitated) applicant in the determination of initial eligibility shall be the responsibility of the CWA and made from the administration account. The CWA shall advise the physician that payment of the fee will be at the applicable rate contained in the schedule of fees for professional and diagnostic services as compiled by the Disability Review Section. Transportation for diagnostic evaluations will be available.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (d) through (j): stylistic revisions to text, regarding Disability Review Section.

10:81–3.17 Continued absence of the parent from the home

(a) The county welfare agency will make every reasonable effort to locate an absent parent in order to obtain support payments. An absent parent will be given the opportunity to voluntarily support his or her child, but it must be explained to both parents that the extent of support will be established by the court.

(b) Each applicant and recipient is required to cooperate in obtaining support and establishing paternity whenever necessary as a condition of eligibility for AFDC in accordance with the procedures set forth in N.J.A.C. 10:81–11.

(c) "Continued absence from the home" (see N.J.A.C. 10:81–2.7(d)) may be for any reason. The following are some of the ways to establish absence:

1. Documentary proof of divorce, pending divorce, or separation agreement (i.e., official legal documents, court or attorney records or newspaper accounts) may be indicative of "continued absence from the home" but must be verified and documented in the case file.

2. A parent shall be considered absent from the home during a period of incarceration. There is a possible situation that a parent whose imprisonment is expected to be of short duration may also be "incapacitated". Where this appears to be so, consideration shall be given to possible eligibility under the "incapacity" factor rather than the "absence" factor:

i. Evidence to substantiate "absence" when a parent is incarcerated in a State penal or correctional institution will be secured by use of Forms PA–17B and PA–17C (See appendix C). When the "tear sheet" has been returned and the date of release determined, the county welfare board shall immediately redetermine the basis of continued eligibility and note same in the income maintenance file.

ii. With regard to the absent parent's incarceration in a county or municipal jail, the CWA will need to develop a procedure in cooperation with each jail within its jurisdiction regarding exchange of information both at time of initial AFDC–C application and at time of release of incarcerated parents. PA–17B and PA–17C are not appropriate and shall not be used for local jails. Procedures established by the CWA with regard to county and municipal jails may vary from a formal procedure to personal telephone contacts or visits, provided the information required is obtained and acceptable to the CWA. In situations where the absent parent is incarcerated in another county, it is recommended that the CWA of such county be consulted regarding its method for contacting county and municipal jails and a mutual agreeable decision made as to which county will contact the jail.

3. Convicted offender living at home and serving court sentence: A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home. The CWA shall verify such court-imposed sentence and document its findings in the case record prior to case validation.

i. Such parent shall not be eligible for AFDC benefits.

ii. The resources of such a parent shall be considered fully available to the eligible unit.

iii. Income, if any, of such parent shall be treated in accordance with N.J.A.C. 10:82–2.3(b).

iv. For child support and paternity purposes, the family is considered to be intact and is not subject to the CSP process.

4. A parent who has been deported from the United States shall be considered "continuously absent from the home". There must be proof of the deportation, by inspection of an official notice or statement in possession of the applicant, or by obtaining written confirmation from the immigration authorities. The information should include the date and conditions of deportation. The current address of the deported parent and his/her circumstances should also be obtained from the applicant parent, if known and noted in the income maintenance file.

5. Military service: A parent who is separated from his or her family because of uniformed service shall not be considered "continuously absent from the home" if such absence is occasioned solely by reason of active uniformed service. If, however, continued absence would exist irrespective of performance of uniformed service, (e.g., desertion of the family before or after entry into uniformed service or divorce) eligibility for AFDC–C may be established. Such findings shall be noted in the income maintenance file.

i. When a parent serving in the uniformed services is not continuously absent from the home, the family may be eligible under the AFDC–F or -N segment.

ii. "Uniformed service" is defined to mean the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Services Administration, Public Health Service of the United States, and the National Guard.

6. When a parent is temporarily absent in order to receive treatment for a mental or physical illness, defect or impairment, the family should be considered under the incapacity factor.

7. When the natural parents of a child are not married to each other and one lives apart from the child, a continuing relationship between the parents is not of itself evidence of a continuing relationship with the child. When there is no evidence of a continuing relationship between the absent parent and child(ren) "continuous absence" applies.

(d) Eligibility of child born out-of-wedlock:

1. The eligibility of a child is not affected by the fact that he/she was born out-of-wedlock. The initiation of proceedings to determine paternity and to establish financial responsibility of reputed father shall not be a condition of eligibility.

2. Parents of a child born out-of-wedlock are equally responsible for his/her support:

i. A father may voluntarily establish the fact of his paternity and establish with the county welfare board the extent of his ability to support his child. Voluntary support payments do not legally establish paternity and cannot be enforced in the absence of legally established paternity. A mother may initiate proceedings paternity and/or gain support from the reputed father. She shall be informed of the advantages to the child of having paternity established legally, such as certain inheritance rights and social security benefits. (See also N.J.A.C. 10:81–8.5(c)).

3. Court action may be necessary to establish paternity or to obtain support; in the absence of the mother's willingness to initiate such proceedings, the county welfare agency cannot refuse to grant assistance but may initiate proceedings (see N.J.A.C. 10:81–11.9(d)). This provision must be fully explained to each applicant mother of an out-of-wedlock child.

4. By law, the county welfare agencies are authorized to initiate proceedings to establish paternity and responsibility for support of a child born out-of-wedlock who is a recipient of AFDC–C (see N.J.A.C. 10:81–11.9). This authority should be used only when neither parent is willing to initiate proceedings. Filiation proceedings should be initiated in the Family Division of Superior Court.

(e) Desertion: A parent may be considered "continuously absent from the home" when a condition of desertion is established. A desertion may already be a matter of public record, or may be alleged or assumed.

1. Desertion may be established by verifying that a parent has been convicted of desertion with the court or named as a defendant in an action for divorce on grounds of desertion. Methods of verification would include records of the county prosecutor's office, juvenile and domestic relations court, municipal court where the complaint was filed, or in the case of a divorce action documents or records in the possession of the applicant, appropriate court or attorneys.

2. Where desertion has not been established but the applicant alleges that the child for whom he/she is applying has been deserted, the factor of continuing absence by reason of "desertion" shall be considered. The CWA will request of the applicant/recipient, during the completion of the application (Form PA–1J), information relating to the deserting parent's whereabouts and ask applicant/recipient to acknowledge such desertion. By signing the application, the client attests to the accuracy and verity of his/her statements.

i. The continuing effort to locate absent parents is a responsibility of the CWA. Since the law permits use of Social Security numbers to aid in location of deserting parents, the CWA shall make every effort to obtain such information.

(f) A parent shall be considered "continuously absent from the home" when by mutual agreement not legal action, the parents have informally separated, for example, one parent is out of the home and such absent parent is not exercising responsibility as a member of the household consistent with the definition of "continued absence" although he/she may be making or demonstrating to the county welfare board his/her "intent" to make some financial contribution to the family.

(g) Requesting information regarding deserting parents: The CWA is charged with the general responsibility of reducing the extent of the recipient family's reliance on public assistance payments. In striving for this objective, the CWA shall attempt to effect a resumption of or increase in financial support provided the recipient AFDC–C family by the absent parent within the ability of such parent. In cases of absent parent(s) whose whereabouts are unknown, the CWA will forward Form PA–450 to the State Parent Locator Service (see N.J.A.C. 10:81–11.9).

1. This is a service to aid and supplement local efforts; the basic obligation for locating parents rests with the county's parent locator service.

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.428, eff. October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

As amended, R.1980 d.222, eff. June 1, 1980.
See: 12 N.J.R. 120(a), 12 N.J.R. 324(a).
(c): "establish" was "verify".
(c)1: Previous language did not require verification and documentary proof was absolutely determinative of issue.
As amended, R.1982 d.441, eff. December 1, 1982.
See: 14 N.J.R. 1168(a), 14 N.J.R. 1459(a).
Originally filed as an emergency amendment (R.1982 d.366) on October 1, 1982. Readopted as R.1982 d.441. The rule precludes AFDC eligibility based on parents' absence due to military service.
As amended, R.1984 d.415, eff. September 17, 1984.
See: 16 N.J.R. 825(a), 16 N.J.R. 2440(a).
Old (b) deleted and new (b) added; (c)3 added.
Renumber 3.—6. to 4.—7.
Amended by R.1985 d.99, effective March 4, 1985.
See: 16 N.J.R. 3282(a), 17 N.J.R. 594(a).
Subsection (d) substantially amended.
Amended by R.1986 d.440, effective November 3, 1986.
See: 18 N.J.R. 1513(a), 18 N.J.R. 2015(b).
Added "Military service" and "National Guard".

Case Notes

Determination of continued absence. Gloucester County Welfare Board v. "C.R.", 2 N.J.A.R. 14, (1980).

10:81–3.18 Work criteria; determination of principal earner

(a) Determination of principal earner in AFDC–F and -N: In order to determine qualification for AFDC–F and -N eligibility, a determination must first be made as to which parent is the principal earner in that family.

1. The "principal earner" or primary wage earner is whichever parent earned the greater amount of income in the 24–month period immediately preceding the month of application for AFDC–F or -N. This designation thereafter shall apply for each consecutive month for which the family receives AFDC–F or -N.

2. When either parent can qualify as the principal earner because both parents earned an identical amount of income in such 24–month period, the principal earner shall be whichever parent earned the greater amount of income in the most recent consecutive six-month period of such 24–month period.

3. If both parents earned an identical amount of income in such six-month period, the CWA shall designate which parent shall be the principal earner.

(b) AFDC–F segment eligibility for families with both natural or adoptive parents in the home is based on deprivation of parental support to the children in that family due to unemployment of the parent who is designated the principal earner. Form PA–22, Employment Criteria for AFDC–F Families, is to be used by the CWA in determining eligibility for AFDC–F. Form PA–22 may be reproduced by each CWA. After the initial application, the CWA shall reexamine Form PA–22 whenever the circumstances surrounding employment in a two-parent household change. To qualify for AFDC–F, the following criteria shall be met:

1. The principal earner has been unemployed or underemployed for at least 30 days prior to the receipt of public assistance;

i. Unemployed or underemployed is defined as:

(1) Not working at all;

(2) Working less than 100 hours a month; or

(3) Participating in work which exceeds the 100 hour per month standard but is intermittent and the excess hours are of a temporary nature, as evidenced by the fact that the principal earner was under the 100 hours standard for the two prior months and is expected to be under the standard during the next month;

2. The principal earner has not, without good cause, within such 30–day period prior to the receipt of public assistance, refused a bona fide offer of employment or training for employment;

3. The principal earner has not voluntarily terminated employment within the last 30 days;

4. The principal earner will participate or apply for participation in FDP or REACH within 30 days after receipt of AFDC unless exempt;

i. When a family unit is found ineligible for AFDC–F because the applicant or recipient principal earner refuses to participate in the FDP or REACH Program, unless exempt (see N.J.A.C. 10:86 or N.J.A.C. 10:81–14) or, is exempt at the time due to the reason of remoteness and refuses to register with the State Employment Service, the principal earner and the second parent (if that individual does not participate in FDP or REACH) will be rendered ineligible for assistance under all segments of the AFDC program. Sanctions shall be applied as set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.8.

5. The principal earner has not refused retraining through the State's Division of Vocational Rehabilitation Services when it has been determined that he or she is capable of being retrained;

6. The principal earner has not refused to apply for or accept unemployment compensation for which he or she qualifies;

i. An individual shall be deemed "qualified" for unemployment compensation under the State's unemployment compensation law if he or she would have been eligible to receive such benefits upon filing application, or he or she performed work not covered by such law which, if it had been covered, would (together with any covered work he or she performed) have made him or her eligible to receive such benefits upon filing application;

ii. The applicant shall also be informed that refusal to apply for or accept unemployment compensation for which he or she qualifies will render the principal earner and the second parent (if that individual does not participate in FDP or REACH) ineligible for assistance; and

7. The principal earner has six or more quarters of work (as described in (b)7i below), no more than four of which may be quarters of work over his or her lifetime as defined in (b)7i(2) below, within any 13 calendar-quarter period ending within one year prior to the application for such aid; or, within such one-year period, received unemployment compensation under an unemployment compensation law of a State or of the United States; or was qualified (see (b)6i above) for such compensation under the State's unemployment compensation law.

i. A "quarter of work" with respect to any individual means a period (of three consecutive calendar months ending on March 31, June 30, September 30, or December 31) in which:

(1) The individual received earned income of not less than $50.00;

(2) The individual attended full-time, an elementary school, a secondary school, or a vocational or technical training course that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act, Public Law 97–300; or

(3) The individual participated in the Community Work Experience Program or WIN (Work Incentive Program) prior to October, 1990, or the Job Opportunities and Basic Skills Training Program (JOBS/ REACH or FDP in New Jersey).

(c) AFDC–N segment eligibility for families with both natural or adoptive parents in the home when the principal earner does not satisfy the Federal work criteria delineated in (b) above is based on the deprivation of parental support to the children in that family due to underemployment of the primary wage earner (principal earner). The following additional sanctions, aside from the work/training sanctions set forth for FDP or REACH at N.J.A.C. 10:81–14.8 or N.J.A.C. 10:86, shall apply in AFDC–N segment cases if financial eligibility is the result of voluntary cessation of employment without good cause.

1. Applicant families: If -N segment financial eligibility is the result of voluntary cessation of employment without good cause as set forth at N.J.A.C. 10:81–14.8(e) or N.J.A.C. 10:86, including cessation of employment due to inappropriate work habits by either of the applicant parents, regardless of reason, within 90 days prior to the date of application for AFDC, neither of the parents shall be included in the eligible family. This penalty shall extend for a period of 90 days beginning with the date of the termination of employment. Eligibility shall be considered only for the children in such instances.

i. The parent, if that parent is determined to be the primary wage earner for the family as delineated in (a) above, shall be promptly referred to the State Employment Service, New Jersey Department of Labor. The parent shall cooperate with efforts of the State Employment Service and the CWA in actively seeking employment during the penalty period.

ii. At the end of the 90–day penalty period the parents may be granted assistance under AFDC–N so long as other non-financial eligibility requirements are satisfied and financial need exists.

2. Recipient families: If an employed primary wage earner (principal wage earner) voluntarily ceases employment for whatever reason without good cause (see N.J.A.C. 10:86 or N.J.A.C. 10:81–14.8(e)), both parents' needs shall be deleted from the eligible family under AFDC–N. The primary wage earner shall register with the State Employment Service.

i. Refusal of the unemployed primary wage earner to accept a job or FDP or training through REACH, without good cause, will likewise result in both parents being deleted from the eligible family in accordance with the work/training sanction periods set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.8.

3. If the applicant or recipient principal earner in an AFDC–N segment is exempt from FDP or REACH participation due to the reason of remoteness as set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.3A(i), he or she shall register with the State Employment Service. Failure to do so shall result in the sanctioning of both parents (if the other parent is not participating in REACH) by the CWA as set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.8.

4. If the other parent, who is not the principal earner, in an AFDC–N family expresses interest in FDP or REACH (except in the situations described in (c)1 and 2 above), the IM worker will provide all available information and make a referral upon request to case management for initial assessment of employability.

5. AFDC–N children age 16 to 18 years old and who are not attending school or an equivalent vocational program are required to participate in FDP or REACH unless otherwise exempt.

Repeal and New Rule, R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was: "Employment and training requirements." Prior rulemaking was as follows:
Amended by R.1976 d.63, effective March 1, 1976.
See: 8 N.J.R. 69(b), 8 N.J.R. 195(b).
Amended by R.1977 d.226, effective July 1, 1977.
See: 9 N.J.R. 223(b), 9 N.J.R. 370(a).
Amended by R.1977 d.411, effective December 1, 1977.
See: 9 N.J.R. 368(a), 9 N.J.R. 575(c).
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).

Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended on an emergency basis by R.1981 d.397, effective September 30, 1981, (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
Section substantially amended.
Amended by R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
More detailed definitions of "brief absences".
Amended by R.1983 d.319, effective July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Text concerning C and F segments in WIN counties added; text at (k) concerning strikers deleted and recodified at 10:81–3.47.
Amended on emergency basis by R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(b)2(10) added.
Readopted R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
Amended by R.1986 d.9, effective February 3, 1986.
See: 17 N.J.R. 2333(a), 18 N.J.R. 272(a).
Substantially amended.
Amended by R.1986 d.6, effective February 3, 1986.
See: 17 N.J.R. 2335(a), 18 N.J.R. 273(a).
(j)1. deleted; old (j)2 recodified to (j)1.
Amended by R.1986 d.440, effective November 3, 1986.
See: 18 N.J.R. 1513(a), 18 N.J.R. 2015(b).
Substantially amended.
Amended by R.1987 d.132, effective March 16, 1987.
See: 18 N.J.R. 230(a), 19 N.J.R. 451(b).
Amended (b)2ii(6).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Added references to Family Development Program.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

Case Notes

Mandatory registration with State Employment Service. Olds v. Klein, 166 N.J.Super. 28, 32, 398 A.2d 1311 (App.Div.1979), certif. den. 81 N.J. 63, 404 A.2d 1162 (1979).

10:81–3.19 Employment and training requirements

(a) FDP or REACH/JOBS requirement: Each individual who does not satisfy exemption criteria for either FDP or REACH/JOBS set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.3A shall participate in one of those respective programs to satisfy the AFDC work and training requirements. If, because of Federal AFDC requirements which prohibit payment of a cash assistance benefit of $10.00 or less, the individual is eligible for only Medicaid, that individual shall participate in FDP or REACH/JOBS unless exempt. If an individual applies for only Medicaid with no request for AFDC cash assistance (that is, the Medicaid eligibility is determined based on AFDC financial eligibility criteria), then the individual is not required to participate in FDP or REACH/JOBS.

(b) REACH participation criteria, descriptions of REACH components, sanctioning in REACH, fair hearings and available supportive services are set forth at N.J.A.C. 10:81–14. Similar information for FDP is set forth in N.J.A.C. 10:86.

(c) Penalties for failure to participate in FDP or REACH: If a mandatory individual fails to participate in FDP or REACH, the penalties set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.8(i) and (j) shall apply. Any appeals resulting from failure to participate in FDP or REACH will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81–6 and 14.7). Any individual rendered ineligible for AFDC due to failure to participate in FDP or REACH shall not be eligible for assistance under any segment of the AFDC program.

(d) AFDC–C stepparents: In AFDC–C cases where the stepparent is designated as an individual whose presence in the home is essential to the well-being of the spouse and is thus included in the eligible family (see N.J.A.C. 10:82–2.9), the procedures below are to be followed with respect to FDP or REACH participation:

1. Criteria identified in N.J.A.C. 10:81–3.18(a) shall be used to determine the principal earner in the household.

2. The eligible family member designated as the principal earner shall be required to participate in FDP or REACH unless exempt.

3. If the principal earner refuses or fails to participate in FDP or REACH, as appropriate, the penalty specified in N.J.A.C. 10:86 or N.J.A.C. 10:81–14.8(i) shall be imposed.

4. When the principal earner is participating in FDP or REACH, the other parent shall be exempt from participation in FDP or REACH for the reason set forth in N.J.A.C. 10:86 or N.J.A.C. 10:81–14.3A(j).

(e) Fair hearings: An individual who is dissatisfied with his or her specific participation requirements in FDP or REACH may request a fair hearing (see N.J.A.C. 10:81–6 and 14.7).

(f) Voluntary participation in FDP or REACH: "volunteers in FDP or REACH" are defined as those individuals who meet the FDP Education and Employment Directed Activities (EEDA) Component or REACH exemption criteria at N.J.A.C. 10:86–3 or N.J.A.C. 10:81–14.3A and decide to participate in FDP or REACH, regardless of the exemption. The IM worker shall inform all exempt AFDC–C, -F, and -N applicants and recipients of their right to voluntarily participate in FDP or REACH and of their right to stop participation at any time without loss of assistance payments. During county phase-in to the FDP, that individual who voluntarily agrees to participate in FDP and who is not a member of a required county phase-in group shall be treated as FDP mandatory, unless the individual satisfies FDP exemption criteria. If that individual is found to be exempt from FDP and decides to participate, then the individual is a "volunteer in FDP".

1. If an exempt individual "volunteers" to participate in FDP/EEDA or REACH, he or she is not subject to sanctioning due to nonparticipation (see N.J.A.C. 10:86–8 or N.J.A.C. 10:81–14.8).

i. In determining the priority of participation within the FDP or REACH target populations (see N.J.A.C. 10:86–3 or N.J.A.C. 10:81–14.3(j)), the agency shall give first consideration to applicants for or recipients of AFDC who are exempt but "volunteer" to participate.

ii. When a "volunteer for FDP or REACH" stops participation in FDP/EEDA or REACH without good cause, that individual shall not be given priority to participate again so long as other individuals are actively seeking to participate, unless the individual loses exemption status and becomes FDP or REACH mandatory.

(g) Individuals exempt from FDP/EEDA or REACH participation due to incapacity shall be referred by income maintenance to the Division of Vocational Rehabilitation Services. Form PA–14, Referral for Services, shall be used for this purpose. Acceptance of referral for such services is optional with the individual and shall not affect a recipient's entitlement to benefits. If the principal earner in AFDC–F is determined as capable of being retrained and refuses such retraining, then the family is eligible for State only AFDC–N segment benefits (see N.J.A.C. 10:81–3.18(b)5).

(h) Failure to report for evaluation and assessment: When a mandatory FDP or REACH participant fails to appear for a scheduled evaluation interview with case management or for assessment with the appropriate county entity, and good cause does not appear to exist, then case management will notify the IM worker of the individual's failure to participate so that appropriate action can be taken to reduce the assistance payments by a reduction in the benefits in accordance with N.J.A.C. 10:86–8 or to remove the needs of that individual, in accordance with N.J.A.C. 10:81–14.8, subject to Title IV–A notice requirements.

Repeal and New Rule, R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was "AFDC–C and –F (non-WIN counties)." Prior rule-making activity was as follows:
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended on an emergency basis by R.1981 d.397, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(a) "If a mother ... services" deleted and "In those ... State Employment Service" added.
(b)-(d) added.
Amended by R.1983 d.319, effective July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cite changed.
Amended by R.1992 d.36, effective January 21, 1992.
See: 23 N.J.R. 2988(a), 24 N.J.R. 287(b).
In (a), added "because AFDC requirements prohibit cash payments of $10.00 or less"; and added last sentence.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Added references to Family Development Program.

10:81–3.20 (Reserved)

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Repealed on an emergency basis, R.1981 d.397, effective September 30, 1981, (oper. October 1, 1981), exp. November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).

10:81–3.21 Residence requirements

The law requires that an applicant for or recipient of assistance shall reside in New Jersey. Any person who responds affirmatively to the question on the application "Do you plan to continue living in New Jersey?" fulfills this requirement. The requirement is also satisfied when the person resides in the State having entered with a job commitment or is seeking employment even if he/she is currently unemployed.

As amended, R.1980 d.119, effective March 19, 1980.
See: 12 N.J.R. 26(b), 12 N.J.R. 194(d).
Added last sentence.

10:81–3.22 Temporary absence from State

(a) The law provides that, by special resolution, the county welfare board may, with the approval of the State Division of Economic Assistance, continue assistance payments to recipients who move from the State under specified conditions. A recipient family may leave the State for up to a one-month period with no resultant effect upon eligibility or payment. If absence from the State shall exceed or is anticipated to exceed the one-month period, the family must immediately notify the county welfare board in order to request continuation of assistance for a three-month period following the month of departure, or any portion thereof. Such notice of intent to temporarily leave the State and request to continue receipt of assistance should be given to the county welfare board as far in advance of a planned absence as possible. Approval of such continuance of assistance may be granted by the county welfare board quarterly for a period not to exceed one year. Authorization for extension of assistance beyond one year requires both approval of the board by special resolution and of the State division.

(b) Upon establishment of the fact that the recipient family still considers its permanent residence to be New Jersey and that it plans to return thereto, continuation of assistance may be granted for the following reason(s):

1. Ill health;
2. Inability to travel of one or more members;
3. Mental or physical welfare;

4. Family responsibility (for example, settling affairs of deceased).

(c) Assistance shall not be automatically continued without inquiry with respect to a recipient family which leaves New Jersey when there has been no information provided to the agency establishing that the absence is purely temporary. All recipient families shall be advised that it is their responsibility to notify the county welfare board personally or in writing and arrange in advance, so far as possible, for any plan to leave New Jersey for any period in excess of one month if they wish assistance to be continued during absence from the State. The decision whether or not to leave New Jersey, whether it be for permanent removal or temporary absence, shall rest with the recipient family and does not require official approval or disapproval by the agency. The amount of assistance will be based upon the same factors used when in New Jersey.

(d) Whenever a recipient family wishes to leave New Jersey either to establish a permanent place of abode or for a temporary visit, they shall be advised of the effects of this plan on their eligibility for continued assistance, and on the amount of assistance, if any, for which they may continue to be eligible during a temporary absence.

(e) If a recipient family has left the State without notifying the agency of the nature, purpose and expected duration of such absence, the CWA will make every effort to inform the family in writing of the information required to prevent suspension of assistance. This notice shall include a sentence in Spanish cautioning the client that inaction may jeopardize continued public assistance and that if they do not understand it they should get help. Upon receipt of such information from the recipient family or a collateral source, assistance may be continued if deemed necessary by the CWA, and any suspended payments forwarded to the recipient family. Payments shall not be made however, until the CWA had determined that the recipient has not abandoned State residency, in accordance with this subchapter.

As amended, R.1979 d.445, effective January 1, 1980.
See: 11 N.J.R. 506(a), 11 N.J.R. 626(b).

10:81–3.23 Management of out-of-state case records

(a) The county welfare board shall maintain an up-to-date record of all cases of recipients approved to receive assistance while out of the State.

(b) There shall be monthly supervisory review of the status of these cases to assure that no payments are issued beyond the period for which approval has been given, unless and until extension of continued assistance is approved, and that payments are terminated when and if eligibility ceases.

10:81–3.24 Abandonment of State residence

Assistance payment shall not be made to recipients who abandon State residence by both terminating any actual place of abode in New Jersey and establishing an actual place of abode in another state with apparent intent to remain permanently absent from New Jersey. Abandonment shall also encompass situations of prolonged absence from New Jersey for an indefinite period for purpose other than temporary visit, and shall be reason for termination of eligibility. Under circumstances delineated above, timely notice need not be provided to the recipient, in accordance with N.J.A.C. 10:81–7.1(k)6iv(1).

As amended, R.1979 d.445, effective January 1, 1980.
See: 11 N.J.R. 506(a), 11 N.J.R. 626(b).

10:81–3.25 Notice of termination, reduction or suspension

Recipients who are receiving assistance out-of-state shall be afforded the same full advance notice including information about their right to a fair hearing in accordance with present policy regarding termination, reduction or suspension applicable in AFDC. A copy of any such notice shall be sent to any out-of-state agency with which there has been communication regarding the case.

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

Case Notes

Claim that AFDC benefits terminated without preliminary hearing afforded under former N.J.A.C. 10:81–24.12 found without merit. Chambers v. Klein, 419 F.Supp. 569 (D.N.J.1976), affirmed 564 F.2d 89 (3rd Cir.1977).

10:81–3.26 County residence for identification

(a) Residence in a county is not an eligibility requirement. A county of residence is necessary to identify which county welfare board is legally responsible for receipt, registration and processing an application and for issuance of payment, but shall not preclude or limit the opportunity for any person residing in New Jersey to apply for and receive assistance without delay.

(b) Wherever a family is living shall be considered that family's county residence. When a recipient family, or any member thereof, goes to another county or state for the purpose of a temporary visit, that county or state shall not become their residence unless N.J.A.C. 10:81–3.27 applies.

(c) A care facility or a public or private institution of custodial, curative or penal character shall not be considered an individual's customary residence. Upon leaving such facility, the individual retains the same residence status that he/she had prior to admission. If the family moved during that individual's absence from the home, the county residence shall be that of the family.

10:81–3.27 Change of county residence

(a) Responsibility for AFDC, AFDC-related Medicaid and Medicaid extension case management and payment shall be transferred from one county to the other when a recipient family moves to another county.

(b) A temporary visit by either the recipient family or any member thereof shall not be considered to be a change of county residence until that visit has continued for more than a three-month period (see N.J.A.C. 10:81–3.32 and 3.34).

1. Whenever it is determined that a recipient family whose application has not been validated has changed or is planning to change its residence from one county to another, the CWA of origin shall continue assistance while completing the validation, subject to the time limits set forth in the application process, then transfer the case without delay to the receiving county.

2. Whenever it is determined that a recipient family whose application has been validated is planning to change its residence from one county to another, it shall be the responsibility of the CWA directors of the two counties concerned to effect the transfer without interruption of assistance.

3. The county of origin shall initiate and the receiving county shall, on request, immediately cooperate in accomplishing a full investigation of the circumstances surrounding the move. If the move is permanent, each county shall execute its respective responsibilities in accordance with this paragraph.

i. The county of origin has the responsibility to:

(1) Transfer, within five working days from the date it is notified of the actual move, a copy of pertinent case material to the receiving county. Such material shall include, at a minimum, a copy of the first application and the most recent PA–1J form; the most recent 105A and B forms; Social Security numbers or copies of SS–5 forms; all birth verifications; and, where ongoing recovery of overpayments is involved, the amounts and net balances;

(2) Forward promptly to the receiving county copies of any other material mutually identified as necessary for case administration.

(3) Instruct the client to contact the receiving county immediately to arrange for filing an application to transfer assistance.

ii. The receiving county has, except as noted in N.J.A.C. 10:81–7.1(g) and (h), the responsibility to:

(1) Communicate with the client if case material is received prior to client contact and the client's new address is known. Such communication shall invite the client to make application to ensure receipt of uninterrupted assistance.

(2) Grant assistance (provided application to transfer has been made) for the next month if initial case material has been received before the 10th of the month;

(3) Grant assistance (provided application to transfer has been made) for the second month after the month of initial receipt of case records when such records are received on or after the 10th of the month;

(4) Notify immediately the county of origin of the date case records were received and the date assistance will be granted.

iii. The welfare of the clients shall not be adversely affected and their right to uninterrupted assistance, if in need, shall not be prejudiced by disagreement or other administrative difficulty between the counties. Any adverse change in grant resulting from transfer require timely notice (see N.J.A.C. 10:81–7.1(g) and (h). If the receiving county is unable to verify eligibility within prescribed time limits, as stated in (b)3ii(2) or (3) above, it must accept case responsibility in accordance with (b)3ii above and grant assistance based on presumptive eligibility until such verification is completed (see N.J.A.C. 10:81–3.3).

iv. When a reduction in grant results from the transfer, the receiving county shall send timely notice of such change to the client and a copy to the county of origin. The county responsible for the next assistance grant must issue that grant in a reduced amount unless a request for a fair hearing is received (see N.J.A.C. 10:81–7.1(g) and (h)). If the county of origin is responsible for the issuance of the reduced grant, such reduction shall be based on the copy of the adverse action notice and any other mutually developed information pertinent to the reduction.

(c) Those cases which are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC cases. The procedures established at N.J.A.C. 10:81–3.27(b) and the current (FAMIS) procedural manual are to be followed when transferring a case in Medicaid extension (see also N.J.A.C. 10:81–8.22).

As amended, R.1980 d.41, eff. January 17, 1980.
See: 11 N.J.R. 376(c), 12 N.J.R. 87(a).
Added second sentence to (b)3.
Changed text of (b)3i. Previous text covered transfer by "mutual agreement" in the "first month".
Added (b)3i(1)—(3), (b)3ii, (b)iv.
Recodified (b)3ii as (b)3iii.
Added last sentence to (b)3iii.
As amended, R.1980 d.330, eff. August 1, 1980.
See: 12 N.J.R. 319(b), 12 N.J.R. 483(f).
(b)2i(1) expanded to include type of case material required.
As amended, R.1983, d.319, eff. July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cite changed.
Amended by R.1985 d.344, effective July 1, 1985.
See: 17 N.J.R. 878(a), 17 N.J.R. 1655(a).

(b)3i(1): Added text "a copy of ... N.J.A.C. 10:81–11.9(e);".
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Requirements added for transfer of cases in certain programs.

10:81–3.28 (Reserved)

As amended, R. 1980 d.41, eff. January 17, 1980.
See: 11 N.J.R. 376(c), 12 N.J.R. 87(a).
Repealed section. Covered mutual agreement of case transfer and notification of State of nonagreement.

10:81–3.29 Verification of residence for assistance payments

(a) Verification of residence is necessary to ensure proper CWA chargeability for assistance payments. Due to the multiple-person nature of AFDC cases, the residence of dependent children will normally establish residence of a recipient family. (See N.J.A.C. 10:81–3.26 and 27; and 3.32 and 34). Under some circumstances, documentary evidence of residency may not be available.

1. The following are examples of sources of evidence of residence:

i. Landlord's records and rent receipts;

ii. Public utility records and receipts;

iii. Personal property assessment records;

iv. Census records;

v. Records of business or professional people such as grocers, bankers and physicians with whom applicant has had frequent contact;

vi. Telephone directories;

vii. City directories if maintained on current basis;

viii. Postmarked letters addressed to applicant;

ix. Post office records;

x. School records;

xi. Records of social agencies, public or private, employment records;

xii. Affidavits of knowledgeable persons which support other recorded evidence or knowledge of county welfare board.

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1983 d.319, eff. July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cite changed N.J.A.C. cite.

10:81–3.30 Procedures governing release from State institutions

The procedures provided in this subchapter have been established specifically to govern relationships between the county welfare board and the several State institutions. These procedures do not necessarily apply to relationships with local mental hospitals and other institutions. When a county welfare board develops other procedures to expedite release of persons from local institutions, it shall submit complete plan material to the Division of Public Welfare for approval prior to granting assistance to such persons.

10:81–3.31 Release from a State institution

(a) A parent or parent-person who is about to be released from an institutional facility (medical, mental, or correctional) may apply for AFDC–C in order to establish a home for a dependent child upon such release.

(b) When eligibility has been established, payment of an initial grant shall be made upon release from the institution, providing the parent and child will be living together within 30 days of the date of issuance except in circumstances identified in (b)1 below. This application may be registered and processed up to two months before anticipated date of release.

1. When an applicant parent is being released from an institution for the mentally ill or retarded, penal institution of New Jersey Neuro–Psychiatric Institute, no initial payment shall be issued until the actual release, discharge or parole is a matter of record and verified by the county welfare board, and the applicant is not adjudged or alleged to be mentally incompetent.

(c) A parent or parent-person separated from a dependent child for a period no more than 30 days prior to application, who wishes to maintain an already established home for that child with whom such parent or parent-person customarily resides, may apply for and receive assistance while temporarily absent from the home. In this case, such parent or parent-person must indicate plans to return to the home within two months from the month in which assistance is initially granted (see N.J.A.C. 10:81–3.32 through 34).

(d) In the case of the return to the home of a recipient family by a parent, parent-person, or spouse in AFDC–C or child of eligible age in any segment, no application for assistance is involved. For policy on adjustment of grant in such situations, see N.J.A.C. 10:82–2.20.

1. If the individual will return to a home or plans to establish a home with a dependent child in the county receiving the inquiry and appears eligible for assistance, the county welfare board of that county shall register the application, assist in completion of the plan as necessary, complete the determination of eligibility and be responsible for assistance payments (see N.J.A.C. 10:81–3.26(a)).

2. If the individual is to return to a home or desires to establish a home with a dependent child in another county, the county welfare board receiving the inquiry shall complete an application interview and assist the individual to complete an application form. All information which the applicant can supply shall be obtained and recorded on appropriate case record forms, which shall be forwarded to the county where the family currently resides or is planning to establish a home. The county receiving the application will process and register the application without delay.

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

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

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

i. Form PA–12, Referral by State Mental Institution to Public Assistance Agency;

ii. Form DRS–8, Report of Findings by Psychiatric Diagnostic Group, where appropriate.

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

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

1. Identifying data;

2. Anticipated date of discharge;

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

4. In addition, the hospital will complete, without charge, the following forms as appropriate;

i. DRS–8, Report of Findings by Diagnostic Group;

ii. Abstract of patient's hospital record; or in absence of abstract;

iii. DRS–1, Examining Physician's Report;

iv. DRS–1A, Report of Eye Examination.

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

(g) The BTS area worker shall arrange with the social service staff of the institution for an interview with the applicant. If the patient decides to apply, the BTS worker shall assist in completing the application in accordance with subchapter 2 of this chapter.

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

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

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

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1983 d.319, effective July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cites changed to N.J.A.C. cites.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (e) and (f): Revised references to forms in subsections.

10:81–3.32 Temporary absence of a family member

Eligibility for AFDC may exist during the absence of a child, parent or parent-person from the home under the circumstances described in sections 33 and 34 of this subchapter. When the absence is foreseeable, the CWA should make appropriate plans.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1980 d.78, effective April 1, 1980.
See: 11 N.J.R. 554(b), 12 N.J.R. 126(c).
Recodified (b) and (c) into N.J.A.C. 10:81–3.33 and 3.34 with amendments.

10:81–3.33 Child or parent in an institution

(a) When a child who would be otherwise eligible for AFDC is out of the home due to voluntary/involuntary placement in an institution, he/she shall be recognized as a member of the eligible unit so long as it is anticipated that he/she will return home within one year from the date of the

placement. See N.J.A.C. 10:82–1.6(b) regarding adjustments to the grant for children who are absent from the home.

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

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

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

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

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

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

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

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

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

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

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

As amended, R.1980 d.78, eff. April 1, 1980.
See: 11 N.J.R. 554(b), 12 N.J.R. 126(c).
(a) was recodified and substantially amended from N.J.A.C. 10:81–3.32(b) and 3.33.
(b) and (c)1 were recodified from N.J.A.C. 10:81–3.32(c)3 and 4 with amendments. Three month limitation was six months and reevaluation procedure was changed. Reference to temporary payee and grant adjustments were added.
As amended, R.1983 d.319, eff. July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cite changed.

10:81–3.34 Absence for reasons other than institutional

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

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

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

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

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

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

1. The county welfare agency shall obtain approval from the State office for continuing eligibility in unusual situations of temporary absence lasting more than 30 days.

(c) When the entire family unit leaves the State for a temporary visit, the provisions of N.J.A.C. 10:81–3.21 through 3.25 shall apply.

As amended, R.1980 d.78, effective April 1, 1980.
See: 11 N.J.R. 554(b), 12 N.J.R. 126(c).
Repealed definition of institution.
(a) was recodified from N.J.A.C. 10:81–3.32(b) and substantially amended.
(b) was recodified from N.J.A.C. 10:81–3.32(c).
Added (c).
Amended by R.1985 d.312, effective June 17, 1985 (operative July 1, 1985).
See: 17 N.J.R. 163(a), 17 N.J.R. 1565(a).
Text from (a) deleted and new text substituted.
Amended by R.1987 d.175, effective April 20, 1987.
See: 18 N.J.R. 1675(a), 19 N.J.R. 644(a).
Text added to (a) "When the absence . . ."
Deleted old (a) 1.–4. and substitute new.

10:81–3.35 Legally responsible relatives (LRRs)

(a) Certain relatives are legally considered responsible to provide support if financially able and may be a source of income for a public assistance applicant or recipient. The county welfare board will determine the capacity of LRR's to contribute to the support of public assistance applicants and recipients.

(b) The county welfare agency director is authorized under specified circumstances to apply to the appropriate court for a support order. In cases where a court order appears to be the only means of insuring consistent and actual support, the applicant/recipient may elect to receive from the county welfare board the grant for which he/she is eligible and request the county welfare board to collect the support payments. (See section 36 of this subchapter.) The applicant must be fully informed of these provisions and their implications:

1. The following chart identifies relatives who are recognized as legally responsible under AFDC and Medical Assistance (MA) programs:

LEGALLY RESPONSIBLE RELATIVE	PROGRAM	
	AFDC	MA
Spouse	X	X
Child under age 55	X	
Parent of a child under 18 or of a child over age 18 who is not an AFDC parent or parent-person	X	X

(c) All legally responsible relatives shall be contacted in completing the investigation:

1. Regardless of where the relative lives, it is the responsibility of the income maintenance worker to obtain the necessary information by the most direct and practical method:

i. The legally responsible relative shall be the primary source of the information required to evaluate his/her capacity to support.

ii. When the evidence submitted by the relatives is inadequate or shows a discrepancy, or he/she is unable to submit evidence, he/she shall understand that it will be necessary for the agency to obtain verification directly from his/her employer, bank and so forth.

(d) Legally responsible relatives shall be reevaluated at least once every six months. See N.J.A.C. 10:8–5.10 regarding reevaluation and situations in which contact need not be made.

(e) Priority of obligations to support legally responsible are:

1. A person's obligation to support those relatives for whom he/she is legally responsible takes precedence over voluntarily assumed obligations.

2. Responsibility of a person for the support of his/her own minor children takes priority over any obligations for other relatives.

(f) The eligible unit will not be eligible for assistance when the amount of the legally responsible relative's evaluated capacity to support equals or exceeds their adjusted allowance and this support is actually provided to the eligible unit:

1. The LRR's contribution shall be considered available only when there is affirmative and persuasive evidence that such amount or its equivalent in goods or services is in fact provided to members of the eligible unit. (For details see N.J.A.C. 10:82–3.8) provided to members of the eligible unit. (For details see N.J.A.C. 10:82–3.8) shall, within 30 days, take appropriate action in accordance with available procedure to compel contribution in the amount of the adjusted allowance or the evaluated capacity to support, whichever is less.

2. When any LRR fails or refuses to provide any portion of his/her contribution the agency shall, within 30 days, take appropriate action in accordance with available procedure to compel contribution in the amount of the adjusted allowance or the evaluated capacity to support, whichever is less.

3. Whenever the LRR fails or refuses to furnish information concerning his/her ability to support members of the eligible unit, it shall be deemed a failure or refusal to provide support as required by law:

i. In such cases the agency shall take appropriate action within 30 days, in accordance with available procedure to secure judicial determination of the LRR's ability to support the eligible unit member(s). Until such determination is made, each LRR shall be considered a potential resource.

4. For LRR in the home of the eligible unit, see: N.J.A.C. 10:82–3.10(b)5.

(g) When it has been determined by judicial process that a child of an applicant for or recipient of assistance has been abandoned, deserted or not supported by the applicant or recipient during his/her minority, such person is legally excused and relieved of obligation and shall not be considered a legally responsible relative.

(h) Parents and guardians of adolescent parents: When an individual (under the age of 19) who is himself or herself a parent lives in the same home as his or her own parent(s) or legal guardian(s), and the adolescent parent applies for AFDC–C or –F, the income of such parent(s) or legal guardian(s) shall be considered available to the eligible unit in accordance with the deeming provisions of N.J.A.C. 10:82–3.14.

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.427, eff. December 1, 1979.

See: 11 N.J.R. 446(b), 11 N.J.R. 560(c).
As amended, R.1982 d.352, eff. October 18, 1982.
See: 14 N.J.R. 814(a), 14 N.J.R. 1161(b).
Lowering of age, of those to be supported from 21 to 18 years resulted from statutory change.
As amended on emergency basis, R.1984 d.464, eff. September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(h) added.
Readopted, R.1984 d.569, eff. November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
(h) substantially amended.

Cross References

Capacity to support, see N.J.A.C. 10:81–5.10.

Case Notes

See Mulehill v. Dept. of Institutions and Agencies, 120 N.J.Super. 546, 295 A.2d 371 (App.Div.1972) (decided on statutory grounds, certif. den. 62 N.J. 190, 299 A.2d 725 (1973).

10:81–3.36 Support orders for legally responsible relatives

(a) The county welfare board director has authority, after due investigation, to direct a legally responsible relative to pay toward the support of an applicant for or recipient of assistance.

(b) Upon failure of such relative to comply, the director shall so certify in writing to the county court or to the court of juvenile and domestic relations of the county; whereupon such court may, after hearing, "order and adjudge the able relative or other persons responsible for the support of such applicant to pay such sum or to deliver to the court or to the county welfare board director such other pledge or guaranty as the circumstances may require in the discretion of the court for each such applicant".

(c) The county welfare board may also bring appropriate action in a court of competent jurisdiction to recover any sum of money due for assistance given any person under this section against any person chargeable by law for the support of such persons.

(d) Where the relative from whom support is sought is a resident of another state and the county welfare board is unsuccessful in securing information and/or voluntary contributions commensurate with the evaluated capacity to support, either by direct correspondence or through an appropriate public assistance agency, the procedures provided in the Uniform Reciprocal Enforcement of Support Act shall apply.

(e) When there is evidence that a relative is failing to comply with the order of the county welfare board director, the director shall follow the legal procedure as provided in subsection (b) of this section. Where there is failure to comply with the order of a court, the county welfare board shall consult with the probation department or with the court which placed the order.

(f) With respect to the AFDC–C segment it must be recognized that the presence of a stepparent in the home does not relieve either natural parent of duty to support a child.

(g) An order to support should not be sought against a reputed father of a child born out-of-wedlock until paternity has been judicially established.

(h) Inability of a legally responsible relative to comply with order:

1. Where there is evidence that a relative is not able or no longer able to comply with the order of the director, there shall be prompt reevaluation of capacity to support, and the order shall be voided or the amount adjusted, as appropriate.

2. Where such situation is found to exist in respect to a relative under court order to support, the terms of the order cannot be changed except by amendment by the court itself after review. The county welfare board will assist in initiating amendment proceedings in such cases.

(i) Where the amount of support actually received, under court order and otherwise, exceeds the per capita share of the assistance grant for the individual for whose benefit it is paid, the client shall be informed of the right to choose whether to leave the eligible unit and have the benefit of all the income or to remain in the eligible unit. All consequences including those with regard to Medicaid shall be clearly and explicitly explained. This provision also applies to other legally designated income. (See N.J.A.C. 10:82–2.17).

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

Case Notes

Assignment of father's court-ordered child support payments by mother to county division of welfare valid and enforceable; trial court order designating mother as support payment beneficiary violated the AFDC assignment program. Essex Cty. Div. of Welfare v. Simon, 178 N.J.Super. 523, 429 A.2d 609 (App.Div.1981).

Agreement between parents for child support did not bar welfare board from instituting proceedings on mother's behalf for reimbursement from father for all support assistance; laches defense not available to father; preregulation practice discussion. Bergen Cty. Welfare Bd. v. Cueman, 164 N.J.Super. 401, 396 A.2d 620 (J.D.R.Ct.1978).

Bergen Cty. Welfare Bd. v. Cueman, 164 N.J.Super. 401, 396 A.2d 620, 405, n.1 (Cty. Ct. 1978).

See also Buchanan v. Essex Cty. Welfare Bd., 117 N.J.Super. 541 (App.Div.1971) (delinquency of court ordered support payments).

10:81–3.37 (Reserved)

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.107, effective March 15, 1979.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
As amended, R.1980 d.450, effective November 1, 1980.
See: 12 N.J.R. 522(a), 12 N.J.R. 664(b).

(a) amended to delete requirement for identification of resources as per N.J.A.C. 10:82–3.1(c).
R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).

Case Notes

Contribution funds accumulated under provisions of the Post–Vietnam Veterans Education Assistance Program were not an educational grantor loan and must be liquidated as a nonexempt resource before becoming AFDC eligible (citing former regulation). L.D. v. Passaic Cty. Bd. of Social Services, 7 N.J.A.R. 309 (1984).

Former regulation defined potential resources; reduction in AFDC grant affirmed against mother's refusal to pursue personal injury claim in violation of religious beliefs (Division's Final Decision). "C.B." v. Essex Cty. Div. of Public Welfare, 1 N.J.A.R. 68 (1980).

10:81–3.38 Assignment or transfer of property

(a) Applicants for or recipients of AFDC shall disclose any assignment or transfer of property made within 24 months prior to the time of initial application or during the period the case is in active status.

1. Whenever a person applying for or receiving assistance has transferred or assigned any property, whether real or personal, within 24 months prior to the initial application or during the period the case is in active status, the circumstances surrounding such transfer or assignment shall be evaluated, and a determination made as to whether such transfer or assignment was made for adequate consideration.

2. If it is determined that the transfer or assignment of the property was a normal transaction for adequate consideration, any proceeds remaining shall be evaluated as resources.

3. If the transfer or assignment is found to have been made without receipt of adequate consideration, it shall be recognized that the person may have legal rights to secure the return of the property or the payment of adequate consideration. The CWA will assist in reclaiming or gaining adequate consideration for such property. Any proceeds resulting from such effort shall be evaluated as resources.

4. Child support payments: Applicants for AFDC must not forego legal right to child support for purposes of qualifying for assistance without good cause (see N.J.A.C. 10:81–11.5 for the definition of good cause).

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1970 d.107, eff. March 15, 1979.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
As amended, R.1980 d.78, eff. April 1, 1980.
See: 11 N.J.R. 554(b), 12 N.J.R. 126(c).
Repealed (c)4i.
As amended, R.1980 d.118, eff. March 19, 1980.
See: 11 N.J.R. 625(a), 12 N.J.R. 194(c).
Added (b)1i.
As amended, R.1980 d.450, eff. November 1, 1980.
See: 12 N.J.R. 522(a), 12 N.J.R. 664(b).
(a)2 amended to include identification of resources.
As amended, R.1983 d.94, eff. March 21, 1983.
See: 14 N.J.R. 1437(a), 15 N.J.R. 443(b).
Language added regarding resources subject to liquidation.
As amended on emergency basis, R.1984 d.464, eff. September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
Section substantially amended.
Readopted, R.1984 d.469, eff. November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
Amended by R.1986 d.395, effective October 6, 1986.
See: 18 N.J.R. 1168(a), 18 N.J.R. 2015(b).
One year changed to 24 months.
Amended by R.1987 d.348, effective August 17, 1987 (operative September 1, 1987).
See: 19 N.J.R. 618(b), 19 N.J.R. 1558(b).
Added (c)6.
Amended by R.1988 d.426, effective September 6, 1988.
See: 20 N.J.R. 1056(a), 20 N.J.R. 2291(a).
Substantially amended.

Case Notes

Assignment of support rights to county welfare board makes payment arrearage under support order an obligation owed to the board rather than alimony owed to former wife, regardless of reduction of arrearage to judgment or former wife's remarriage. Dolberry v. Dolberry, 188 N.J.Super. 265, 457 A.2d 71 (Ch.Div.1982).

Assignment of father's court-ordered child support payments by mother to county division of welfare valid and enforceable; trial court order designating mother as support payment beneficiary violated the AFDC assignment program. Essex Cty. Div. of Welfare v. Simon, 178 N.J.Super. 523, 429 A.2d 609 (App.Div.1981).

Welfare board, as assignee of support rights, permitted to intervene in matrimonial action for purpose of enforcing litigant's rights. Kernbach v. Kernbach, 174 N.J.Super. 544, 417 A.2d 70 (Ch.Div.1980).

Contribution funds accumulated under provisions of the Post–Vietnam Era Veterans Education Assistance Program were not an educational grant or loan and must be liquidated as a nonexempt resource before becoming AFDC eligible. L.D. v. Passaic Cty. Bd. of Social Services, 7 N.J.A.R. 309 (1984).

Agreement to repay welfare benefits from accident settlement funds. Mercer County Welfare Board v. "Z.T.", 1 N.J.A.R. 158 (1980).

Failure to cooperate in liquidating a potential resource. "C.B." v. Essex County Division of Public Welfare, 1 N.J.A.R. 68 (1980). "P.L." v. Burlington County Welfare Bd., OAL Dkt. HPW 6668–80 (Dec. 8, 1980), adopted, DPW (Dec. 26, 1980).

10:81–3.39 Liquidation of all debts, claims, interests, settlements, and trust funds

(a) Members of the eligible family 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 the eligible family.

1. Any failure or refusal by any person to take required action or to cooperate with the CWA in liquidation efforts renders the entire family ineligible for assistance for as long as the failure or refusal continues.

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

3. When a trust fund exists for a member of the eligible family, the CWA shall determine whether or not the funds are currently accessible. If accessible, the funds represent a source of funds for support and must be considered in determining eligibility.

i. When a trust fund is not currently accessible and it exists at the time of application, the client 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 agency will assist the client if necessary.

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

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.107, eff. March 15, 1979.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
Amended by R.1988 d.426, effective September 6, 1988.
See: 20 N.J.R. 1056(a), 20 N.J.R. 2291(a).
Substantially amended.

Case Notes

Child's personal-injury settlement intended for a child's loss is not "available" in calculation of benefits availability. Essex County Div. of Welfare v. O.J., 128 N.J. 632, 608 A.2d 907 (1992).

Minors' personal-injury settlements held in trust by courts were "available" only to extent supervising court granted a withdrawal petition. Essex County Div. of Welfare v. O.J., 128 N.J. 632, 608 A.2d 907 (1992).

No basis for entry of judgment of reimbursement to welfare board where former husband of benefits recipient was continuously unemployed and unemployable since before time of support order and commencement of former wife's welfare assistance, and was unable to contribute to family's support while it was on welfare. Potter v. Potter, 169 N.J.Super. 140, 404 A.2d 352 (App.Div.1979).

Award for pain and suffering not exempt. Salem County Board of Social Services v. M.P., 93 N.J.A.R.2d (DEA) 1.

Money in guardianship bank accounts were available for children. Passaic County Board of Social Services v. M.L., 92 N.J.A.R.2d (DEA) 38.

In absence of trust account, money deposited in account in the name of a benefits recipient by a third person is an available resource to be considered in determining eligibility (Department's Final Decision). Union Cty. Bd. of Social Services v. M.M., 6 N.J.A.R. 366 (1982).

Failure to cooperate in liquidation efforts. "P.L." v. Burlington Welfare Bd., OAL Dkt. HPW 6668–80 (Dec. 8, 1980), adopted DPW (Dec. 26, 1980).

10:81–3.40 Repayment

(a) The CWA shall, in all circumstances, take appropriate action to recover all public assistance improperly granted, including any benefits which may have been improperly granted as Medical Assistance. The action taken shall be in accordance with the appropriate sections of this manual and any other applicable authority. (See Appendix B, Collection Agreement between DPW and DMAHS.)

1. Recoveries of funds applicable to more than one CWA shall be divided according to the mutual agreement of the directors of the CWA involved.

(b) Properly granted assistance rules are:

1. Estate of deceased former child recipient: Assistance granted in the AFDC program and in the former AFWP program for a particular child may become a valid claim against the estate of such child if the child should die before reaching his/her twenty-first birthday. The CWA will take all necessary and proper action to enforce the claim. The CWA may, with State office approval, abandon the claim in whole or part upon a demonstration that collection would present an undue hardship to the survivors.

2. Pending claims or interests: Repayment of assistance in the AFDC program (all segments) is required in certain cases in which assistance is granted while the recipient(s) awaits receipt of funds from some other source. See N.J.A.C. 10:81–3.42 for rules on liquidation of non-exempt real property. See N.J.A.C. 10:81–3.41 regarding repayment following liquidation of other pending claims.

3. Retroactive SSI payments: When assistance was granted under –N segment provisions during a period for which the recipient, either adult or child, is later found retroactively to have been eligible for SSI, the assistance granted for that person(s) for that period is duplicative and is thereby subject to repayment. See section 46 of this subchapter for procedures.

4. AFWP debt to the State: The "debt to the State" provision of the former Assistance to Families of the Working Poor program (AFWP) was repealed, effective July 1, 1977, with the rest of the enabling statute in that program. There is no longer any legal basis for actions for recovery under that provision; this includes "pending claims" even though members of a former AFWP household may have provided a written promise of repayment from the proceeds of a specific claim. Actions based on other statutes, such as fraud restitutions and certain overpayments must be maintained, however, regardless of when they were initiated.

(c) Rules when Agreement to Repay (Form PA–10D) is required:

1. The receipt by the CWA of a completed and signed Agreement to Repay is required as a condition of eligibility whenever, and only whenever, there appears to be entitlement to a specifically identified payment other than public assistance to any persons for whom cash assistance in AFDC is being requested or granted, except as indicated in (d) below. For this purpose, a parent's potential entitlement is considered to include potential entitlement by that parent's spouse and minor children who live in the same home even though assistance for the parent may not be sought or granted. Applicable situations include but are not limited to:

i. Pending legal action (accidents, punitive damages, etc.);

ii. Unfulfilled contracts;

iii. Debts;

iv. Legacies or inheritances in probate;

v. Sale of nonexempt real property (see N.J.A.C. 10:81–3.42 for special rules applicable);

vi. Funds held in trust except funds from awards for personal injury to a child;

vii. Pending sale of exempt property as soon as the intention to sell is reduced to writing elsewhere, i.e., agreement of sale, realtor sales contract;

viii. Sale of non-exempt personal property;

ix. Equitable distribution in divorce.

2. The completed form must be signed by each person whose signature is required on the application for assistance even though assistance for that person may not be sought or granted. It must identify the source, the persons for whom the repayment is sought, the reason for the pending payment and the date(s) of signing. An agency employee will witness each signature.

3. Failure or refusal by any person to sign and deliver a completed Agreement to Repay when so required renders the family ineligible for cash assistance in AFDC.

(d) Rules when agreement to repay is not required:

1. Agreements to Repay are not to be used in any Medicaid program.

2. Benefits protected by law: The Agreement to Repay is not to be used when the pending payment arises from potential entitlement to:

i. RSDI, SSI, Railroad Retirement, Veteran's benefits, Workers' Compensation, Temporary Disability through the N.J. Department of Labor or term life insurance.

ii. Payment to a child and only to a child for personal injury to the child.

3. Assignment of Support: Upon signing an application for AFDC (PA–1J), the applicant or recipient automatically assigns all support rights (whether for past due or future support) to the CWA. The signing of an Agreement to Repay is therefore not required when the pending payment arises from potential entitlement to payment of support from a relative.

(e) Each CWA will establish administrative procedures for appropriate follow-up of pending matters and preparation for collection. Follow-up will include prompt communication with any person or agency acting in the matter for or on behalf of any member of the eligible unit, advising such persons or agencies of the CWA claim and the need for CWA approval before payments are made.

As amended, R.1979 d.107, eff. March 15, 1979.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
As amended, R.1980 d.118, eff. March 19, 1980.
See: 11 N.J.R. 625(a), 12 N.J.R. 194(c).
Added (b)3 and 4.
Amended by R.1985 d.99, effective March 4, 1985.
See: 16 N.J.R. 3282(a), 17 N.J.R. 594(a).
Subsection (d) substantially amended.
Amended by R.1986 d.318, effective August 4, 1986.
See: 18 N.J.R. 1055(a), 18 N.J.R. 1594(c).
Substantially amended.
Amended by R.1988 d.426, effective September 6, 1988.
See: 20 N.J.R. 1056(a), 20 N.J.R. 2291(a).
Substantially amended.

Case Notes

Absence of statutorily authorized agreement requiring repayment of assistance funds from the settlement of legal claims did not preclude recovery of such funds. Reed v. Slaughter, 110 N.J. 480, 541 A.2d 1352 (1988).

Reimbursement of welfare payments from amounts recovered in tort claims. See Falgaitore v. Atlantic City, 175 N.J.Super. 122, 417 A.2d 1071 (Ch. Div.1980) (decided on statutory grounds).

Repayment of AFDC payments made on behalf of a dependent child out of a tort recovery by the child for personal injuries. See In re Estate of Jackson, 79 N.J. 517, 401 A.2d 517 (1979).

Repayment of welfare benefits from proceeds of personal injury settlement preserved in trust fund. See In re Estate of Black, 160 N.J.Super. 122, 388 A.2d 1320 (App.Div.1978) (decided on statutory grounds). See In re Doughty, 160 N.J.Super. 126, 388 A.2d 1321 (App.Div.1978) certification dismissed 81 N.J. 261, 405 A.2d 806 (decided on statutory grounds).

Agreement to repay. Cumberland Cty. Welfare Bd. v. Rodriquez, 144 N.J.Super. 365, 365 A.2d 723 (Law Div.1976) (decided on statutory grounds).

Recoupment; agreement to repay; sufficient disclosure of pending claim. Ocean County Board of Social Services v. R.A., 92 N.J.A.R.2d (DEA) 1.

10:81–3.41 Action by CWA upon liquidation (except nonexempt real property)

(a) Valid agreement to repay exists: Upon liquidation of a claim or interest (other than liquidation of nonexempt real property) for which a valid Agreement to Repay exists (see N.J.A.C. 10:81–3.40(c)), regardless of whether or not the persons involved are receiving assistance at the time, the CWA will evaluate the situation. Upon a showing that, by release of the funds and only by release of the funds, the household can reasonably be expected to remain off the assistance rolls indefinitely, the CWA may, with approval of the State office, release the funds to the household. In all other instances the CWA will, subject to the special provisions below, pursue recovery of the lesser of the following amounts:

1. The amount of cash assistance granted to the eligible family in the AFDC program, including any assistance provided to or on behalf of the minor children of the family, except as provided at N.J.A.C. 10:81–3.40(d)2, from the date of the accident or occurrence which gave

rise to the settlement to the date of payment, regardless of the date of execution of the Agreement to Repay;

2. The amount of money actually received after making allowance for costs and fees of collection, medical payments made as a result of the accident or occurrence giving rise to the client's recovery, identifiable future medical expenses properly due from the proceeds and, deducting at the discretion of the CWA, up to $500.00 for verified related expenses incurred by client (see N.J.A.C. 10:82–3.2(b)9).

(b) Rules on claims arising from sale of exempt resources (See N.J.A.C. 10:82–3.2 for Exempt Resources) are:

1. In the liquidation of an exempt resource, the CWA's claim dates from the applicant's earliest written statement of intention to liquidate (i.e., agreement of sale, realty sales agreement).

2. The CWA will not require repayment from the proceeds of the sale of an exempt resource when the proceeds are promptly reinvested in another exempt resource of the same type. Funds designated by the client as being reserved for such reinvestment, including any interest accrued during the period, may be held for up to three months, provided the funds are held in escrow or are otherwise unavailable for daily living expenses. The three month period may be extended upon written approval of the State office.

(c) The amount due under an Agreement to Repay is not diminished by obligations of other persons, i.e., an absent parent, to repay the same assistance to the CWA. In such an instance, the CWA will pursue all claims until the obligations are met in full but will not collect more than once for any assistance granted.

(d) When any settlement or part of a settlement which would have been repayable is placed in trust, the CWA shall take the position that the Agreement to Repay represents a valid claim on such funds and will pursue that claim by petition to the appropriate court. (See N.J.A.C. 10:81–3.39(a) regarding funds remaining in trust after repayment and/or funds in trust which are not subject to an agreement to repay).

(e) Rules when valid Agreement to Repay does not exist are:

1. Upon liquidation of a resource for which a valid Agreement to Repay does not exist solely by reason of the applicant/client's withholding of information about the matter, the CWA shall pursue collection activity as in this section, indicating to those concerned, including the courts, that except for the client's withholding of information, a valid agreement would have existed or the assistance would not have been granted.

2. In any instance in which an Agreement to Repay would have been applicable but closure of the case precluded delivery of the Agreement, the CWA will determine the amount of assistance which would have been repayable under a properly executed Agreement to Repay. Based on the feasibility of collection action, it will then take such action as is appropriate.

3. Upon liquidation of a resource for which a valid agreement does not exist for any reason other than withholding of information by the client, i.e., administrative error, the CWA shall not pursue any claim but will nonetheless reevaluate current eligibility.

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.107, eff. March 15, 1979.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
As amended, R.1980 d.80, eff. February 14, 1980.
See: 12 N.J.R. 27(a), 12 N.J.R. 126(e).
Added (a)2i.
As amended, R.1983 d.319, eff. July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Internal cite changed.
As amended, R.1983 d.505, eff. November 7, 1983.
See: 15 N.J.R. 1430(b), 15 N.J.R. 1864(d).
Deduction for miscellaneous expenses increased from $200.00 to $500.00.
Amended by R.1986 d.318, effective August 4, 1986.
See: 18 N.J.R. 1055(a), 18 N.J.R. 1594(c).
Added text to (a): "Valid agreement to repay exists:"
Amended by R.1988 d.426, effective September 6, 1988.
See: 20 N.J.R. 1056(a), 20 N.J.R. 2291(a).
Added nonexempt real property.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Clarification added regarding recovery of cash assistance payments.

Case Notes

Provisions for recovery of overpayments of funds or overissuance of food coupons are mandatory. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Failure to indicate pending accident claim in application for assistance required recipient to provide reimbursement for AFDC benefits issued improperly. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Claim against AFDC recipient who withheld information about pending personal injury claim related back to date of accident. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

AFDC assistance furnished to parent for sole benefit of parent's child is not subject to recoupment. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Failure of AFDC recipient to execute agreement to repay does not excuse recipient from having to repay assistance wrongfully received. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

AFDC recipient who withholds pertinent information, thus avoiding signing of agreement to repay, must repay illegally obtained funds from net proceeds of tort actions. Childs v. Essex County Div. of Welfare, 236 N.J.Super. 127, 564 A.2d 889 (L.1988).

Absence of statutorily authorized agreement requiring repayment of assistance funds from the settlement of legal claims did not preclude recovery of such funds. Reed v. Slaughter, 110 N.J. 480, 541 A.2d 1352 (1988).

Liquidation of a resource for which a valid Agreement to Repay does not exist. Terry v. Harris, 175 N.J.Super. 482, 420 A.2d 353 (Law Div.1980).

Identifiable future medical expenses exempted from recoupment. In re Estate of Jackson, 79 N.J. 517, 528, 401 A.2d 517 (1979).

Recoupment; agreement to repay; sufficient disclosure of pending claim. Ocean County Board of Social Services v. R.A., 92 N.J.A.R.2d (DEA) 1.

Liquidation of a resource for which a valid Agreement to Repay exists. Mercer County Welfare Board v. "Z.T.", 1 N.J.A.R. 158 (1980).

10:81–3.42 Liquidation of nonexempt real property

(a) When ownership of nonexempt real property is the only reason for the ineligibility of an otherwise eligible family, the family may receive AFDC during the period of ineligibility under the following terms and conditions:

1. Liquidation of the real property shall be undertaken and completed promptly. In no event may it take more than nine months. At the end of nine months, authorization for assistance grants under these provisions ends.

2. The signer(s) of the assistance application shall sign an Agreement to Repay (Form PA–10D) and shall sign a written agreement with the 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 agreement, but the original nine month period may not be extended. If an appraisal is found necessary in order to reach agreement, the CWA may advance the cost of the appraisal from the administrative account. Any such advance is subject to repayment or recovery as described in (a)4 and 5 below.

3. The owner(s) of the real property shall, in accordance with the written plan, make continuous good faith efforts to liquidate the property at market value. Any breach in the good faith efforts, as determined by the agency, ends the authorization of assistance grants under these provisions. Authorization may be restored by restoration of good faith efforts, but the original nine month period may not be extended.

4. Upon liquidation of the real property, the former owner(s) of the real property shall repay to the agency either the amount of assistance granted during the period of ineligibility 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.

5. All assistance grants made under authority of these provisions are grants to ineligible persons and are, thereby, overpayments. When repayment is made in accordance with (a)4 above and repayment, based on net proceeds, is less than the aggregate assistance grants during the period, the unrepaid balance is no longer an overpayment with respect to these provisions. In all other situations including, but not limited to, expiration of the nine month period, lack of good faith efforts, liquidation for less than market value, or loss of eligibility for other reasons, the full amount of the overpayments is subject to collection as for other overpayments.

As amended, R.1977 d.452, eff. December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Recodified March 15, 1979; was N.J.A.C. 10:81–3.41.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
Recodified in Error, repealed by R.1979 d.107.
See: 10 N.J.R. 432(b), 11 N.J.R. 196(b).
New Rule, R.1988 d.426, effective September 6, 1988.
See: 20 N.J.R. 1056(a), 20 N.J.R. 2291(a).

10:81–3.43 (Reserved)

Repealed on an emergency basis, R.1981 d.397, eff. September 30, 1981 (Operative October 1, 1981), exp. November 30, 1981.
See: 13 N.J.R. 759(a). Recodified, R.1981 d.518, eff. December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
Repealed rules concerning A.

10:81–3.44 (Reserved)

Repealed on an emergency basis, R.1981 d.397, eff. September 30, 1981 (Operative October 1, 1981), exp. Nov. 30, 1981.
See: 13 N.J.R. 759(a). Recodified, R.1981 d.518, eff. December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
Repealed rules concerning AFDC–F.

10:81–3.45 (Reserved)

Repealed on an emergency basis, R.1981 d.397, eff. September 30, 1981 (operative October 1, 1981), exp. November 30, 1981.
See: 13 N.J.R. 459(a). Recodified, R.1981 d.518, eff. December 31, 1981.
Repealed rules concerning employment and training for AFDC–C and –F children.

10:81–3.46 Repayments from retroactive SSI awards –N segment only

(a) When an applicant for or a recipient of AFDC–N has filed an application for SSI or an application has been filed on his or her behalf, the CWA will require as a condition of eligibility or continued eligibility that Forms PA–30 and PA–30A be signed and submitted to the CWA by the same person(s) who signed the SSI application(s). When an –N segment parent(s) is required to sign Forms PA–30 and PA–30A and fails or refuses to do so, the parent(s) is rendered ineligible. Eligibility of the children is not affected by the refusal.

1. The CWA will, within 24 hours, send the original of the PA–30, also signed by the Director or his/her designate, to the Social Security District Office (SSA/DO) in which SSI application was filed.

i. The SSA/DO will advise the CWA of its action relative to the PA–30 form. In the absence of such advice, the CWA will follow-up in writing every 30 days, attaching a photocopy of the PA–30 to each follow-up letter. Form SSA–1610 will not serve for this purpose.

2. Action following approval of SSI application: Upon receipt of information that an SSI application has been approved, the CWA will promptly adjust the size of the eligible unit and amount of the AFDC grant.

i. When Form PA–30 has been promptly and properly filed with the SSA/DO, the retroactive initial check will be sent to the CWA, accompanied by Form SSA–8125. (See Appendix C for sample form and instructions.) From the proceeds of the check, the CWA will accept reimbursement as computed according to the provisions of subsection (b)2 of this section. It will then remit the balance to the client with completed Form PA–31 within 10 days of receipt of the SSI check. The CWA will also complete the Form SSA–8125 which accompanied the check and send it within 30 days to the SSA Regional Office.

ii. In any case in which the retroactive SSI check is sent directly to the client, the CWA will compute the reimbursement due in accordance with subsection (b)2 of this section and will seek repayment from the client on the basis of the PA–30A agreement.

(b) The amount of retroactive SSI payment subject to reimbursement to the CWA is the per capita share of the –N segment grant attributable to the needs of the SSI eligible person(s) from the first of the first month of SSI eligibility to the end of the last month in which the needs of the person(s) were included in the –N segment payment. Emergency assistance and medical assistance are not repayable under this section.

1. When the entire eligible unit has been receiving assistance under the –N segment, divide the amount of assistance granted during the pending period by the number of persons in the unit. The result is the amount repayable for each SSI eligible member.

2. When only a part of the family unit has been receiving assistance under the –N segment and the others have been receiving under –C or –F segment provisions, from the total granted in all segments during the period, deduct the federally matchable portion as computed in accordance with Table A (see Appendix C) and divide the remainder by the number of –N segment recipients in the eligible unit. The result is the amount repayable for each SSI eligible member.

(c) Assistance granted under the AFDC–C or –F segment is not repayable from retroactive SSI awards even though the payments covered the same periods of time.

R.1980 d.118, effective March 19, 1980.
See: 11 N.J.R. 625(a), 12 N.J.R. 194(c).
Amended by R.1988 d.426, effective September 6, 1988.
See: 20 N.J.R. 1056(a), 20 N.J.R. 2291(a).
Added text in (a) "When an –N segment . . ."

10:81–3.47 Strikers

(a) AFDC benefits shall not be payable for any month in which any caretaker relative with whom the child is living, is, on the last day of such month, participating in a strike. Additionally, no individual's needs shall be included in determining the amount of AFDC payable for any month to a family if, on the last day of the month, such individual is participating in a strike.

1. The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted interruption of operations by employees.

2. The term "participating in a strike" means an actual refusal in concert with others to provide services to one's employers.

As amended, R.1983 d.319, effective July 20, 1983.
See: 15 N.J.R. 933(a), 15 N.J.R. 1375(c).
Text recodified at this cite; formerly at 10:81–3.18(k).

Cross References

Home Energy Assistance program eligibility requirements, see N.J.A.C. 10:89–2.2.

SUBCHAPTER 4. METHODS OF PAYMENT FOR ASSISTANCE

Authority

N.J.S.A. 44:7–6 and 44:10–3; 45 CFR 206.10(a)(9)iii; and CFR, Parts 400 and 401.

Source and Effective Date

R.1984 d.405, effective August 23, 1984.
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

Subchapter Historical Note

This subchapter was filed and became effective prior to September 1, 1969. A new revised subchapter was filed February 11, 1975 as R.1975 d.29, to become effective April 15, 1975. See: 6 N.J.R. 244(a), 7 N.J.R. 105(c). Amendments were filed and became effective September 1, 1977 as R.1977 d.290. See: 9 N.J.R. 271(a), 9 N.J.R. 434(b). Further amendments were filed and became effective December 1, 1977 as R.1977 d.452. See: 9 N.J.R. 367(c), 10 N.J.R. 16(b). Further amendments were filed and became effective October 18, 1979 as R.1979 d.428. See: 11 N.J.R. 344(a), 11 N.J.R. 560(e). Further amendments were filed and became effective November 13, 1979 as R.1979 d.444. See: 11 N.J.R. 505(a), 11 N.J.R. 626(a). A readoption with amendments for section 2 was filed and became effective December 31, 1981 as R.1981 d.518. See: 13 N.J.R. 759(a), 14 N.J.R. 102(c). Further amendments were filed and became effective December 6, 1982 as R.1982 d.424. See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a). Further amendments were filed and became effective August 20, 1984 (operative September 1, 1984). See: 16 N.J.R. 1314(a), 16 N.J.R. 2285(b). This subchapter was readopted effective August 23, 1984 as R.1984 d.405. See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a). See chapter and section levels for further amendments.

Case Notes

"Vendor" or "protective payments" to delinquent tenants. Housing, Newark v. Comm. of Dept. Inst. & Agencies, 136 N.J.Super. 136, 143–145 (App.Div.1975).

10:81–4.1 Responsibility for assistance payments

(a) The Division of Economic Assistance has responsibility for establishing the conditions under which, and the procedures by which, all grants of assistance are to be made, in accordance with Federal and State law and regulations.

(b) The county welfare board is responsible for approving all grants of assistance, including initial, continuing and adjusted payments.

(c) The CWA director has specific authority to issue payments prior to formal welfare board action. All payments so authorized by the director are subject to ratification, revision, or termination, by the board. Therefore in exercising his or her authority, the director has a special responsibility to expedite further investigation, if any is required; to have the formal record of the case completed; and to present the case to the welfare board at its next subsequent meeting for action thereon.

As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1466(a), 16 N.J.R. 2437(a).
"CWB" changed to "CWA".

10:81–4.2 Federal participation in AFDC–C and –F

(a) Federal participation is limited to unrestricted money payments to the eligible recipient parent(s) or parent-person(s), the authorized protective payee, representative payee or temporary payee.

(b) To qualify for Federal matching, a money payment must meet the following conditions:

1. The check must be drawn to the order of and delivered to the recipient or his or her authorized payee (see N.J.A.C. 10:81–4.5).

2. Payments must be made without direction of any kind as a condition of receiving the payment.

3. A restriction may be found to attach to an entire assistance payment or only to part of the payment. If the restricted portion or portions are definitely distinguishable from the remaining unrestricted matchable payment, the unrestricted portion may be counted in the claim for Federal matching.

(c) An explanation, oral or written to the recipient as to how the amount of his or her payment is determined is not considered restrictive but such explanation must not state or imply that the recipient must pay for a specific item of goods or services.

(d) Endorsement of a check by a person to whom the recipient has given a daily authorized power of attorney does not alter the unrestricted character of the new payment.

(e) Criteria used for determining Federal matching in the AFDC–F segment is based upon the principal earner of the family meeting the employment requirements as set forth in Federal regulation.

(f) Criteria used for determining Federal matching in the AFDC–N segment is based upon the principal earner of the family not meeting the employment requirements as set forth at N.J.A.C. 10:81–3.18.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended on an emergency basis, R.1981 d.397, effective September 30, 1981 (Operative October 1, 1981) expires November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(e): "Principal earner" was "father".
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1466(a), 16 N.J.R. 2437(a).
Added cross reference.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Added text at (f) regarding criteria for match.

10:81–4.3 Initial payment

(a) When immediate need is apparent and the applicant provides evidence of eligibility by a written statement signed under oath, the CWA director shall issue a grant based on presumptive eligibility, as of the date of application and shall then proceed with the validation. This shall also be the case when immediate need arises before completion of the investigation (see N.J.A.C. 10:81–1.3).

(b) Authorization shall be by personal signature of the director or deputy director, which signature may be typescript of facsimile signature if initialed by an authorized member of staff.

1. When the client has received an initial payment for a partial month as provided in the Assistance Standards Handbook, he or she shall continue to receive payments until final validation has been made or until he or she has been determined to be ineligible.

2. Once final validation has been completed, the client shall continue to receive assistance for each month so long as no finding of ineligibility has been made.

(c) A decision regarding eligibility must be made within 30 days of application. If immediate need develops during the verification process and there is no evidence of ineligibility, a grant will be issued immediately.

(d) If the completed investigation shows the applicant to have been ineligible for reasons other than need, the county welfare agency shall not be obliged, in the absence of fraud or misrepresentation, to take action for the recovery of any assistance granted pending completion of such investigation.

1. If CWA has demonstrated a reasonable attempt at validation within the requisite period of time but has been unsuccessful in completing the investigation despite such attempt, Federal participation only will be withheld; State matching for assistance payments will continue to be available whether or not the case is found to be eligible.

(e) Formal board action: When an initial payment is authorized by the CWA director prior to approval of the

welfare board, the application shall be presented for formal action at the next regular or special meeting of the board.

(f) Reports to State division: Reporting new and reopened cases for which initial payments are authorized by the director is accomplished by established procedures.

As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
"County welfare board" changed to "CWA".

10:81–4.4 Changes in need during assistance

When a change in the circumstances of the recipient results in an authorized adjustment upward or downward in the amount of the assistance payment, the effective date of such adjustment shall be as of the first day of the next regular payment period following the date the change in circumstances was reported to or identified by the CWA, subject to timely notice. Additional payment(s) supplementing the last regular payment may be issued during the current payment period for any of the reasons listed in N.J.A.C. 10:82–2.20(b).

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Deleted reference to "Assistance Standards Handbook" and added "N.J.A.C. 10:82–2.20(b)."

10:81–4.5 Payees in AFDC

(a) Payees in AFDC are classified as follows:

1. Designated payee: Designated payee is a person signing the application to whom the check is issued (see N.J.A.C. 10:81–4.6).

2. Temporary payee: Temporary payee is a person designated temporarily by the CWA to receive the assistance payment, usually in an emergency situation (see N.J.A.C. 10:81–4.7).

3. Protective payee: Protective payee is a person authorized by the CWA to receive and administer assistance payments on behalf of an eligible family (see N.J.A.C. 10:81–4.9).

4. Representative payee: Representative payee is a person appointed by the court to receive and administer assistance payments on behalf of an eligible family (see N.J.A.C. 10:81–4.15 through 4.19).

(b) Payments may be made to a person or facility as compensation for providing goods and services to or for the client. Payments may be in the form of vendor payments or two-party payments, that is, checks which are drawn jointly to the order of the recipient and the provider of the services. Payments are limited to the following situations only:

1. Emergency assistance. See N.J.A.C. 10:82–5.10 for policy and procedures relative to authorization and issuance of vendor payments in emergency assistance.

2. Payments for the following services are subject to the provisions of (c) below:

i. Child care;

ii. Transportation expense; and

iii. Rent, mortgage or utility payments.

(c) Voluntary restricted payments may be made in the form of a vendor or two party payment. Vendor payments or two-party payments shall not be extended to any other providers of goods or services and shall only be made at the request of the recipient.

1. At the time of the recipient's request of voluntary restricted payments, the CWA must explain to the recipient the advantages and disadvantages of restricted payments and his or her right to the prompt discontinuation of such payments.

2. Requests for voluntary restricted payments must be made in writing, via completion and submittal of Form PA–59A, Request for Voluntary Restricted Payment, from the recipient to whom payment would otherwise be made in an unrestricted manner and that request retained in the case file.

3. The restricted payment will be discontinued as soon as administratively feasible but no later than the next regular payment period, upon completion and submittal of Form PA–59B, Request to Discontinue Voluntary Restricted Payment, by the recipient who initiated such payment. The request must be retained in the case file.

4. Recipients who request a voluntary vendor or two-party payment for shelter or utility costs, shall designate the portion of the assistance payment for rental, mortgage or utility expenses and set the terms and conditions under which such restricted payment is made, in consultation with the county welfare agency.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Amendment allows for vendor payments to day care centers/providers.
Amended by R.1988 d.253, effective June 6, 1988.
See: 20 N.J.R. 620(a), 20 N.J.R. 1221(a).
Added text to (b)1 "or providers of ... training or education"; deleted cross reference in (c).
Amended by R.1989 d.205, effective April 17, 1989.
See: 21 N.J.R. 7(b), 21 N.J.R. 1013(b).
Recipient must be fully informed regarding voluntary restricted payments. Discontinuation of such payments must be prompt.

Case Notes

Grandmother removed as primary caretaker for her daughter's children. Passaic County Board of Social Services v. G.B., 92 N.J.A.R.2d (DEA) 11.

10:81–4.6 Designated payee in AFDC

(a) A person who is a signatory to the application will be the designated payee (see N.J.A.C. 10:81–2.3(b)1). However, no person under official commitment in a mental institution, who has been adjudicated mentally incompetent, or whom the CWA has determined is an alleged incompetent may be a designated payee.

(b) Whenever there is more than one person signing the application, the worker shall discuss with the applicant who the designated payee should be. The family should be encouraged to continue their normal pattern for management of income.

As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Reference to N.J.A.C. 10:81–2.3(b)1, added.

10:81–4.7 Temporary payee in an emergency situation

(a) In emergency situations that deprive the child of the care of the relative through whom he or she has been receiving aid, a person shall be designated to receive payments for a temporary period necessary to make and carry out plans for the child's continuing care and support. If such person qualifies as a parent-person, a new application will be taken in his or her name and such person will be a temporary payee only until the application is approved. This designation should be accomplished without interruption of the grant or action on a new application (see N.J.A.C. 10:82–5.10(d)5).

1. Designation of a temporary payee is subject to the following conditions:

i. The child is a recipient of AFDC at the time the emergency occurs;

ii. If the emergency is not of limited duration, active planning is being carried out for the continuing care of the child by the social service unit, another agency or responsible individual;

iii. A permanent arrangement is established within two calendar months following the month in which the emergency occurs.

(b) Child placed temporarily in institution for sheltered care: In such emergency situation (see (a) above), when there is no parent substitute available and the child must be placed temporarily in an institution for sheltered care, the temporary payee shall be the superintendent or other chief executive officer of the institution. Payments made pursuant to this paragraph are not subject to Federal matching (see also N.J.A.C. 10:82–5.10(d)5). In these situations, the following policy and procedures shall be followed:

1. The initial period of such institutional placement shall not exceed 30 days.

2. A prompt referral shall be made to social service unit.

3. The social service unit will give priority consideration to such a referral to effect an adequate foster home placement by the Division of Youth and Family Services within the 30–day period following placement in institutional shelter care.

4. If the Division of Youth and Family Services determines that adequate foster home placement cannot be made within that initial 30–day period, a written request shall be made to the county welfare agency to continue the child in institutional care, with payment through AFDC–C for a continued period which shall not exceed 30 days. Concurrently a copy of this request shall be sent to the institution caring for the child. The county welfare agency will then be authorized to continue AFDC–C for institutional shelter care up to a maximum of 60 days from the initiation of the institutional placement.

5. If, during the 60–day period, there appears a newly developed resource whereby care of a child may be continued through AFDC–C, the referral to the Division of Youth and Family Services shall be withdrawn.

6. In the absence of an adequate foster home placement, supervisory and financial responsibility for the child shall be assumed by the Division of Youth and Family Services after 60 days following initiation of the institutional shelter placement.

(c) Change of parent-person (transfer): When a new permanent plan is necessary and a qualified parent-person in another county is willing to provide care on a continuing basis, normal procedure calls for "transfer" of responsibility to the receiving county (see N.J.A.C. 10:81–3.27(b)1, (b)2, (b)3). Such transfer will be effected without interruption in aid. If it is necessary to provide assistance for the child's maintenance pending referral to and acceptance of responsibility by the receiving county, the qualified parent-person may be treated as a "temporary payee". It will be incumbent upon the receiving county to accept responsibility within the two-month limitation. Timely and adequate notice (see N.J.A.C. 10:81–7.1) is required.

(d) Reporting temporary change: When a temporary change in payee is made, it shall be reported to the Division of Economic Assistance. In this situation there is no change in case status or case name.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
References to Assistance Standards Handbook deleted, N.J.A.C. references added.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a) and (b): stylistic revisions.

10:81–4.8 Permanent change in payee

(a) When care arrangement is unchanged: When it becomes necessary or is deemed advisable to change the payee from one to another qualified parent or parent-person who

is already a member of the household, but there is otherwise no change in the care arrangement for the eligible child, the case shall remain in active status under the same case number.

(b) When qualified parent or parent-person changes: When the parent or parent-person under whose name the case is registered, and who has been payee, is no longer a member of the household, and another qualified parent-person joins the household to care for the child, then the case shall be closed, and a new application shall be immediately accepted from the new qualified person(s). If the new situation includes two parents, the decision regarding which one shall be designated payee shall be made in accord with the policy in 10:81–4.6. Such change in payee will be effected without interruption in aid. Timely and adequate notice (see N.J.A.C. 10:81–7.1) is required, except when the change is temporary (see N.J.A.C. 10:81–4.7). The case action will be reported to the welfare board as for any new case closing and new application. Statistical accounting shall also follow the normal procedure.

(c) When care arrangement changes: When the child has been placed in another home situation with a different qualified parent or parent-person, the case shall be closed and a new application shall be accepted, unless the provisions of N.J.A.C. 10:81–4.7 apply. There shall be no interruption in assistance. Entries in the board minutes and statistical accounting will follow the normal procedure for closing and for new applications.

(d) When inadequate management is evident: When it is determined by the CWA that the use of funds by the parent or relative is not in the best interest of the child(ren), assistance shall be paid, whenever possible, to a protective payee. See N.J.A.C. 10:81–4.9 for policy and procedures used in determining the need for a protective payee and the selection of a protective payee.

As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Lead-in language and N.J.A.C. references added.

Case Notes

Appointment of temporary payee, P.P. v. Middlesex County Board of Social Services, 1 N.J.A.R. 148, (1979).

10:81–4.9 Protective payee

(a) When it is determined by the CWA that the use of funds by the parent or relative is not in the best interest of the child(ren), assistance shall be paid, whenever possible, to a protective payee. A protective payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient, nor to act as representative of the recipient in any other manner whatsoever. Such a decision shall be subject to the following criteria:

1. The CWA must decide, on the basis of available evidence, that an individual, who has not been determined to be mentally incompetent, has demonstrated such an inability to manage funds that payments to the individual have not been and are not currently used in the best interest of the child. This inability to manage funds means that the individual has misused funds to such an extent that allowing him or her to manage the AFDC grant is a threat to the health and safety of the child.

2. There should be substantial evidence to support such a finding.

3. Nonpayment of bills may be used as an indication that mismanagement may exist. However, a determination of such mismanagement shall not be made solely on the fact that bills are not paid on a timely basis. All relevant considerations shall be taken into account including, but not limited to the following:

i. Whether the family has experienced some emergency or extraordinary circumstances for which it was appropriate for available funds to be spent;

ii. Whether expenses for necessary bills exceed the recipient's grant and other income; and

iii. Whether the family has withheld the payment as a reasonable exercise of consumer rights when there is a legitimate dispute as to whether terms of an agreement have been met.

4. The case record shall be fully documented and shall contain a statement of the specific reasons that demonstrate the need for a protective payee.

5. In such cases, procedures for selection and appointment of a protective payee may be instituted in accordance with N.J.A.C. 10:81–4.10, 4.11, and 4.19.

6. The CWA will be responsible for assuring referral to social services for appropriate action to proper recipients where problems and needs for services are manifestly beyond the ability of the protective payee to handle.

7. The CWA shall undertake and continue special efforts to develop greater ability on the part of the recipient to manage funds in such a manner as to protect the welfare of the family.

8. The CWA will review the case as frequently as indicated by the individual's circumstances, but at least every 12 months, relevant to the need for protective payments and the way in which the protective payee's responsibilities are carried out.

9. Provisions will be made for termination of protective payments, as follows:

i. When recipients are considered able to manage funds in the best interest of the child(ren), the protective payee arrangement shall be terminated and the case shall be returned to unrestrictive payment status.

ii. When it appears that the need for protective payments will continue or is likely to continue beyond two years because all efforts have not resulted in sufficiently improved use of assistance in behalf of the child, judicial appointment of a guardian or other legal representative will be sought and such payments will terminate when the appointment has been made (see N.J.A.C. 10:81–4.15 through 4.19).

10. See also N.J.A.C. 10:81–4.13 regarding actions requiring a change in protective payee.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Criteria for determining need for protective payee, added.
Amended by R.1987 d.284, effective July 20, 1987.
See: 19 N.J.R. 341(a), 19 N.J.R. 1316(b).
Review was changed from "six" to "12" months.

10:81–4.10 Selection of a protective payee

(a) The CWA director, subject to the approval of the welfare board as expressed in a special resolution recorded in the minutes, shall select an appropriate person to serve as protective payee to receive assistance payments and supervise their use for a client who is unable to manage money. See N.J.A.C. 10:81–4.19 for criteria and limitations on appointment.

(b) A protective payee shall be selected, so far as possible, with the participation and consent of the recipient or of someone responsible for acting on his or her behalf.

(c) In any case the protective payee shall be a person who is interested in or concerned with the welfare of the child and relative.

(d) If it is in the best interest of the recipient for a staff member of a private agency, of the county welfare agency, or of any other appropriate organization to serve as a protective payee, such selection shall be made preferably from the staff of an agency or that part of an agency providing protective services for families. The selection shall not include:

1. The Director of the CWA;

2. The income maintenance worker determining eligibility for the particular recipient;

3. Staff handling fiscal procedures related to the recipient;

4. Vendors of goods, services or items dealing directly with the recipient; or

5. Any person who has himself or herself been determined by professional diagnostic procedures to be incompetent or "marginally incompetent".

(e) The CWA is required to make protective payments when a parent(s) is disqualified from participation in the AFDC program due to refusal or failure to cooperate with the REACH program; refusal to accept employment, voluntary cessation of employment, or failure to cooperate with CSP, unless the following applies:

1. If, after all reasonable efforts have been made, the CWA is unable to locate a suitable protective payee and prolonging the search may be detrimental to the well being of the children, the CWA is permitted to make payments to the disqualified parent(s) on behalf of the eligible children.

Amended by R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Delineates who can not be a protective payee.
Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Amended on emergency basis by R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(e) added.
Readopted, R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (e): updated text from WIN references to REACH references.

10:81–4.11 Appointment of protective payee

(a) The CWA director shall prepare a letter formally designating the person selected as protective payee assistance payments and administer them on behalf of the named recipient. A copy of such letter shall be retained in the case record, and a copy given to the recipient concerned, with notice of his or her right to a fair hearing (see N.J.A.C. 10:81–4.14).

(b) The person designated as protective payee shall sign a statement in duplicate accepting the appointment. This statement shall contain an agreement to maintain a record of receipts and expenditures; to render an account when requested by the CWA director or the recipient, but at least annually or upon termination of assistance payments or termination of service by the protective payee; and to assist in rendering services to the recipient which will enhance his or her ability to manage money and improve his or her capacity for self-care. A copy of this statement and a copy of all accounts rendered shall be filed in the case record.

As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Reference to N.J.A.C. 10:81–4.14 added.

10:81–4.12 Payment procedure for protective payee

Payments shall be made by check drawn to the order of (name of protective payee), protective payee for (name of recipient).

Cross References

Home Energy Assistance program income eligibility, see N.J.A.C. 10:89–2.3.

10:81–4.13 Change in protective payee

(a) If the recipient requests a change of or elimination of the protective payee, his or her request shall be granted if upon investigation the request is found to be reasonable and justified.

(b) A protective payee who wishes to be released from his or her responsibilities shall give the CWA director at least 10 days notice in writing. In the event of an emergency which makes it impossible for him or her to fulfill his or her responsibilities for a period of time, he or she shall confer with the CWA director or a duly designated representative immediately so that other arrangements can be made to assure continued assistance to the recipient.

(c) Official change of a protective payee or termination of protective payments shall be recorded in the welfare board minutes and written notice shall be sent to the individual concerned. The recipient shall also receive written notice of a change in the protective payee.

As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Section substantially amended.

10:81–4.14 Recipient's right to a fair hearing

A recipient who has been determined to require protective payments shall be given written notice, and oral explanation of his or her right to fair hearing if dissatisfied with the decision to appoint, the choice of a protective payee, the continuation of protective payments or the manner in which the payee is functioning (see N.J.A.C. 10:81–6, COMPLAINTS AND FAIR HEARINGS). If the fair hearing issue is the decision to appoint a protective payee, a temporary payee will be designated by the county welfare agency pending the fair hearing decision.

As amended, R. 1977 d.290, effective September 1, 1977.
See: 9 N.J.R. 271(a), 9 N.J.R. 434(b).
As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Reference to N.J.A.C. 10:81–6, COMPLAINTS AND FAIR HEARINGS, added.

10:81–4.15 Representative payee in AFDC

A representative payee, when duly appointed by the court, is authorized to administer payments of public assistance, but is not authorized to receive, hold or administer any other property, real or personal, of the recipient nor to act as representative of the recipient in any other manner whatsoever. Money payments made by this method are subject to Federal matching.

10:81–4.16 Appointment of a representative payee

(a) In instances where it is determined that a representative payee must be appointed, the CWA shall advise those acting on the client's behalf that such appointment is required, and shall refer the matter to counsel for appropriate action.

(b) The cost of the proceedings shall be assumed by the CWA as a matchable administrative expense. If the client should be found ineligible for other cause, the proceedings shall be terminated immediately.

(c) In order to satisfy the requirements of the law regarding representative payee, the following shall apply:

1. When the recipient has already been determined by the Disability Review Section as incompetent, the Record of Action fulfills the requirement for a review by the State Division.

2. In all other situations, the CWA shall forward to the Disability Review Section all relative medical data as required for determining medical eligibility. The Form DRS–2 Medical–Social Information Report, should state that the purpose of submittal is for review as a basis for appointment of a representative payee.

3. The Disability Review Section will review the material on the basis of functional incompetency as defined by law, and the resulting Record of Action shall represent the findings of a review by the State Division.

Amended by R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Title of form PA–6, Medical–Social Information Report, added.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (c): Revised and updated (c)1–3 regarding the Disability Review Section. Prior text referred to the medical review team.

10:81–4.17 Payment to a representative payee

Payments shall be made by check drawn to the order of (name of representative payee), representative payee for (name of recipient).

10:81–4.18 Change of representative payee

(a) When a representative payee wishes to be released from his or her responsibilities there must be application to the court for such release.

(b) Upon such notice from a representative payee, the CWA shall take prompt action to locate another person willing to be appointed. If the present representative payee is unable to continue in that capacity until released by the court, the CWA shall appoint a protective payee to receive assistance for the client until a new representative payee is appointed by the court.

(c) Voluntary restricted payments may be made in the form of a vendor payment, at the request of the recipient, to day care providers only present representative payee is unable to continue in that capacity until released by the court, the CWA shall appoint a protective payee to receive assistance for the client until a new representative payee is appointed by the court.

As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).

CWB changed to CWA.
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

10:81–4.19 Criteria for and limitations on appointments of a representative payee

(a) The major personnel criterion for selection of a representative payee is an interest in being of service to the recipient. Appropriate sources of recruitment include: the immediate family and other relatives and friends; a person previously appointed to act on behalf of the client by another State or Federal benefit paying agency; and staff members of voluntary agencies.

(b) Under no circumstances shall a person be selected as a representative payee who has him or herself been determined by professional diagnostic procedures to be mentally incompetent or "marginally competent".

(c) No person shall be appointed a representative payee when such appointment would raise questions of conflict of interest. The exclusion from appointment includes:

1. The Director of the CWA;

2. The income maintenance worker determining eligibility for the particular recipient;

3. CWA staff handling fiscal procedures related to the recipient;

4. Banks, trust companies and similar corporate bodies functioning in a ministerial rather than a decision making role; and

5. Vendors of goods, services, or items dealing with the recipient.

(d) No person shall be proposed for appointment, nor accept appointment, as a representative payee who is in the employ of the CWA except in situations where such person has a close personal relationship with the client which makes him or her the most suitable person to serve as the client's representative. If an employee with such a relationship is so appointed, he or she shall not thereafter be involved in any agency decision relating to the client's payment or other official actions regarding the client.

As amended, R.1982 d.424, effective December 6, 1982.
See: 14 N.J.R. 1034(a), 14 N.J.R. 1395(a).
Language added concerning CWA staff exclusion from role as protective payee.

10:81–4.20 Payee in AFDC–F and –N

The payee shall be the parent(s) designated on the application form to receive assistance payment on behalf of the eligible family members. In companion cases, the payee can either be the father or mother.

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

10:81–4.21 Suspended grant

(a) When there is a substantial question of continuing eligibility to be resolved, the monthly grant may be suspended, with intent to reinstate, for a period of up to three months. When the determination is to reinstate, the grant shall be retroactive to the time of suspension, adjusted to meet the eligibility which existed during the period. No grant may be suspended without timely and adequate notice and full fair hearing rights including continued unreduced assistance pending the fair hearing. (See subchapter 6 of this chapter.)

(b) Reinstatement from suspension requires adequate notice in accordance with subchapter 7 of this chapter.

As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Deleted (c).

10:81–4.22 Emergency assistance

(a) The basic monthly assistance payment is intended for use in meeting the routine expenses of daily living. It is recognized, however, that there will be occasions when it becomes necessary for the CWA to provide additional financial assistance during periods of time when the eligible family experiences emergency situations (see N.J.A.C. 10:82–5.10 for policy and procedures relative to authorization and issuance of emergency assistance payments).

As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Changed "board" to "Agency".
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Emergency financial assistance provisions added; subsections (b) and (c) deleted.

10:81–4.23 Basis for recovery of overpayments

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

(b) Overpayments may occur through administrative error; failure of a client to inform the county welfare agency of a change in income, resources, or circumstances; or when the client has received continued assistance at an unreduced level pending a fair hearing but has been found ineligible to receive such assistance by the fair hearing decision.

(c) The CWA shall seek recovery of all overpayments regardless of fault including payments caused by administrative action or inaction. The CWA shall recover such overpayments in accordance with procedures set forth in N.J.A.C. 10:82–2.19.

(d) Procedures to recover any overpayments of FDP or REACH child care benefits, post-AFDC child care benefits and FDP or REACH transportation and related supportive

service payments made to a FDP or REACH participant or service provider are set forth at N.J.A.C. 10:86 or N.J.A.C. 10:81–14.24(b) and (c), respectively.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1984 d.347, effective August 20, 1984 (operative September 1, 1984).
See: 16 N.J.R. 1314(a), 16 N.J.R. 2285(b).
Substantially amended.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Added new subsection (d).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text on Family Development Program added.

Case Notes

Recovery of deduction from retroactive salary increase. Miller v. Essex Cty. Welfare Bd., et al., 151 N.J.Super. 280, 376 A.2d 1245 (App.Div.1977).

AFDC overpayments not received as result of willful withholding of employment information; agency precluded from seeking recoupment of overpayments (citing former regulation). Mercer Cty. Welfare Agency v. E.S., 5 N.J.A.R. 427 (1983).

10:81–4.24 Periodic notice to client

(a) The client shall be informed periodically (at least once every six months) of his or her continuing obligation to furnish accurate and timely information to the CWA concerning changes in income, resources or other circumstances which may affect the amount of the grant. The applicant will receive, and have explained if necessary, a copy of the pamphlet, Your Rights and Responsibilities, (PA–197). This pamphlet will be given to the applicant at the time of application and at each redetermination if the recipient has not retained the copy previously provided. The client shall inform the CWA of any change as soon as possible but in no event later than two weeks after the change takes place. Failure of the client to so inform the CWA shall constitute willful withholding of information.

(b) The notice (pamphlet) shall also instruct the client that, if an assistance check exceeds the amount of the payment received the previous month and no notice of change has been received, such check should not be cashed but the CWA should be contacted immediately so that corrective action can be taken.

(c) The client, by signing the affidavit, agrees that he or she has received the pamphlet (PA–197), has been informed of his or her rights and obligations as stated in the pamphlet, and understands them.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

Case Notes

AFDC overpayments not received as a result of willful withholding of employment information; agency precluded from seeking recoupment of overpayments. Mercer Cty. Welfare Agency v. E.S., 5 N.J.A.R. 427 (1983).

SUBCHAPTER 5. CONTINUING ELIGIBILITY IN AFDC AND AFWP

Authority

N.J.S.A. 44:7–6 and 44:10–3; 45 CFR 206.10(a)(9)iii, and 45 CFR, Parts 400 and 401.

Source and Effective Date

R.1984 d.405, effective August 23, 1984.
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

Subchapter Historical Note

This subchapter was filed and became effective prior to September 1, 1969. A new revised subchapter was filed February 11, 1975 as R.1975 d.29, to become effective April 15, 1975. See: 6 N.J.R. 244(a), 7 N.J.R. 105(c). Amendments were filed and became effective March 1, 1976 as R.1976 d.63. See: 8 N.J.R. 69(b), 8 N.J.R. 195(b). Further amendments were filed and became effective July 1, 1977 as R.1977 d.226. See: 9 N.J.R. 223(b), 9 N.J.R. 370(a). Further amendments were filed and became effective December 1, 1977 as R.1977 d.452. See: 9 N.J.R. 367(c), 10 N.J.R. 16(b). Further amendments were filed and became effective October 18, 1979 as R.1979 d.428. See: 11 N.J.R. 344(a), 11 N.J.R. 560(e). Further amendments were filed and became effective November 13, 1979 as R.1979 d.444. See: 11 N.J.R. 505(d), 11 N.J.R. 626(a). Amendment on an emergency basis for section 5.9 was filed and became effective September 30, 1981 (operative October 1, 1981, expired November 30, 1981) as R.1981 d.397. See: 13 N.J.R. 759(a); to be readopted December 31, 1981 as R.1981 d.518. See: 13 N.J.R. 759(a), 14 N.J.R. 102(c). Further amendments were filed and became effective March 7, 1983 as R.1983 d.54. See: 14 N.J.R. 1341(a), 15 N.J.R. 340(a). This subchapter was readopted, effective August 23, 1984, with amendments to become operative October 1, 1984 as R.1984 d.405. See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a). See chapter and section levels for further amendments.

10:81–5.1 Continuing eligibility defined

(a) The eligibility of each case shall be redetermined at regular intervals. This redetermination provides an opportunity to evaluate the total situation and enable the IM worker to ascertain whether any adjustment in public assistance payments should be made.

(b) The requirement for regular periodic evaluation does not remove the requirement that a grant be adjusted as promptly as possible whenever the county welfare board knows of a change in the client's need or eligibility which should be reflected by a change in grant level or termination of assistance.

(c) The IM worker should be alert to indications of change in need for financial assistance or change in circumstances which may affect the eligible unit's continuing eligibility or amount of payment and shall take appropriate action without delay. It shall be the agency's responsibility to review cases to assure that the client receives the full grant he/she is entitled to and that public funds are not granted illegally. Any adjustment shall be made as promptly as possible.

10:81–5.2 Requirements for periodic redetermination

(a) Redetermination defined: Redetermination is a review of factors affecting AFDC eligibility and payment amount, for example, continued absence, income (including child and spousal support), and so forth. At the redetermination, the parent(s) shall execute a formal application for continuation of assistance. If a redetermination is not conducted and the CWA is responsible, the right of the client to continued assistance shall not be jeopardized.

(b) Frequency of redetermination: For recipients of AFDC, all factors of eligibility shall be redetermined at least every six months except for cases covered by an approved error-prone profiling system.

1. Error-prone profiling: In cases covered by error-prone profiling, a redetermination shall be done as frequently as specified in an alternative redetermination plan based on error-prone profiling (but at least once every 12 months), which has been approved by the United States Department of Health and Human Services and includes:

i. A description of the statistical methodology used to develop the error-prone profile system upon which the redetermination schedule is based;

ii. The criteria to be used to vary the scope of review and to assign different types of cases; and

iii. A detailed outline of the evaluation of the system, including provisions for necessary changes in the error-prone output, such as types of cases, types of errors, frequencies of redeterminations and corrective actions.

(c) Face-to-face redetermination: Under the AFDC program, at least one face-to-face redetermination must be conducted in each case once every 12 months. A face-to-face redetermination is conducted once in every six months for cases not in error-prone profiling.

(d) It is the responsibility of the CWA to maintain a control file to assure that redeterminations are undertaken and acted upon at intervals as prescribed by regulation. The redetermination time interval shall be contingent upon the month in which an initial or regular grant of assistance is issued, rather than on such factors as the date of application or final validation of eligibility. For example, an AFDC case receiving an initial grant in July shall have a redetermination completed prior to the January payment so that the effective date of the redetermination will be January 1.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.444, effective November 13, 1979.
See: 11 N.J.R. 505(a), 11 N.J.R. 626(a).
As amended, R.1983 d.54, effective March 7, 1983.
See: 14 N.J.R. 1341(a), 15 N.J.R. 340(a).
Three month redetermination deleted.
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Section substantially amended.
Amended by R.1987 d.284, effective July 20, 1987.
See: 19 N.J.R. 341(a), 19 N.J.R. 1316(b).
Old (a) deleted and new (a)-(c) added; old (b) renumbered (d).
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Monthly reporting requirements added.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text on monthly reporting deleted.

10:81–5.3 Process of redetermination

(a) Personal interviews: Recipients shall be personally interviewed regarding the application for continuation of assistance. The IM worker shall assist the recipient in the completion of the application form, providing explanation as necessary. If the recipient cannot read, the contents of the form shall be read to him or her. Upon request, the client will be given a copy of his or her executed application form, with any attachments. Signature requirements shall be the same as for initial application. The contact shall focus on discussion of the eligibility factors which are subject to change and shall include information about any change in agency policy or procedure which affects the recipient's status or his or her assistance payment. There will also be a reevaluation of the family's need for social services. When the parent is represented by a protective payee or has a representative payee, such person shall also be interviewed. A summary report including all pertinent information shall be made for each contact with the parent(s), parent-person(s) or collateral sources.

(b) Redetermination of financial eligibility: In each redetermination, it is the responsibility of the IM worker to complete a new Form PA–3A or Form 105, as appropriate, in accordance with instructions provided in N.J.A.C. 10:82 and FAMIS manual, respectively.

1. When there is a pending claim, as described in N.J.A.C. 10:81–3.40(c)1, follow the appropriate procedure in N.J.A.C. 10:81–3.40(c), (d), and (e).

(c) Residence: Attention shall be given to any change in residence which may effect county responsibility.

(d) Age and school attendance: Eligibility in respect to age and school attendance must be evaluated for a child who is nearing the age beyond which he or she is no longer eligible. The eligibility of the family must be evaluated when the youngest child is nearing the age and school situation beyond which he or she will no longer be eligible.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
As amended, R.1979 d.444, effective November 13, 1979.
See: 11 N.J.R. 505(d), 11 N.J.R. 626(a).
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Section substantially amended.

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Reference to "CODES" replaced with "FAMIS."

10:81–5.4 Competency status in AFDC

(a) The IM worker should be alert to the development of medical or mental problems which may affect the adequate functioning of the parent. Such evidence shall be submitted to the Disability Review Section for special review.

(b) If it is the finding of the CWA that the parent or parent-person has demonstrated such inability to manage funds that payments are not being used in the best interest of the child(ren), third party payments will be initiated. In such cases the client will be fully advised of his or her rights.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a): deleted "medical review team" and added "Disability Review Section."

10:81–5.5 Institutional status in AFDC

Upon the parent's(s') or parent-person's(s') admission to an institution, the IM worker should be alert to the initiation of "temporary payee" as provided in N.J.A.C. 10:81–4.7.

As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Inserted correct cross-reference.

10:81–5.6 Requirements with respect to deprivation of parental support or care in AFDC–C

(a) Since eligibility in AFDC–C is based on the fact that the needy child has been deprived of parental support or care by reason of the death, continued absence from home, or mental or physical incapacity of a natural or adoptive parent, it is necessary to reevaluate these factors in determining continuing eligibility. A family may continue to be eligible for AFDC–C although the original reason for "deprivation" has changed. This may occur when an absent parent dies or, although returned to the home, is incapacitated. Such change in status shall be appropriately noted in the case record.

(b) When eligibility is based on deprivation of parent support or care by reason of the continued absence of a parent, the evaluation of continued eligibility includes determination that the absence still exists and, if not, whether there is another basis for eligibility.

(c) Incapacity status for a natural or adoptive parent is listed below:

1. There shall be redetermination that "incapacity" exists in every case in which the eligibility of the family is based on the incapacity of a natural or adoptive parent.

2. The review date will be designated for the CWA by the Disability Review Section, Division of Medical Assistance and Health Services. "Incapacity" shall be considered as continuing until the Disability Review Section officially determines that such incapacity no longer exists. The IM worker shall prepare Form DRS–2A, Interim Medical–Social Report, for the redetermination review. The CWA shall maintain controls on review dates so that any specific medical information or reports requested by the Disability Review Section may be obtained. In addition, the Disability Review Section shall maintain a control file in order to ensure appropriate and timely reevaluation by that Section. The Disability Review Section will notify county welfare agencies one month in advance of cases scheduled for such review by means of Form DRS–5.

3. In any case in which, subsequent to a finding of "approved", the incapacitated parent becomes a beneficiary of Federal disability benefits or SSI benefits for reasons other than age, this of itself shall be considered conclusive proof of continuing incapacity, and the CWA shall disregard the "review date" for submittal to the Disability Review Section.

4. It is the responsibility of the IM worker to submit the record to the Disability Review Section for special review if available evidence the raises question of continuing incapacity during the interval between redetermination review dates. The special review shall be requested through use of Form DRS–2A, Interim Medical–Social Report, together with all material previously submitted.

(d) "Incapacitated" natural or adoptive parent who secures employment:

1. When, subsequent to a finding of "approved" on the "incapacity" factor, CWA learns that the parent has obtained full-time employment at normal rate of pay for a job appropriate to his or her capacity, then incapacity no longer exists.

(e) When "incapacitated" natural or adoptive parent is in institution:

1. In cases where AFDC–C has been granted on the basis that a natural or adoptive parent will be receiving care for a physical or mental illness in a public or private institution, it will be necessary for the IM worker to check periodically with the family, and in some cases with the institution, regarding the incapacitated parent's progress and discharge.

2. Submittal to Disability Review Section: As soon as the date of discharge is known, or if the CWA learns that the parent has already been discharged to his or her home, the CWA shall submit the required record material to the Disability Review Section as appropriate to the situation; that is, if official determination of incapacity had already been made, the previous record shall be submitted for review with a completed Form DRS–2A; if the case had not been previously submitted, then a DRS–2 giving current situation and Form DRS–1 (Examining Physician's Report) shall be submitted. Whenever practical, the DRS–1(12–17–90) form should be prepared by a staff physician of the institution.

3. An abstract of the hospital record may be accepted in place of Form DRS–1, when the parent is in the hospital or has been released within the past three months. The client's consent in writing for release of the information shall accompany the request.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Section substantially amended.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Text revised to read "Disability Review Section" from "Medical Review Team."

10:81–5.7 Marriage or remarriage

In AFDC–C, when eligibility is based on the absence of one parent and the remaining parent marries or remarries, such marriage or remarriage does not in and of itself terminate eligibility but does require prompt redetermination of financial need and eligible unit composition in accordance with N.J.A.C. 10:82–2.9 or 2.10, as applicable.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 560(e).
As amended, R. 1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
References to N.J.A.C. 10:81–2.10 and eligible unit added.

10:81–5.8 Special conditions relating to parent(s) in AFDC–F and –N

(a) When a parent becomes absent from the home and continuous absence is established (see N.J.A.C. 10:81–2.7(d)), the AFDC–F or –N case shall be transferred to the AFDC–C segment. No interruption of assistance shall result if AFDC–C eligibility begins with the absence.

(b) When a parent becomes hospitalized, incapacitated, committed to a mental institution or incarcerated in a penal institution and the CWA has evidence that this condition will continue beyond 30 days, the case shall be transferred to the AFDC–C segment. No interruption of assistance shall result if AFDC–C eligibility begins with such aforementioned situation.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
As amended, R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text at (c) deleted to conform to equalization of assets standards.

10:81–5.9 (Reserved)

Repealed by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was: "Registration for WIN program in AFDC–C and –F."
Prior rulemaking activity was as follows:
Amended by R.1976 d.63, effective March 1, 1976.
See: 8 N.J.R. 69(b), 8 N.J.R. 195(b).
Amended by R.1977, d.226, effective July 1, 1977.
See: 9 N.J.R. 223(b), 9 N.J.R. 370(a).
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1979 d.248, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended, on an emergency basis by R.1981 d.397, effective September 30, 1981, (operative October 1, 1981, expires November 30, 1981).
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(f): Cross-reference to "3.19 and 3.20" deleted.
(g): Cross-reference to "3.43–3.45" deleted and "3.19" substituted therefor.
Amended by R.1984 d.405, effective September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Amended by R.1986 d.440, effective November 3, 1986.
See: 18 N.J.R. 1513(a), 18 N.J.R. 2015(b).
(b)-(c) substantially amended.

10:81–5.10 Legally responsible relative's capacity to support

(a) Each legally responsible relative's capacity to support shall be reevaluated at least once in each six-month period and adjustments made as indicated (see N.J.A.C. 10:81–3.35).

1. For cases participating in monthly reporting, each legally responsible relative's capacity to support shall be reevaluated as frequently as once in each six-month period, but no later than once in each 12–month period.

(b) Each legally responsible relative shall be contacted unless it can be verified that the relative;

1. Is receiving public or private financial assistance; or

2. Has no source of support except fixed income, such as pension, retirement benefits or statutory benefits, and there was no capacity to support at time of last evaluation; or

3. Is himself or herself dependent upon a relative (other than the client) for support; or

4. Is receiving care in an institution for a mental or physical condition, or is in a penal institution and has no capacity to support; or

5. Cannot reasonably be anticipated to have experienced a change in income since the last evaluation which would affect his or her capacity to support. (The IM worker will consult with his or her supervisor when this appears to be the situation.)

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

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

As amended, R.1984 d.405, eff. September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).
Amended by R.1986 d.440, effective November 3, 1986.
See: 18 N.J.R. 1513(a), 18 N.J.R. 2015(b).
(a)1 added.

10:81–5.11 Recording and recommendation for adjustment in public assistance

A complete summary report of pertinent information shall be made for each contact with a recipient, which shall clearly state the basis for any recommendation for adjustment in grant level, suspension or termination of assistance. The IM worker will indicate such recommendation on the PA–3A form of Form 105, as appropriate. A new Form PA–3A, Worksheet and Authorization for Public Assistance, or Form 105, shall be prepared for each redetermination.

As amended, R.1979 d.428, eff. October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–5.12 Disposition of application for continuation

(a) Following supervisory approval, an application for continuation shall be acted upon by one of the following methods:

1. Action by executive authority: The CWA director (or his or her authorized representative) shall by his or her legal authority, adjust, suspend or terminate the grant when in his or her judgment such action should be taken in advance of the next meeting of the welfare board.

2. Action by welfare board: After each redetermination, regardless of recommended action, each case shall be presented to the welfare board for action or ratification of the director's action, as appropriate.

As amended, R.1984 d.405, eff. September 17, 1984 (operative October 1, 1984).
See: 16 N.J.R. 1446(a), 16 N.J.R. 2437(a).

10:81–5.13 Notice of agency decision

Each applicant shall receive timely and adequate written notice of any agency decision which relates to his or her eligibility status or change in the amount of his or her grant, in accordance with N.J.A.C. 10:81–7.1.

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

SUBCHAPTER 6. COMPLAINTS, HEARINGS AND ADMINISTRATIVE REVIEWS

Authority

N.J.S.A. 44:7–6 and 44:10–3; 45 C.F.R. 205.10.

Source and Effective Date

R.1984 d.468, effective October 15, 1984.
See: 16 N.J.R. 2051(b), 16 N.J.R. 2816(a).

Subchapter Historical Note

This subchapter was filed and became effective prior to September 1, 1969. A new revised subchapter was filed and became effective April 15, 1975 as R.1975 d.29. See: 6 N.J.R. 244(a), 7 N.J.R. 105(c). Further amendments were filed and became effective October 1, 1975 as R.1975 d.280. See: 7 N.J.R. 363(d), 7 N.J.R. 467(a). Further amendments were filed and became effective June 15, 1976 as R.1976 d.144. See: 8 N.J.R. 36(a), 8 N.J.R. 287(b). Further amendments were filed and became effective June 15, 1976 as R.1976 d.144. See: 8 N.J.R. 36(a), 8 N.J.R. 287(b). Further amendments were filed and became effective September 1, 1976 as R.1976 d.144. See: 8 N.J.R. 332(c), 8 N.J.R. 287(b). Further amendments were filed and became effective July 1, 1977 as R.1977 d.227. See: 9 N.J.R. 222(c), 9 N.J.R. 370(b). Further amendments were filed and became effective September 1, 1977 as R.1977 d.289. See: 9 N.J.R. 270(a), 9 N.J.R. 434(a). Further amendments were filed and became effective November 1, 1977 as R.1977 d.412. See: 9 N.J.R. 432(b), 9 N.J.R. 582(a). Further amendments were filed and became effective December 1, 1977 as R.1977 d.447. See: 9 N.J.R. 478(a), 10 N.J.R. 16(a). Further amendments were filed and became effective October 18, 1979 as R.1979 d.428. See: 11 N.J.R. 344(a), 11 N.J.R. 560(e). Amendments were filed on an emergency basis, effective September 30, 1981 (operative October 1, 1981), to expire November 30, 1981. See: 13 N.J.R. 759(a). Readopted R.1981 d.518, effective December 31, 1981. See: 13 N.J.R. 759(a), 14 N.J.R. 102(c). This subchapter was repealed and a new subchapter was filed and became effective October 15, 1984 as R.1984 d.468. See: 16 N.J.R. 2051(b), 16 N.J.R. 2816(a). See chapter and section levels for further amendments.

10:81–6.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise.

"Administrative Hearings" are hearings concerning either contested cases or non-contested cases, which have been determined by the Director of the Division of Economic Assistance (DEA) in accordance with N.J.A.C. 1:1–1 et seq. to be appropriately heard in the Office of Administrative Law (See N.J.A.C. 10:6).

"Administrative Law Judge" (ALJ) means the person from the Office of Administrative Law (OAL) who conducts the hearing and who writes an initial decision which may be reviewed by the Director of the Division of Economic Assistance.

"Administrative Review" means a review of a disputed matter which has been determined by the Director of DEA not to constitute a contested case and therefore remains in the Division for review. At the discretion of the Director an Administrative review may be conducted as a procedure at which parties appear and are heard or it may be a paper review. (See N.J.A.C. 10:6–2).

"Administrative Review Official" is a representative of the State, Department of Human Services assigned to conduct an administrative review.

"CFR" is the acronym for Code of Federal Regulations.

"Contested Case" means a dispute that is heard by an Administrative Law Judge. (For statutory definition see N.J.S.A. 52:14B–2(b), see also N.J.A.C. 1:1–1.5, 1.6).

"Fair Hearing" means a formal or informal procedure through which a public assistance client may protest an adverse action or decision of the county welfare agency (CWA) regarding eligibility, amount or manner of granting assistance. Fair hearing is a general term which includes administrative hearing and administrative review.

"Initial decision" means the decision of an Administrative Law Judge that is sent to the Director of the Division of Economic Assistance, who may accept, reject or modify it within 45 days.

10:81–6.2 Right to fair hearing and administrative review

(a) It is the right of every applicant or recipient adversely affected by an action by a county welfare agency (CWA) to be afforded a fair hearing in a manner established by the rules in this subchapter and by the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1–1.1 et seq.). These rules have been established pursuant to Federal regulations (45 CFR 205.10) and the New Jersey Administrative Procedure Act (N.J.S.A. 52:14B–1 et seq.).

(b) Agency action which adversely affects an applicant or recipient includes:

1. Any action, inaction, refusal of action, or unduly delayed action with respect to program eligibility, including denial, termination or suspension of benefits, adjustment in the level of benefits or condition of payment of benefits with respect to designation of a protective payee or work requirements. (45 CFR 205.10(a), (5)).

(c) No fair hearing will be granted when either State or Federal law require automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation. (45 CFR 205.10(a), (5)).

(d) The notification of the right to a fair hearing shall be incorporated in or attached to each adverse action notice (denial, termination, reduction, suspension). The notice shall include explanation on how to request a fair hearing, time limits on requesting a hearing, the right to examine evidence and the circumstances under which benefits are continued unreduced.

Case Notes

Legislative intent underlying statutes does not allow local welfare board to appeal from a fair hearing decision by the Division of Public Welfare which modifies or reverses the board's ruling. Essex Cty. Welfare Bd. v. Dept. of Institutions and Agencies, 75 N.J. 232, 381 A.2d 349 (1978), certiorari denied 98 S.Ct. 3103, 437 U.S. 910, 57 L.Ed.2d 1141 (1978).

10:81–6.3 Responsibilities of the CWA in processing hearing requests

(a) To assure orderly and expeditious processing of complaints and hearing requests, each CWA will designate a liaison between the county and State Division whose duties shall include but not be limited to:

1. Informing Bureau of Administrative Review and Appeals (BARA) by telephone on the same day an oral or written request for a hearing is received, providing the following information:

   i. Case number, name, address;

   ii. Date request received;

   iii. Nature of contested action;

   iv. Date of action;

   v. Reason for action.

2. Establishing a system to assure that every written request for a hearing received in the CWA office is stamped with the date of receipt and forwarded to BARA within one work day of the date;

3. Reviewing incoming requests for possible corrective action prior to hearing;

4. Identifying and arranging for participation of staff individuals who are essential to a hearing, and assembling all records relevant to a hearing and arranging for an interpreter when the client is non-English speaking;

5. Contacting the applicant/recipient or his or her legal or authorized representative not less than two days prior to a hearing to confirm attendance, and arranging for transportation by agency staff and vehicles or otherwise at agency expense when no other reasonable means of transportation is available;

6. Submitting special reports on hearing requests prior to the hearing date, when requested by BARA;

7. Submitting reports on implementation of fair hearing decisions as soon as such action is taken; and

8. Serving as the single individual in the CWA to be contacted regarding matters relating to hearings and the monitoring system.

(b) To inform the applicant/recipient who is requesting a hearing and elects to receive continued assistance that the ALJ may find him or her not entitled to all or a portion of assistance granted during the pendency of the hearing and that, in such event, repayment will be required of the amount of benefits received from the effective date of the proposed adverse action to the date of the scheduled hearing.

1. The applicant/recipient shall also be advised that if he or she elects not to receive continued assistance and the hearing decision is favorable to the client, assistance will be reinstated retroactive to when it was suspended, reduced or terminated.

Amended by R.1986 d.300, effective July 21, 1986.
See: 18 N.J.R. 927(b), 18 N.J.R. 1463(c).
Deleted text in (a)5 "when required by program regulations" and substituted "by agency staff . . .".

10:81–6.4 Responsibilities of the Division of Economic Assistance

(a) Each request for a fair hearing shall be registered by BARA on the date the request is received.

(b) Requests initially received in BARA will be transmitted by telephone to the CWA on the date received.

(c) BARA will transmit each contested case to OAL within five work days of the receipt of the request.

(d) Written determination on entitlement to receive assistance at an unreduced level shall be included in the OAL transmittal and sent to the applicant/recipient and the CWA.

10:81–6.5 Responsibilities of the Office of Administrative Law upon transmittal of a contested case from the DEA (45 CFR 205.10 and N.J.A.C. 1:1–1 et seq.)

(a) The Office of Administrative Law shall schedule the hearing and shall send any necessary notices to the parties.

(b) The hearing shall be conducted by an administrative law judge who shall issue an initial decision.

10:81–6.6 Administrative hearings and administrative reviews

(a) Requests on matters which constitute a contested case (as defined by N.J.A.C. 1:1–1 and consistent with case law) shall be handled in accordance with the Department of Human Services (DHS) Rule on "Administrative Hearings and Administrative Reviews" at N.J.A.C. 10:6–1.1.

(b) Requests on matters which do not constitute a contested case (as defined by N.J.A.C. 1:1–1 and consistent with case law) shall be handled in accord with the DHS Rule on "Administrative Hearings and Administrative Reviews" at N.J.A.C. 10:6–1.2.

10:81–6.7 Complaints and adjustment procedures

(a) Prompt and courteous attention will be given to all complaints, whether or not such complaints constitute requests for fair hearing and whether or not they are directed to the CWA or the State Division of Economic Assistance (State Division). All complaints received shall be acknowledged promptly and, if it is not apparent from the complaint that a fair hearing request has been made, the acknowledgement shall inform the recipient of his or her right to a fair hearing.

(b) Informal efforts to effect an adjustment may be made through field contacts, office interviews with supervisory personnel, consultation with the State Field Representative, and so forth. In no event, however, are such informal efforts to be considered as prerequisite to a fair hearing, and in no event do they delay, interfere with or otherwise impede the processing of a fair hearing whenever a request for such is made. Agency emphasis must be on helping the client to prepare and submit his or her request for a fair hearing.

(c) Any clear expression (oral or written) by a client (or person acting for him or her, such as his or her legal representative or relative) to the effect that the client wants the opportunity to present his or her case to a higher authority constitutes a request for a fair hearing.

(d) A request for a fair hearing may be either oral or in writing and addressed to the CWA or to the State Division. Oral requests for fair hearing shall be immediately reduced to a written record by the staff person to whom the request is made. No special form of statement or manner of expression is required so long as the request identifies the nature of the complaint and the relief sought. Requests made to the CWA shall be immediately transmitted to the BARA, and in no event later than one work day after receipt of the request.

(e) Upon receipt of any request for a fair hearing, a determination shall be made by BARA on the appropriateness of an Administrative Hearing or Administrative Review (N.J.A.C. 10:6–1.2). If the matter is deemed contested, BARA will send an acknowledgement of the request to the client, along with a copy of the statement entitled "How a Fair Hearing is Conducted", together with a Notice of Status of Continuing Benefits Following Request for a Fair Hearing (Form PA–850). All contested cases will be promptly forwarded to the OAL for a hearing before an ALJ.

10:81–6.8 Time limitations on entitlement to fair hearings

(a) An applicant or recipient has a right to request a fair hearing which relates to an agency action or lack of action within 90 days of such action or lack of action.

(b) If the request for a fair hearing relates to an agency action or lack of action that occurred more than three months (90 calendar days) prior to the date of the request, there shall be no entitlement to a hearing on such action or lack of action, unless extraordinary and extenuating circumstances exist as determined by the Division of Economic Assistance. (45 CFR 205.10(a)(5)(iii)).

Case Notes

Fair hearing barred by rule of limitations. Bridgeton Nursing Center v. Division of Medical Assistance and Health Services, 92 N.J.A.R.2d (DMA) 1.

Petition for fair hearing on denial of application for benefits denied due to 11 month delay in petitioner's response to adverse agency notice, notwithstanding absence of required agency notice of action (citing former N.J.A.C. 10:81–6.4). A.R. v. Hunterdon Cty. Welfare Bd., 2 N.J.A.R. 192 (1980).

10:81–6.9 Eligibility for continued benefits

(a) When a request is made for a fair hearing within 15 days from the date of mailing of a notice of termination, suspension or reduction, (within 10 days when the adverse action involves monthly reporting/retrospective budgeting) benefits shall be continued at an unreduced level until the scheduled date of the administrative hearing or the date of the administrative review unless the recipient waives such entitlement or requests postponement of the scheduled hearing or review date. In the event the recipient elects to receive continued benefits, they will be continued unreduced pending a final decision if the ALJ or the administrative official determines that the issue is one of fact rather than law or policy. (45 CFR 205.10(a)(7)).

(b) An adjournment of a hearing at the request of an applicant/recipient shall not prolong continuation of benefits at an unreduced level, unless the adjournment is due to: delay caused by the State Division, OAL or the CWA; unavoidable causes, such as an illness on the part of the applicant/recipient or the failure of the CWA to provide assistance for transportation when such assistance is required by regulations. Adjournment at the request of the CWA or by the ALJ shall not affect continued benefits.

(c) The ALJ or the administrative review official will promptly inform the recipient in writing whether or not benefits will be continued unreduced pending a final decision. (45 CFR 205.10(a)(6)(ii)).

10:81–6.10 Access to discovery of information in contested cases

The CWA shall provide the applicant/recipient and/or his or her authorized representative opportunity to review the entire case file or documents and records to be used in the administrative hearing. Such materials shall be made available at a reasonable time before the scheduled hearing date as well as during the hearing. (45 CFR 205.10(a)(13)).

10:81–6.11 Representation at hearings

(a) An applicant or recipient may appear at a proceeding pro se (without legal representation), be represented by an attorney or be assisted in presentation by a relative, friend, or other spokesperson pursuant to N.J.A.C. 1:1–3.12 and 45 CFR 205.10. CWA staff shall help persons make use of any legal services available in the community that can provide legal representation at the fair hearing.

(b) The CWA representative must have knowledge of the matter at issue and must be able to present the agency case, supplying the ALJ with that information needed to substantiate the agency action. If the CWA representative feels that he or she must be an advocate of the client and is unable to represent the agency, then another CWA staff person must appear at the hearing to fulfill the above identified role.

(c) In hearings involving a determination by any component of the DEA, the matter at issue shall be presented by the appropriate staff representative(s) of the DEA.

Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (c): deleted text referring to the "Bureau of Medical Affairs" and the "Bureau of Employment Programs."

10:81–6.12 Disposition of hearing request through withdrawal, abandonment or settlement

(a) Prior to transmittal to the OAL, if a party desires that a hearing request be withdrawn, that party shall notify the CWA or the DEA in writing of the withdrawal request. The DEA shall in turn acknowledge, in writing, receipt of the withdrawal request; no CWA shall deny or dismiss a request for a fair hearing. The determinations on the validity of each hearing request shall be made by the DEA including any determination on the appropriateness of processing hearing requests pursuant to N.J.A.C. 10:6–1.2 which authorized "Administrative Reviews and Administrative Hearings".

(b) The filing of a request for a fair hearing shall not of itself preclude continued effort to accomplish corrective action, settlement, adjustment or any other agreement through informal procedures. Any withdrawal or abandonment or any settlement or agreement reached, subsequent to the transmittal of the case to the OAL, shall be processed according to N.J.A.C. 1:1–1 including Rules of Special Applicability which apply to disposition by settlement of the withdrawal.

(c) If an applicant/recipient or his or her representative fails to appear for a scheduled hearing without giving proper notice, a notice of abandonment shall be sent.

10:81–6.13 Adjournments

Any adjournment requested by an applicant or recipient and granted by the OAL may not operate to extend the deadlines for a final decision and final agency implementation of the final decision.

10:81–6.14 Hearings involving medical issues

(a) If the hearing involves medical issues, requiring a diagnosis or a report from an examining physician, or concerning a determination by the State Disability Review Section, the ALJ may issue an order requiring a medical assessment by someone other than the person who made the original medical determination. (45 CFR 205.10(a)(10)).

(b) The CWA shall pay for this medical assessment which shall be obtained at reasonable expense.

Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a): changed to "Disability Review Section" from "Medical Review Team."

10:81–6.15 Decision by Director, Division of Economic Assistance

(a) A final administrative hearing decision will be rendered by the Director of the DEA. The applicant/recipient, his or her representative and the CWA shall be notified by mail of any decision or order.

1. Unless otherwise indicated the decision shall be effective on the date of issuance.

(b) An official and complete record of each administrative hearing will be maintained in the files of the DEA for at least one year after the date the final decision is rendered. During this one year period, the applicant/recipient or his or her legal representative may review, upon appointment, all or any part of the official and complete record of his or her administrative hearing.

(c) A decision requiring action by the CWA may apply either prospectively with regard to future action by the CWA or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties.

(d) The DEA will compile a monthly synopsis of all decisions. Copies of administrative hearing decisions, edited to insure client confidentiality, will be available for perusal at the DEA for a period of three years.

1. Administrative hearing decisions shall be retained by the DEA for a period of three years.

(e) The DEA will take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by the hearing decision, unless otherwise directed in the decision, will be implemented by the CWA immediately upon receipt of the decision.

(f) Final administrative action on Administrative hearing decisions, including any corrective action required by the decision, shall be implemented by the CWA within 90 days of the date of the request for a fair hearing (45 CFR 205.10(a)(16)).

10:81–6.16 Emergency fair hearing

(a) An emergency fair hearing for purposes of expediting the fair hearing procedure will be scheduled when:

1. The fair hearing request results from denial by the CWA of a request for emergency assistance made in accordance with the provisions of N.J.A.C. 10:82–5.10(c) or replacement of a lost or stolen check has been declined by the CWA in accordance with N.J.A.C. 10:81–7.18, and the applicant/recipient family contends they are without funds or resources; and

2. The State Division determines that there exists a threat to the health and physical safety of the applicant/recipient family sufficiently compelling and imminent to require acceleration of the fair hearing procedure.

(b) When it is determined that a request for a hearing should be scheduled as an emergency fair hearing:

1. BARA shall notify the OAL by telephone of the hearing request on the same business day as the request is received. The Clerk of the OAL shall prepare the OAL transmittal form based upon the telephone call.

2. The case shall be scheduled by the OAL for a hearing within three business days after the phone call is received.

3. Notice of the time, date and place of the hearing shall be transmitted by telephone to the BARA within one business day after the OAL is notified of the hearing request. BARA shall notify the CWA, the petitioning applicant/recipient or the petitioner's representative of the scheduled hearing by telephone.

4. The ALJ shall file an Initial Decision by mailgram with the director of the DEA and the parties no later than the business day following the date of the hearing.

5. The petitioning applicant/recipient, his or her representative or the CWA may, by telephone, make exception or objection to the Initial (mailgram) Decision, to the DEA no later than the first business day following the issuance of the Initial Decision.

6. The director of the DEA shall issue a final decision no later than three business days following the date the Initial Decision is received which shall accept, reject or modify the Initial Decision. On the day the final decision is issued, the DEA shall notify the CWA, the OAL and the petitioner or the petitioner's representative by telephone of the final decision and any relief ordered shall be provided by the CWA on the day notice of the final decision is received.

10:81–6.17 (Reserved)

R.1976 d.144, effective June 15, 1976.
See: 8 N.J.R. 36(a), 8 N.J.R. 287(b).
As amended, R.1982 d.419, effective December 6, 1982.
See: 14 N.J.R. 373(a), 14 N.J.R. 1396(a).
Reference to Assistance Standards Handbook deleted, replaced by N.J.A.C. cite.
Amended by R.1984 d.468, effective October 15, 1984.
See: 16 N.J.R. 2051(b) and 16 N.J.R. 2816(a).
Emergency fair hearing provisions repealed and replaced with N.J.A.C. 10:81–6.16.
Amended by Notice of Correction, effective April 17, 1989.
See: 21 N.J.R. 1014(a).
N.J.A.C. 10:81–6.17 removed.

SUBCHAPTER 7. OTHER AGENCY RESPONSIBILITIES

Authority

N.J.S.A. 44:7–6 and 44:10–3.

Source and Effective Date

R.1984 d.227, effective May 31, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).

10:81–7.1 Notice to client of county welfare agency decision

(a) Notice to client of agency decision: The county welfare agency shall promptly notify the client in writing of any agency decision affecting that client. The term "agency decision" refers to a decision made by the county welfare agency and includes any decision made by executive authority of the CWA director, as well as any decision made initially by the welfare agency, or any change made by formal board action with respect to a previous executive decision. In the case of a client who cannot be located, notice shall be sent to his or her last known address.

(b) Notice of adverse action: An adverse action is an action to deny an application for assistance, to terminate, suspend or reduce assistance (including service, vendor payments or Medicaid entitlement) or to change the manner or form of payment to a protective, vendor or two-party payment. In cases of intended adverse action, the county welfare agencies shall give timely and adequate notice, except as provided for in (d) below.

1. Timely notice: "Timely" means that the notice is mailed at least 10 days before the effective date of agency action.

2. Adequate notice: "Adequate" means a written notice that includes:

i. The action the agency intends to take;

ii. The reasons for the intended agency action;

iii. The specific regulations supporting such action;

iv. An explanation of the individual's right to request a fair hearing;

v. An explanation of the circumstances under which assistance is continued if a hearing is requested;

vi. An explanation of the requirement to repay assistance received during the period pending the hearing, if the agency action is upheld;

vii. A sentence in Spanish cautioning the client that the notice relates to a change in his or her grant and if he or she does not understand the notice, he or she should contact the CWA; and

viii. The name, address and phone number of the nearest legal services office where available.

(c) Effective date of adverse action: Where an agency decision results in an adverse action, there will be no change in the grant until 10 days after the mailing date of the notice, except in situations in (d) and (k)4 and 5 below.

(d) Adverse action and exception to timely notice: Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of action when:

1. The agency has factual information confirming the death of a recipient or of the AFDC payee when there is no relative available to serve as the new payee;

2. The agency receives a clear written statement signed by the recipient that he or she no longer wishes assistance, or that gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, that he or she understands that this must be the consequence of supplying such information;

3. The payee has been admitted or committed to an institution, and further payments to that individual do not qualify for Federal financial participation under the State plan;

4. The recipient has been placed in a skilled nursing care, intermediate care or long-term hospitalization;

5. The claimant's whereabouts are unknown and agency mail directed to him or her has been returned by the post office indicating no known forwarding address. The claimant's check must, however, be made available to him or her if his or her whereabouts become known during

the payment period covered by the returned check, unless (d)5i below applies.

i. The claimant moves out-of-state, with apparent intent to remain permanently absent from New Jersey.

6. A recipient has been accepted for assistance in another state and that fact has been established by the CWA previously providing assistance;

7. An AFDC child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by his or her legal guardian;

8. An additional payment or special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period;

9. Assistance is reinstated in the corrected amount following suspension;

10. An application for assistance is being denied and no assistance payment has been issued.

11. Changes in the manner of payment (for example, from direct payment of child care costs to disregard of child care payments from the earned income of the individual) of FDP or REACH child care benefits are not subject to timely notice requirements unless they result in a discontinuation, suspension, reduction or termination of benefits, or they force a change in child care arrangements (see N.J.A.C. 10:86–10 or N.J.A.C. 10:81–14.18).

(e) Approved application for initial payment issued:

1. Written notification to an applicant for whom eligibility has been determined and to whom initial payment is being issued shall be sent not later than the date of issue of the initial check and may accompany such check. It shall include the following:

i. A statement of the agency's determination regarding eligibility, the amount of assistance, manner of payment and period which the payment is to cover;

ii. A statement that advance notification will be sent at least 10 calendar days prior to implementation of any adverse decision affecting future eligibility or amount of assistance;

iii. A reminder of the client's right to a fair hearing;

iv. A complete statement of the client's right and responsibilities under the program for which he/she has been approved (see N.J.A.C. 10:81–2.2(a)3 and 2.3(a)).

(f) Written notification to an applicant who is determined to be eligible but for whom initial payment is not to be issued until a later date shall be provided in the same manner and contain the same information as stipulated in subsection (e)1 of this section. It shall also include the approximate date of the initial payment and the reason for deferring initial payment until that date.

(g) Notification to a recipient whose application has been approved following change of resident from another county shall include a statement that:

1. The recipient has been found to be a resident of this county for purposes of assistance; and

2. Future determination of eligibility and future payments of assistance will be made by this county welfare board rather than by the welfare board of the county of previous residence.

(h) There will be no change in amount of grant without timely and adequate notice (see N.J.A.C. 10:81–7.1(c) through (*l*) and N.J.A.C. 10:81–7.2 through 5). It is the receiving county's responsibility to send adverse notice, when necessary, after determining the client's circumstances following the changes in county residence (see also N.J.A.C. 10:81–3.27(b)3iv). In the event of a request for a fair hearing within 15 days of the mailing of such notice, the county of origin will be notified and will be responsible for payment of the grant pending the fair hearing.

1. Whenever the client is entitled to receive unreduced assistance pending the final hearing decision, the county of origin shall continue to grant assistance until the decision is rendered. The receiving county shall then immediately accept case responsibility and grant assistance for the next month, unless already issued by the county of origin.

2. If the grant is reduced at the time of the hearing, it shall be the receiving county's responsibility to issue the next month's grant, unless already issued by the county of origin (see also N.J.A.C. 10:81–3.27(b)).

(i) Denials (disposition other than approvals or withdrawals):

1. Notification to an applicant whose application has been denied for any reason other than death shall include:

i. An explicit statement of the reason for ineligibility;

ii. A copy of the document entitled "Fair Hearings in the Aid to Families with Dependent Children Program";

iii. Advice concerning the family's right to reapply whenever they believe that their circumstances have changed such that the stated reasons for ineligibility no longer exist; and

iv. Information about the food stamp program and other potentially available services.

(j) Adjustments in grant increases in amount of assistance payment:

1. Notification to a recipient whose grant has been or is being increased, whether for a specified or indefinite period, shall be sent not later than the date of issue of the appropriate check and may accompany such check. It shall include the following:

i. A statement of the amounts of both previous and new grants except under provisions of subsection (1) of this section.

ii. An explanation of the reason for the increase;

iii. An identification of date and payment with which the increase will take effect; and

iv. An explanation of the period of time, whether specified (such as one or more months) or indefinite, during which the increased amount will apply.

(k) Notice of intention to reduce, suspend, or terminate amount of regular assistance payment or benefits prior to any change in payment procedure, reduction, suspension, or termination of any regular amount of assistance (including service, vendor payments or Medicaid entitlement), recipients of assistance are entitled to:

1. Timely and adequate notice in writing mailed not less than 10 calendar days before the date on which the individual would otherwise reasonably expect to receive the next regular payment, setting forth the specific reason(s) for the adjustment, the specific regulations supporting such action and the proposed effective date of adjustment which shall be not less than 10 calendar days from the mailing date of the notice (see N.J.A.C. 10:81–7.1(c) through (*l*) and N.J.A.C. 10:81–7.2 through 5);

2. A copy of "Fair Hearings in the Aid to Families with Dependent Children Program";

3. A statement that he/she may have the right to continued assistance at an unreduced level if he/she request a fair hearing within 15 calendar days of the mailing date of the notice of intention;

4. Timely notice in certain cases of probable fraud (see sections 40 through 45 and 47 of this subchapter);

5. Seven days notice will be considered timely when, in the judgment of CWA director, there is substantiated evidence that client is receiving assistance through willful fraud (see sections 40 through 45 and 47 of this subchapter).

(*l*) Adjustments due to change in law:

1. When changes in State and Federal law mandate automatic grant increases for classes of recipients, notice of such grant adjustments shall be given. It shall be considered "adequate" if it includes a statement of the intended action, the reasons for such intended action, and a statement of the specific change in law requiring such action. If the change in law results in a reduction or termination, notice must be timely as well as adequate and include a statement of the circumstances under which a hearing may be obtained and assistance continued.

(m) Payments based on earnings projection:

1. When the AFDC payment is based on an earnings projection (see N.J.A.C. 10:82–2.14(c)) a notice shall accompany that payment advising the client that the AFDC payment for the next month will be suspended unless he/she provides wage verification as required. Such notice shall specify the date by which the verification must be received.

Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1979 d.445, effective January 1, 1980.
See: 11 N.J.R. 506(a), 11 N.J.R. 626(b).
Amended by R.1980 d.41, effective January 7, 1980.
See: 11 N.J.R. 376(c), 12 N.J.R. 87(a).
Added (h)1 and 2.
Corrected Cross-reference in (h).
In k(5), CWB changed to CWA.
Amended by R.1981 d.262, effective July 9, 1981.
See: 13 N.J.R. 300(a), 13 N.J.R. 432(b).
(m) added.
Amended by R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
(k)6viii: deleted cross reference.
Amended by R.1987 d.284, effective July 20, 1987.
See: 19 N.J.R. 341(a), 19 N.J.R. 1316(b).
Section substantially amended.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (d): added new 12.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Monthly report reference deleted; FDP added.

Case Notes

Due process held to not require bilingual notices; cited as example of agency requirements for Spanish translation of notices. Alfonso v. Bd. of Review, Dept. of Labor and Industry, 89 N.J. 41, 444 A.2d 1075 (1982), appeal dismissed, certiorari denied 103 S.Ct. 30, 459 U.S. 806, 74 L.Ed.2d 45.

Benefits continued unreduced pending fair hearing outcome. Bergen Cty. Bd. of Social Services v. P.D. 4 N.J.A.R. 23 (1983).

Notification of eligibility classification. A.R. and R.R. v. Hunterdon County Welfare Board, 2 N.J.A.R. 192 (1980).

Timely and adequate notice of change in payment procedure. P.P. v. Middlesex County Board of Social Services, 1 N.J.A.R. 148 (1979).

Notification of reasons for denial of AFDC benefits. In re S.N., OAL Dkt. HPW 6031–80 (Nov. 21, 1980) adopted, DPW (Dec. 18, 1980).

See also Serritella v. Engelman, 339 F.Supp. 738 (D.N.J.1972) (determination of validity of New Jersey regulations promulgated pursuant to H.E.W. 45 C.F.W. § 205.10, 36 Fed. Reg. 3034).

10:81–7.2 Withdrawal of application for assistance

(a) Withdrawal by an applicant does not require a board decision. The agency will officially recognize the applicant's action through written notification within five working days of the applicant's request for withdrawal.

(b) This notification shall include a statement that the applicant's decision has been recognized and recorded by the agency, that no further action is being taken on his/her application, and a reminder that he/she has the right to reapply at any time.

10:81–7.3 Dismissal of application when client cannot be located

A notice shall be sent to the person's last known address.

Case Notes

S.N. v. Hudson County Division of Welfare, 2 N.J.A.R. 443 (1980).

10:81–7.4 Continuation of assistance

(a) Upon receipt of a timely request for a fair hearing, assistance shall be continued at an unreduced level until a written decision is rendered, unless:

1. A determination is made at the hearing by the hearing officer that the sole issue is one of State or Federal law or policy, or change in State or Federal law, and not one of disputed facts; or

2. A change occurs which further affects recipient's grant while the first hearing decision is pending and the recipient fails to request an additional hearing after notice of this change within the time allowed.

(b) In the event of either of the above, the recipient shall be promptly notified in writing that the proposed action will be implemented after the hearing while the decision is pending.

(c) Any overpayment resulting from unreduced assistance pending a fair hearing shall be subject to recovery. In the event that agency action is sustained and a recipient has received an overpayment solely due to continued payments unreduced, recovery shall be affected in accordance with procedures in N.J.A.C. 10:82–2.19.

(d) A recipient may waive his/her claim to continued payments by submitting a written statement at the time the fair hearing is requested.

(e) Upon receipt of a timely request for a fair hearing concerning FDP or REACH child care and supportive service benefits, benefits shall be received as follows until a written decision is rendered:

1. If the individual has been receiving FDP or REACH child care or transportation benefits and is awaiting a hearing because such benefits were reduced, the individual is not entitled to receive FDP or REACH child care or transportation benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing.

2. If the individual is not receiving a child care benefit or a specific FDP or REACH supportive service benefit, as delineated at N.J.A.C. 10:86–9 and 10 or N.J.A.C. 10:81–14.18 and 14.19, for which he or she believes he or she is eligible and is awaiting a hearing due to non-receipt of that benefit, he or she is not entitled to receive that benefit pending the hearing.

3. If the individual had been receiving FDP or REACH child care benefits or transportation benefits and is awaiting a hearing because such benefits were discontinued or terminated, he or she is not entitled to receive those benefits pending the hearing.

4. If the individual is contesting the amount of the FDP or REACH child care benefit received and is awaiting a hearing, he or she shall continue to receive the FDP or REACH child care benefit in the amount previously established by the agency, pending the hearing. Likewise, if the individual is contesting the amount of a specific FDP or REACH supportive service benefit received, the amount of the benefit shall remain in the amount previously established by the agency, pending the hearing.

Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
(c): Changed cross reference "2.19(a)2" to "2.19".
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Added new subsection (e).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Reference to Family Development Program added.

10:81–7.5 Delay in disposition of application

When the complete processing of an application is delayed beyond 30 days, the applicant is to be notified of this fact and the reason(s) for the delay on or before the expiration of such period (see N.J.A.C. 10:81–2.15(a)).

10:81–7.6 Notice to interested agency

(a) In any case initially referred by or known to be receiving assistance or service from a public health or welfare agency, social service, legal services or other interested agencies, notice of disposition of the case or any aspect in which that organization has been involved shall be sent to such agency with the consent of the client in the following manner:

1. If, after thorough discussion of the assistance potentially available and the application requirements, the person definitely declines to apply, the interested agency will be promptly informed.

2. If the person applies and the application is approved, the interested agency will be notified as promptly as possible including the date of the first payment, not later than such date.

3. If the person applies and the application is denied, dismissed or withdrawn, the agency will be promptly informed.

4. The interested agency will be kept informed of any developments in a case so long as the issue involved is the same or related to the issue about which the agency has expressed interest unless the client withdraws his/her consent.

10:81–7.7 Purpose of case records

(a) The case record is the official file of forms, chronological narrative, correspondence and other documents pertinent to the application and eligibility of the client. It constitutes a complete record of the county welfare board's decisions and actions about eligibility for assistance for each case. Since it is the record of information on which decisions to grant, deny or continue assistance in accord with law and regulations are made, it is mandatory that a case record be established for every individual who applies for and/or receives assistance:

1. SSI records will be kept for emergency assistance, burial expenses and service payments.

(b) The case record will be kept absolutely confidential as described in N.J.A.C. 10:81–1.6.

(c) The case record also serves:

1. To provide the information necessary for action in conformity with all relevant legal requirements in the county welfare board's relationship with the client;

2. To provide the adequate and accurate source of information for the Division of Economic Assistance and Federal staff for statistical studies or other research purposes which will be statistical in nature and include no clients' names; and

3. As an essential tool in supervision.

10:81–7.8 Contents of the case record

(a) The validity of all case action rests primarily on the significance of the data in the case record. The following items shall be part of the case record:

1. All completed forms necessary for the appropriate assistance programs;

2. Any pertinent narrative recording;

3. A log of each contact with client and summary of substance; and

4. All related referrals, correspondence, memorandums and documents except those which are required by law or regulation to be maintained in some other files.

10:81–7.9 Documentation of verification of factors of eligibility

(a) It is essential that the CWB carefully document its verification of all eligibility requirements. It is extremely important that when reference is made to a document or source of verification, sufficient information be provided so that the document or source can be readily identified.

(b) The preferred method of documentation is inclusion in the case record of the original document, or photocopy of such document verifying a factor of eligibility (see N.J.A.C. 10:81–3.2 through 3.7).

1. If the IM worker has reviewed but not obtained a copy of a document, a description of the document and its location must be included in the case record to facilitate review of the material, where necessary, by the Division of Economic Assistance.

(c) There will be instances where the limited space provided on the application (PA–1J) for verification will be insufficient to record all relevant facts. It will then be necessary to provide whatever further information is needed through narrative recording in the case record. When this occurs, the IM worker must indicate on the application that additional information is available in the case record.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–7.10 Maintenance and custody of case records

(a) All income maintenance record material relevant to each client or client group will be maintained in a folder, jacket or envelope bearing the appropriate registration number, separate and apart from material relevant to social services.

(b) All records shall be filed in a secure and fire-resistant room. A separate file shall be maintained for each program. The CWB director may further subclassify the case records in whatever manner is best suited to local administrative use and control, provided that all such classifications are cross-indexed so that it shall be possible to locate immediately the whole of any case record either by name or registration number.

10:81–7.11 Movement of case records

(a) No case record or official part of such record shall be moved from its designated filing cabinet without an identifying record of the person who has custody of it.

(b) Any case record or official part that has been removed from its designated filing cabinet must be placed in some similar storage arrangement at the close of each business day.

(c) No case record or official part shall be removed from the office of the county welfare board except at the specific authorization of the director.

10:81–7.12 Transfer of case records

No case record or official part of such record shall be permanently removed from its designated filing cabinet unless and until it is transferred in its entirety to the custody of some other county welfare agency or it comes under the provisions of N.J.A.C. 10:81–7.13.

As amended, R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
"agency" was "board".

10:81–7.13 Retention and destruction of case records

(a) Each county welfare agency will retain all material normally kept in the "case folder" for the time periods indicated in subsection (b) of this section. At the expiration of such time period the CWA may, at its option, destroy records in accordance with subsections (c) and (d) of this section, continuing to retain those portions indicated. In permanent available archives the CWA will retain information showing the date and manner of destruction of each "case folder" destroyed.

1. "Case folder" shall be construed to mean the entire set of income maintenance records related to eligibility determination for one person or household in one program of assistance. Each such case folder may be reviewed as a single unit without reference to the fact that the person(s) involved may have received assistance or may be receiving assistance under another program.

(b) Retention periods are:

1. No reimbursement owing: In destroying records in this category, the agency should provide for the permanent retention of information by which to assure itself in the future of the absence of a claim and the reason(s) therefore.

Case Folders	Retention Period
a. Cases denied or rejected without a grant of assistance	Three (3) years after the last official agency action or court action which influences the granting or recovery of assistance or the receipt of the final recovery payment, whichever is later.
b. Cases in which all assistance has been repaid in full	
c. Cases in which no repayment was ever due (Most AB, AFDC)	
d. Cases in which no further repayment is due (most AFWP, repaid fraud restitution, and other over payments in all programs, repaid "suits and claims" matters in AFDC, fully paid assigned support rights)	
e. Cases in which a specific agency decision has resulted in abandonment of a claim(s)	

2. Reimbursement owing:

i. In all instances of unresolved fraud or other overpayment matters, unresolved "suits and claims" matters, or open and unpaid assigned support rights, retain all records in each case until the matter(s) in question is resolved and the case falls into one of the groups listed below or in paragraph 1 of this subsection; then retain accordingly.

ii. In destroying records of cases in which reimbursement is owing, the agency must retain enough information in permanent archives to provide clear identification of debtors, to document the amounts and to allow the taking of any legal or administrative action which may become necessary in the future by either the agency or by DMAHS.

iii. Retain records in cases in which reimbursement is owing as follows:

Case Folders	Retention Period
OAA, DA, MAA, Medicaid Only	
a. client still living	indefinite
b. client deceased (see note below)	
(1) probable recovery pending	indefinite
(2) all known or probable recovery completed or none possible	three (3) years after death or last official action, whichever is later

Note: In accordance with actuarial practice, persons not known to be deceased may be presumed dead at age 100 unless information to the contrary exists.

(c) Requests for destruction of case records will be submitted on State Form ED–6, Request and Authorization for Records Disposal, which may be obtained from the Bureau of Management Services, Division of Economic Assistance. Form ED–6 will be completed as follows:

1. Request Number and Date—Each county welfare agency shall assign its own number to each request and the date upon which it was submitted;

2. Authorization Number and Date—For use of the Bureau of Archives and History;

3. From—provide complete address of county welfare agency;

i. Item—Number and items in sequence beginning with No. 1;

ii. Records Title and Description—Indicate the number of case records by categorical program and provide sufficient information to show where they are in the Record Retention Schedule;

iii. Inclusive Dates—Indicate the inclusive dates to which the material applies (for example, the earliest application was taken and the most recent year a case was closed);

iv. Volume—Volume is to be measured in cubic feet (one file drawer equals two cubic feet). Measurements should be rounded off to the nearest cubic foot; do not use a measurement less than one cubic foot;

v. Retention Period—Complete in accordance with subsection (b) of this section; and

vi. Requested By—Signature of CWA director or authorized agent;

vii. All other items will be completed by the appropriate State Agency.

4. All copies of the completed Form ED–6 will be forwarded to the Bureau of Management Services for approval. The county welfare agency shall not destroy any records until such approval has been received by the CWA in writing.

(d) When disposal is authorized, records must be destroyed in fact and should not be allowed to fall into unauthorized hands. Nonconfidential records may be sold for waste, providing that they will eventually be processed to destroy their identity. Confidential records must be destroyed by burning, shredding or pulping, and a responsible official shall supervise such disposal or accompany the records, if they have to be transported, to see that they are in fact totally destroyed.

As amended, R.1980 d.81, effective May 1, 1980.
See: 12 N.J.R. 27(b), 12 N.J.R. 127(a).
(a), (b) and (d) substantially amended and recodified from N.J.A.C. 10:81–7.13 and 7.14.
(c) recodified from N.J.A.C. 10:81–7.13(c)6 and 7.
As amended, R.1982 d.417, effective December 6, 1982.
See: 14 N.J.R. 947(b), 14 N.J.R. 1397(a).
"Bureau of Business Services" changed to "Bureau of Management Services".

10:81–7.14 (Reserved)

As amended, R.1980 d.81, effective May 1, 1980.
See: 12 N.J.R. 27(b), 12 N.J.R. 127(a).
Recodified and amended into N.J.A.C. 10:81–7.13.

10:81–7.15 Issuance of photo identification cards

(a) The CWA shall issue a photo identification (ID) card (Form FSP–903), universal to both the AFDC and Food Stamp programs, to each assistance payee as a condition of eligibility. The photo ID card shall be used as proof of eligibility and to make check cashing possible.

(b) The CWA will establish a procedure for completion of the ID card that will ensure that the client need make only one visit to the agency for that purpose.

(c) Each photo ID card shall, at a minimum, include the name, case number, color photograph and signature of the recipient. The county seal or other type of logo produced via a validation plate shall overlap upon the ID card and the photo to preclude substitution of the photo.

(d) If the assistance payee in the eligible unit (EU) refuses to accept the ID card or refuses other than for reason of religious belief or disfigurement (see (d)3 and 4 below) to be photographed for the purpose of placing a photo on the ID card, the following shall apply:

1. If there is only one adult in the EU, that individual shall be considered ineligible for assistance and any benefits to which a child(ren) in the EU are entitled shall be issued in the form of protective payments (see N.J.A.C. 10:81–4.9). The ineligible adult may not be named as protective payee.

2. If there are two adults in the EU, the other adult shall be given the opportunity to become the payee, be photographed and accept the ID card. If the other adult also refuses to be photographed and/or accept the ID card:

i. In AFDC–C segment (incapacity) cases, either adult (at the EU's discretion) shall be rendered ineligible for assistance; or

ii. In AFDC–F segment cases, the adult who is not the principal earner shall be rendered ineligible for assistance; or

iii. In AFDC–N segment cases, either adult shall be rendered ineligible for assistance; and

iv. Any benefits to which the remaining members of the EU are entitled shall be issued in the form of protective payments.

3. In instances where a recipient payee's religious beliefs do not allow the taking of his or her photograph, the payee may accept an ID card without a photograph.

4. In instances where a recipient payee does not wish to be photographed because of disfigurement, the payee may accept an ID card without a photograph.

5. Where a protective payee (see N.J.A.C. 10:81–4.10) has been appointed, such payee may elect to either accept or refuse an ID card, with or without a photograph. This equally applies to non-needy parent persons and SSI recipients.

6. The penalty of ineligibility imposed on an adult in conjunction with this policy shall continue until such time as a photo ID card is in fact issued to him or her or another appropriate member of the eligible unit.

R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
Old rule deleted, new rule substituted therefor.

10:81–7.16 Agency controls for other operational procedures

(a) Each CWA director shall establish operational procedures and appropriate controls for the staff which will expedite the processing of applications and assure maximum compliance with policy and regulations.

(b) Control records shall include identification of pending cases upon which action must be taken within 30 days of application, and shall indicate any case about which decision has not been made within the 30–day limitation.

(c) Administrative controls may also be established for validation of presumptive eligibility cases; timely redeterminations; age of eligible family members; application for a receipt of temporary income, such as unemployment insurance benefits; court actions leading to additional income or resources; correspondence disclosing income or resources.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–7.17 Registration of applications

(a) Official registration of an application shall include:

1. Entry in application register under appropriate classification;

2. Assignment of a registration number.

(b) Registration shall be completed on the same day application is made; or if application is made outside the CWA office, registration shall be completed within three working days.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–7.18 Lost or stolen assistance checks

(a) Upon notification from a client that his or her assistance check has been lost or stolen, the CWA will immediately secure the client's affidavit of the facts and circumstances and will file a stop payment order with the bank. Within 10 working days the CWA will either issue a duplicate check or provide written notice that the check will not be replaced. The notice must be in the format of an adverse action notice including information about both regular and emergency fair hearing rights and setting forth the reason(s) for the action. (See N.J.A.C. 10:81–6.2 and 6.17.)

(b) The CWA may decline to issue a replacement check when any of the following exists:

1. The payee of the check fails or refuses to make a report to the local police about a stolen check or fails or refuses to cooperate in a police investigation.

2. The payee of the check fails or refuses to provide an affidavit of the facts and circumstances of the loss or theft.

3. The endorsement on the original check is certified to be that of the payee by a person qualified to present expert testimony in handwriting analysis before the New Jersey courts. Such expertise may be available through or from the New Jersey State Police, the Office of the Attorney General, a county prosecutor, a member of the American Society of Questioned Document Examiners or a member of the National Association of Document Examiners.

4. The identification of the person cashing the original check as the payee or representative of the payee is convincingly established by one or more mechanical or procedural methods such as a photograph, a videotape, or the recording at the time of the transaction of the number of an ID card which has not been reported lost or stolen.

(c) In any situation in which an original check is later returned bearing the true endorsement of the intended payee, the agency will honor the check even though a stop payment order may have interfered with its negotiation provided 10 days prior to honoring the check the intended payee is afforded advance written notice and an opportunity to contest the intended action. The agency will refuse to honor an original check which is returned without the true endorsement of the intended payee, the effectiveness of a stop payment order notwithstanding.

(d) In any situation in which the issuance of a duplicate check in accordance with (a) above produces a payment in excess of authorized amounts, the agency will observe N.J.A.C. 10:81–7.40, 10:82–2.19 and/or 10:82–4.15 as appropriate.

As amended, R.1986 d.138, effective June 1, 1976.
See: 8 N.J.R. 195(a), 8 N.J.R. 287(a).
As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
As amended, R.1982 d.419, effective December 6, 1982.
See: 14 N.J.R. 373(a), 14 N.J.R. 1396(a).
Defines conditions under which a county welfare agency may refuse replacement.

Case Notes

Lost AFDC check. In re G.S., OAL Dkt. HPW 1341–79 (Aug. 21, 1979), adopted, DPW (Sept. 5, 1979).

AFDC recipient entitled to replacement of lost benefits check (citing former regulation as N.J.A.C. 10:81–7.19). C.S. v. Essex Cty. Dept. of Citizens Services, 6 N.J.A.R. 1 (1979).

10:81–7.19 Worksheet and Authorization for Public Assistance, Form PA–3A or Form 105

The IM worker, in preparing Form PA–3A, Worksheet and Authorization for Public Assistance (3, 4 or 5 part snap-out), or Form 105, shall assure that the original is retained for the case record and appropriate copies are distributed to the Medicaid clerical unit for use in preparation of Form MAP–1 which is submitted to the Medicaid status File, and the CWA business office for appropriate fiscal activity.

As amended, R.1979 d.48, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–7.20 Separation of income maintenance, social services and FDP or REACH case management services

(a) Income maintenance includes responsibility for applications, determining eligibility and continuing eligibility, computation of budgets, authorization of assistance payments, and verification of eligibility factors.

(b) Social services are those activities directed toward informing applicants and recipients of available services, and assisting individuals and families by providing direct service, purchasing service or by referral to a community agency.

(c) FDP or REACH case management services are those activities directed toward fulfilling the education/work/training requirements of the AFDC program. The Federal Family Support Act of 1988 (P.L. 100–485) established the work/training requirements under Title IV–F of the Social Security Act. Those requirements are set forth in the FDP pursuant to the Laws of New Jersey, P.L. 1991, c.523 or REACH program. FDP or REACH case management assists individuals by providing evaluation for FDP or REACH, making referrals to the county assessment entity, in completing FDP or REACH family plans or employability plans and agreements, in obtaining necessary supportive services for participation in FDP or REACH and in monitoring the individual and other family members during FDP or REACH participation.

(d) The function of providing financial assistance through income maintenance is conducted separately from the functions of providing or arranging for social services or for FDP or REACH participation. The three must be coordinated so that the client's interests may be effectively served. The IM worker with whom the client is in contact must always be alert to possible need for a service or FDP or REACH referral. The units will share information adequately to fulfill these requirements.

1. Interrelated activities: Interrelated activities which involve both income maintenance, social services and FDP or REACH case management include, but are not limited to:

i. Temporary payee arrangements;

ii. Emergency assistance payments (N.J.A.C. 10:82–5.10);

iii. Service payments (N.J.A.C. 10:82–5.2);

iv. FDP or REACH program (see N.J.A.C. 10:86 or N.J.A.C. 10:81–14);

v. Vocational rehabilitation services;

vi. Protective services.

2. The client will be as fully informed as possible at each contact by staff of each unit of the programs and services for which he/she may be eligible.

3. Some situations which would call for social services include:

i. Change in circumstances possibly affecting need for services or extent of entitlement to service payments;

ii. Inability to manage money properly;

iii. Impediments to self-support or employment;

iv. Follow-ups resulting from recommendations of Disability Review Section;

v. Exploring potential for services from other agencies;

vi. Protective services for children;

vii. Early periodic screening diagnostic testing family planning;

viii. Any other apparent need for services.

4. Interrelated activities which specifically involved both income maintenance and FDP or REACH case management include, but are not limited to:

i. FDP or REACH exemption status;

ii. FDP or REACH target group assignment;

iii. Sharing information concerning AFDC IV–A, IV–D and IV–F eligibility of individuals and families;

iv. Sanctions of individuals for noncooperation in FDP or REACH;

v. Sharing information concerning need of emergency assistance by a family; and

vi. Determinations of gross income and family size at time of case closing for post-ADFC benefit purposes.

Amended by R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
Changed "Assistance Standards Handbook" section to N.J.A.C. internal cite.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Added new (c), recodifying old (c) as (d), with stylistic revisions. Added new (d)4.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
References to Family Development Program added.

10:81–7.21 Payment of funeral and burial expenses; all segments

(a) Funeral and burial expenses may be provided for AFDC recipients (all segments) and certain others as identified in N.J.A.C. 10:81–7.22. Payments for such expenses are not a benefit automatically payable at death, but are a means of supplementing the resources, when necessary, of the deceased recipient, of his or her family and of volunteer contributors.

(b) Payment, if made, will be made by the chargeable CWA which is the first occurring of the following as may exist: the CWA which granted assistance for the decedent for the month of death; the CWA which would, but for the death, have made the next grant of assistance; or the CWA which made the most recent grant of assistance.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed text of old rule.

10:81–7.22 Persons who may be eligible

(a) Claims for payment of funeral and burial expenses may be received and considered with respect to:

1. A person who was in active receipt of assistance at the time of death;

2. A person for whom eligibility can be otherwise determined, provided that an application for assistance was made prior to death. This includes stillborn infants and deceased newborns who would have been included in a previously existing AFDC case. It also includes parents and infants for whom application for AFDC had been made in anticipation of eligibility at the birth of a child;

3. A former recipient of AFDC whose admission to any tax-supported institution within this State, other than a penal or correctional institution, was the only reason for the suspension or termination of the assistance grant, and whose death occurred while confined to such institution.

As amended, R.1980 d.224, eff. July 1, 1980.
See: 12 N.J.R. 190(a), 12 N.J.R. 518(a).
(a)1 cost of burial chart amended.
As amended, R.1981 d.447, eff. November 16, 1981.
See: 13 N.J.R. 580(d), 13 N.J.R. 845(d).
(a)1i agency was board; chart in (a)1, was substantially amended.
As amended, R.1982 d.286, eff. September 7, 1982.
See: 14 N.J.R. 462(b), 14 N.J.R. 980(b).
Maximum burial contribution by others increased.
As amended, R.1984 d.227, eff. June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
Changed "board" to "agency".
New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed old rule "General principles for participation in burial and funeral expenses".

10:81–7.23 Funeral and burial contracts

(a) The right and responsibility to arrange and contract for funeral and burial services rests with the next of kin of the decedent. In the absence of any next of kin, arrangements may be made by any interested party such as a friend, clergyman, or nursing home or hospital administrator. These regulations shall not control or impair a contract between a funeral director and the next of kin or other party except to the extent that the contract results in or may result in a claim against the CWA or against any assets legally owed to the CWA.

1. In the complete absence and only in the complete absence of any next of kin and when no other person or agency is available to make the arrangements, the CWA may do so. The availability of funds is not to be a factor in determining whether the CWA will make the arrangements. The CWA will select funeral directors for such contracting in consultation with the county association of funeral directors.

i. A contract negotiated by a CWA shall be in accord with all parts of these regulations including the cost even though the cost may not be met from public funds.

ii. A contract negotiated by a CWA may be concluded orally but shall be confirmed by letter from the CWA to the funeral director.

(b) Regardless of whether or not it is one of the contracting parties, the CWA will not authorize any cremation. Nor will it authorize any postmortem examination or any other procedure not a part of regular funeral and burial services.

New Rule, R.1986 d.428, effective October 20, 1988 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed "Direct contracts by the county welfare board for burial and funeral services".

10:81–7.24 Definitions and conditions

(a) Public burying ground: The CWA will not participate in the cost of either the funeral or the burial of any person who was or is to be buried in any publicly owned cemetery or burial ground which is or has been maintained as a potters field.

(b) Prior notice: When either of the contracting parties contemplates that a county welfare agency will be asked to pay any part of the cost of a funeral and burial or cremation, either or both parties shall notify and consult with the county welfare agency before the services take place. The probable allowance or disallowance of the claim shall be discussed at that time, but the agency is under no obligation to make a commitment of payment. The requirement for prior notice may be waived by the agency upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

(c) Submission of petition:

1. The funeral director or other claimant shall, within 30 days following burial or cremation, submit to the county welfare agency a petition on Form PA–11 or a substantially similar document which certifies to services rendered, to payments contracted, received and expected; and to compliance with all applicable laws and regulations. Petitions submitted beyond the 30 day period may be considered upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

2. A claim filed with a county welfare agency for funeral, burial or cremation is not a demand for payment owing under a contract but is merely a petition for an allowance to be granted or denied consistent with these regulations. It has the effect of a demand, however, when the agency was the contracting party.

(d) Combined resources; definition: The combined resources of a decedent means the aggregate net total value of all of the following:

1. Cash on hand or in the hands of others as property of the decedent including personal needs accounts in long term care facilities (but excluding cash in the custody, possession, or control of the CWA);

2. Other resources, such as securities, real estate, antique furniture, and automobiles;

3. Life insurance or death or funeral benefits from public or private sources which have been received, or which are received, or which are receivable by the estate of the decedent, by the decedent's spouse, children, father or mother because of the death of the decedent;

4. Payments of the same nature as in (d)3 above which have been received by or which are receivable by any other person excepting such amounts as are lawfully claimed by such person as a bona fide assignee for value or as a claimant for equitable refund of premiums paid;

5. Sums which have been paid or are promised to be paid on account of the death of the decedent by any other person or organization, excepting such sums as have been paid or will be paid to the county welfare agency;

6. Funds owed the decedent at the time of death.

As amended, R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(c), 18 N.J.R. 2125(a).
Repealed "Classes of recipients eligible for burial and funeral payment".
Petition for Rulemaking.
See: 26 N.J.R. 4104(b).

10:81–7.25 Authorization of payment

(a) Allowances: The allowance for funeral services, exclusive of cemetery costs, is the total amount charged or $1,970.00, whichever is less. When ground burial is made of uncremated remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or $460.00 which is less. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable.

1. The county welfare agency may, in any case in which it determines that any of the resources in N.J.A.C. 10:81–7.24(d) should be waived or omitted to avoid hardship or inequity, present a recommendation with supporting reasons to the State office for disposition.

(b) Amount of payment: The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent and as further reduced by the sum of all contributions from next of kin and other interested parties.

(c) Payments shall be made first from any funds received by the CWA from or on behalf of the decedent and secondly, if necessary, from assistance funds. Payments from assistance funds are subject to 75 percent State matching. There is no Federal reimbursement.

As amended, R.1979 d.131, effective June 1, 1979.
See: 11 N.J.R. 70(a), 11 N.J.R. 249(b).
New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(b).
Repealed "Total cost of burial and funeral, definition".

10:81–7.26 Time of payment

(a) The amount to be allowed on any claim shall, in the absence of known irregularity, be paid as promptly as possible after such amount is determined and, in any event, within 30 days thereafter. The CWA shall provide notice of its determination to all parties to the funeral contract and to any others who have both a need for the information and the right to receive it.

1. In the event that a determination cannot be made within 10 calendar days after receipt of a petition for payment solely because information about a determination by one or more other agencies is not available, the CWA shall make a tentative determination based on the assumption of favorable action by the other agencies. The CWA will remit the difference within 30 days following the tentative determination. Upon receipt of information about the determination(s) of the other agencies, the CWA will make a final determination and remit any balance due to the petitioner within 30 days of the final determination.

As amended, R.1979 d.130, effective June 1, 1979.
See: 10 N.J.R. 487(c), 11 N.J.R. 249(a).
As amended, R.1979 d.131, effective June 1, 1979.
See: 11 N.J.R. 70(a), 11 N.J.R. 249(b).
As amended, R.1980 d.244, effective July 1, 1980.
See: 12 N.J.R. 190(a), 12 N.J.R. 518(a).
(a)1 amended to preclude CWA contacts with cemeteries. (b)3, affording funeral directors the right to submit to agencies a notarized petition and affidavit (Form PA–11), recodified and made mandatory under amended (c). (c) and (d) substantially amend text respecting funeral/burial claim approval. (e), (f) and (g), no change.
As amended, R.1981 d.90, effective April 5, 1982.
See: 13 N.J.R. 925(a), 14 N.J.R. 344(a).
(f)-(f)3iii: Deleted existing text and replaced with new text through (f)2.
As amended, R.1982 d.90, effective April 5, 1982.
See: 13 N.J.R. 925(a), 14 N.J.R. 344(a).
(f) deletion of lengthy explanation of SSA application process.
As amended, R.1982 d.228, effective August 2, 1982.
See: 14 N.J.R. 374(a), 14 N.J.R. 836(a).
(g) funeral expense payment of $250.00 increased to $300.00.
New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed "Payment of claims".

10:81–7.27 Irregularities

(a) Disputed claims: In the event of a dispute or disagreement about a claim which cannot be readily resolved between the agency and the claimant, the CWA will submit the matter to the State office for review and advice.

(b) Duplicate or inconsistent claims: In the event that the CWA becomes aware of the filing of any claim with another person or agency which is in duplication of or is inconsistent with any claim received by the CWA, the CWA shall:

1. Advise the other person or agency of the circumstances and take all appropriate steps to assert and secure the CWA's rights; and

2. In the absence of a prompt local resolution of the matter, report it to the State office for review and advise; and

3. Determine whether any violation of a criminal nature may have occurred and, if so, report the matter in writing to the County Prosecutor.

(c) Later discovery: In the event that the CWA later learns of the existence of resources which should have been available but were not known or made available, it will immediately take all appropriate steps to secure its rights to refund or recovery.

New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed "Claims subject to certain conditions".

10:81–7.28 Other agency death benefits

(a) Social Security lump sum death benefit: A lump sum death benefit of $255.00 will be paid by the SSA to a person eligible to receive it. In the absence of an eligible recipient, no payment will be made.

1. Eligible persons in order of priority are:

i. Surviving widow(er) who lived in the same household;

ii. Surviving widow(er) who is (or would have been upon application) eligible in the month of death to receive benefits based on the wage record of the deceased;

iii. Surviving children who are (or would have been upon application) eligible in the month of death to receive benefits based on the wage record of the deceased.

(b) Veteran's benefits;

1. Eligibility: Payment of burial expenses is available on behalf of a deceased veteran discharged under conditions other than dishonorable when such person was a wartime veteran, served during the Korean or Vietnam conflicts or was a peacetime veteran with certain entitlements.

2. Amount of benefits:

i. Generally, payment toward a veteran's funeral expenses will not exceed $300.00. This payment is only available for a veteran who at the time of death was receiving or was eligible to receive a Veteran's Administration (VA) pension or a service related disability compensation. An amount not exceeding $150.00 may be paid for any veteran, as a plot or interment allowance when the veteran is not buried in a national cemetery. A higher burial allowance is available if the death was service-connected.

ii. Burial and plot allowances will not be provided to the extent that they were paid by the deceased veteran's employer or by a State agency or a political subdivision of the State.

3. Filing of claims: A claim may be filed with any Veteran's Administration office. It must be filed within two years after cremation or permanent burial.

New Rule, R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed "Refunds".

10:81–7.29 Reporting of child abuse and neglect

County welfare agencies are required to report known or suspected instances of child abuse and neglect of a child receiving AFDC to the Division of Youth and Family Services. Instances of abuse and neglect involve situations where a child experiences physical or mental injury, sexual abuse or exploitation or negligent treatment or maltreatment under circumstances which indicate that the child's health or welfare is threatened.

New Rule, R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).
Prior rulemaking in this section:
Repealed R.1986 d.428, effective October 20, 1986 (operative November 1, 1986).
See: 18 N.J.R. 1170(a), 18 N.J.R. 2125(a).
Repealed "Notification to parties in interest".
New Rule, R.1987 d.136, effective March 16, 1987.
See: 18 N.J.R. 2176(a), 19 N.J.R. 452(a).
Repealed by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Provisions on retroactive adjustments for funerals deleted as outdated.

10:81–7.30 Federal policy for safeguarding information

(a) The Federal Social Security Act requires that a State must provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of public assistance and related services, including Title IV–E (foster care and adoption assistance programs), which cannot be offered without such information in accordance with the provisions at N.J.A.C. 10:81–7.31.

1. Such safeguards shall not apply to the furnishing of recipient address information to State and local law enforcement officers attempting to locate a fugitive felon in accordance with the provisions at N.J.A.C. 10:81–7.32.

2. Information concerning applicants or recipients may also be released to appropriate individuals in instances involving child abuse and neglect situations as described at N.J.A.C. 10:81–3.12(e), 7.29 and 7.46(c)2.

Amended on emergency basis, R.1984 d.464, eff. September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
Emergency rule: (a)1 added.
Readopted, R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).

Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

Case Notes

County welfare board can be compelled to answer interrogatories addressed to recipient mother in paternity action due to substantial identity of interest between board and mother; arguable confidentiality of information no defense. DeSantis v. Dukes, 182 N.J.Super. 390, 441 A.2d 1186 (J.D.R.Ct.1981).

10:81–7.31 Basic principles for safeguarding information

(a) No member, officer or employee of the CWA shall produce or disclose any confidential information to any person, except as authorized below.

1. Information considered confidential includes, but is not limited to, the following:

i. Names and addresses, including lists;

ii. Information contained in application, reports of investigation, reports of medical examination, correspondence and other records concerning the condition or circumstances of any person from whom or about whom information is obtained, and including all such information whether or not it is recorded;

iii. Records of evaluation of such information.

2. The CWB director is authorized to release, subject to the consent of the client, relevant and necessary information under the following circumstances;

i. For clearances on applications and cases with social service agencies, banks, Bureau of Vital Statistics, insurance companies, and so forth;

ii. To procure a service or benefit for the client;

iii. Whenever the client waives confidentiality, but only to the extent authorized by the waiver.

3. The furnishing of any list of names or addresses or both, for purposes not directly involved in the administration of the lawful duties of the welfare board, directly or indirectly, is specifically prohibited; but this shall not preclude furnishing information by list or otherwise to municipal departments of public welfare, or other municipal, State or Federal agencies lawfully charged with the administration of public welfare functions or services, for the purpose of such administration only, and therefore restricted to the area or class served by such agency.

4. CWAs shall cooperate with educational authorities for the purpose of confirming AFDC eligibility of students when such verification is for the purpose of determining the student's eligibility to participate in programs authorized under the National School Lunch Act (NSLA) and the Child Nutrition Act of 1966.

Amended by R.1989 d.496, effective September 1, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
CWA cooperation in determination of eligibility for Federal School Lunch Program required.

Case Notes

County welfare board can be compelled to answer interrogatories addressed to recipient mother in paternity action due to substantial identity of interest between board and mother; arguable confidentiality of information no defense. DeSantis v. Dukes, 182 N.J.Super. 390, 441 A.2d 1186 (J.D.R.Ct.1981).

10:81–7.32 Release of information for purposes other than the administration of public assistance

(a) The release of any confidential information or records available to the county welfare board or testimony as to confidential matters by any member of its staff in connection with any proceeding including any judicial or quasi-judicial proceeding, for purposes not directly connected with the administration of public assistance shall be accomplished in the following manner:

1. The person or records, or both, shall not appear or be produced except in response to a subpoena legally issued.

2. No records shall be produced unless specifically called for by the subpoena.

(b) In case of subpoenaed records:

1. Upon being called to testify or produce agency records concerning an AFDC–N recipient(s) before a judicial officer under whose authority the subpoena has been issued, the officer or employee of the county welfare agency personally or through counsel as provided, shall make a statement substantially as follows:

i. "Under the direction of the Commissioner of the Department of Human Services as authorized by law, information concerning applicants and recipients of assistance must be restricted to purposes directly connected with the administration of assistance. The Commissioner has advised that this includes a requirement of nondisclosure of such information in response to a subpoena. If a disclosure is made of this information, either by personal testimony or by production of records, this is considered non-conformance with State requirements and may subject the county to loss of State financial participation in the assistance program."

2. Upon being called to testify or produce agency records concerning a recipient of AFDC–C or –F, CRA or SSI before a judicial officer under whose authority the subpoena has been issued, the officer or employee of the county welfare agency personally or through counsel as provided, shall make a statement substantially as follows:

i. "Under the terms of the Federal Social Security Act, information concerning applicants and recipients of assistance must be restricted to purposes directly connected with the administration of assistance. The authorities of the Federal government have advised that this includes a requirement of nondisclosure of such information in response to subpoena. If a disclosure is made of this information, either by personal testimony or by production of records, this is considered noncon-

formance with Federal requirements and may subject the State to loss of Federal financial participation in the assistance program."

3. In no instance is it intended that any officer or employee of the agency shall place him/herself in contempt of court through refusal to follow the orders of a court. However, the above action as appropriate shall be taken in all instances, and a report of the results shall be entered in the case record.

(c) Release of information regarding fugitive felons: For the purposes of this section a felon is defined as an individual convicted of a crime punishable by death or imprisonment in excess of one year. This includes crimes in New Jersey of the first, second, third and fourth degree.

1. The CWA may furnish a State or local law enforcement officer, upon his or her request, with the current address of any recipient under the following conditions:

i. The officer furnishes the CWA with such recipient's name and social security number; and

ii. Satisfactorily demonstrates that such recipient is a fugitive felon; and

iii. That location or apprehension of such felon is within the officer's official duties; and

iv. That the request is made in the proper exercise of those duties.

Amended by R.1977 d.191, effective June 1, 1977.
See: 9 N.J.R. 175(c), 9 N.J.R. 278(e).
Amended by R.1977 d.452, effective December 1, 1977.
See: 9 N.J.R. 367(c), 10 N.J.R. 16(b).
Amended by R.1980 d.329, effective August 1, 1980.
See: 12 N.J.R. 320(a), 12 N.J.R. 483(e).
(a)3, requiring giving of notice to the Division of receipt of subpoena, deleted.
Amended by R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
"Human Services" was "Institutions and Agencies".
(c) added.
Amended on emergency basis, R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(a)1 added.
Readopted, R.1984 d.569, effective November 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).

Case Notes

County welfare board can be compelled to answer interrogatories addressed to recipient mother in paternity action due to substantial identity of interest between board and mother; arguable confidentiality of information no defense. DeSantis v. Dukes, 182 N.J.Super. 390, 441 A.2d 1186 (J.D.R.Ct.1981).

10:81–7.33 Material sent to applicants or recipients of public assistance

All material, including that enclosed in envelopes containing checks, must be directly related to the administration of the public assistance program and must not have political implications.

Case Notes

County welfare board can be compelled to answer interrogatories addressed to recipient mother in paternity action due to substantial identity of interest between board and mother; arguable confidentiality of information no defense. DeSantis v. Dukes, 182 N.J.Super. 390, 441 A.2d 1186 (J.D.R.Ct.1981).

10:81–7.34 Disclosure of records or information for formal proceedings

Pertinent information and records shall be released to the participants only in the course of any fair hearing or in the course of any other formal proceeding provided for in Titles 30 and 44, New Jersey Statutes Annotated, and in the Federal Social Security Act.

Case Notes

County welfare board can be compelled to answer interrogatories addressed to recipient mother in paternity action due to substantial identity of interest between board and mother; arguable confidentiality of information no defense. DeSantis v. Dukes, 182 N.J.Super. 390, 441 A.2d 1186 (J.D.R.Ct.1981).

10:81–7.35 Release of information for statistical purpose

Any statistical data or other information not including any names or personal information may be released.

Case Notes

County welfare board can be compelled to answer interrogatories addressed to recipient mother in paternity action due to substantial identity of interest between board and mother; arguable confidentiality of information no defense. DeSantis v. Dukes, 182 N.J.Super. 390, 441 A.2d 1186 (J.D.R.Ct.1981).

10:81–7.36 Nondiscrimination in public assistance programs

Title VI of the Federal Civil Rights Act of 1964 (Public Law 88–352) and Section 504 of the Federal Rehabilitation Act of 1973 prohibit discrimination on the grounds of race, color, national origin, or disability in the administration of any program for which Federal funds are received. Strict compliance with the provisions of these Acts and any regulations based thereon is required as a condition of eligibility to receive Federal funds for assistance programs administered through the county welfare agencies. These principles apply to all public assistance programs in New Jersey.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–7.37 Extent of prohibited discriminatory practices

(a) These prohibited discriminatory practices extend to all county welfare board offices.

(b) Prohibited discriminatory practices extend to services purchased otherwise obtained by the county welfare board from other agencies, organizations and institutions for beneficiaries of the program, and to the treatment of clients in facilities in which such services are provided.

1. In case of medical emergencies, the county welfare board is authorized to utilize the services of any medical institution for the duration of the emergency, even though such institution refuses or fails to comply with the requirements prohibiting discriminatory actions. Both the following conditions must exist:

i. The emergency must be such that the immediate provision of services or other benefits to an individual is necessary to prevent his/her death or serious impairment of his/her health; and

ii. Such services or other benefits are not immediately available from any other medical institution.

10:81–7.38 Procedures affecting county welfare agencies

(a) Notification to vendors: The CWA shall establish procedures to ensure that all vendors to whom payment is being made, other than medical services, will receive on an annual basis a copy of Form WD–1A, A Statement Concerning Obligations of Vendors.

1. A record of those vendors who have received this form, with the date of mailing, shall be maintained by the county welfare agency.

(b) Rules concerning the assurance of compliance by vendors are:

1. All official invoice forms of the county welfare agency shall contain the following statement directly above the vendor's signature:

i. "Services are provided to all recipients without regard to race, color, national origin, sex, marital, parental or birth status, or disability."

2. The county welfare agency, in the course of regular work activities, will seek information concerning compliance and will instruct staff to be alert to discover instances of discrimination on the part of physicians, dentists, optometrists, pharmacists, opticians, podiatrists, and other individual vendors in New Jersey, who receive payment for services directly from the county welfare agency or from the Division of Medical Assistance and Health Services on behalf of public assistance recipients.

3. Any evidence of discrimination by the vendors described in (b)2 above which comes to the attention of the county welfare agency shall be reported immediately to the Director, Division of Public Welfare.

(c) Information to staff: The county welfare agency shall inform all staff members of their obligations in regard to Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This shall be accomplished by:

1. Furnishing each new employee a copy of Form WD–1B;

2. Inclusion of all relevant material in any manuals or other documents developed by the county welfare agency for dissemination in the same manner as other agency policies; and

3. Discussion at training and orientation sessions.

(d) Information to applicants: All persons seeking public assistance administered by the county welfare agency shall be informed of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. This shall be accomplished by the county welfare agency by attaching to the appropriate application form a copy of Form PA–197, Your Rights and Responsibilities.

(e) Complaint procedure rules are:

1. All persons seeking or receiving public assistance shall be afforded an opportunity to file a complaint alleging discrimination on the grounds of race, color, national origin, or disability. Such complaints may be filed directly with the Regional Director, U.S. Department of Health and Human Services, Federal Building, 26 Federal Plaza, New York, New York 10007, or with the Director, Division of Public Welfare, Department of Human Services, CN 716, Trenton, New Jersey 08625.

2. In any instance where a complaint is filed with a State or local agency, it shall be forwarded immediately to the Director, Division of Public Welfare. The Director, Division of Public Welfare, upon receipt of any such complaint, will take whatever action he/she deems appropriate to the situation. This action may include, but is not limited to, the securing of reports from whatever sources may have knowledge pertinent to the situation, and referral to the Division on Civil Rights of the New Jersey Department of Law and Public Safety for investigation, evaluation and recommendations by that agency.

3. The county welfare agencies shall afford full cooperation in the investigation of complaints of discrimination as may be requested by the Federal Department of Health and Human Services; the Director, State Division of Public Welfare; the Director State Division of Medical Assistance and Health Services; and the Division on Civil Rights, New Jersey Department of Law and Public Safety.

4. The Director, Division of Public Welfare, shall be responsible for all final determinations as to whether or not the fact of discrimination has been established and all final decisions as to the disposition of the complaint. In arriving at such determinations, he/she shall take into consideration relevant decisions or actions on the part of a court or government agency.

5. Each CWA shall comply with the decision of the Director, State Division of Public Welfare, on any complaint of discrimination, including the imposition of disciplinary action as found necessary and reasonable in the case of a staff member.

6. It is the responsibility of the county welfare agency to reproduce sufficient quantities of the above-mentioned forms (i.e., WD–1A, A Statement Concerning Obligations of Vendors; WD–1B, A Statement Concerning Obligations of Personnel and Public Welfare Agencies) to meet its needs for continuing compliance with the requirements of this section.

Amended by R.1979 d.278, effective September 1, 1979.
See: 11 N.J.R. 280(b), 11 N.J.R. 383(b).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
This section substantially amended.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–7.39 (Reserved)

R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
Section repealed.

10:81–7.40 Fraudulent receipt of assistance

(a) To protect the assistance agency and the public, it is essential to exercise appropriate controls against the commission of fraud.

(b) A person is presumed innocent until convicted. Therefore, in any receiving case, except as provided in the following paragraph, assistance shall be continued to an eligible person, even though there is reason to suspect that fraud has been committed, while the facts are under review by the agency or the law enforcement authority.

(c) Resolution of the question of possible fraud requires the cooperation of the recipient to protect his/her own interest; therefore, a recipient's failure or refusal to cooperate in the investigation would be grounds for suspending assistance pending resolution of the issue. If during the investigation of an application for assistance, substantial evidence of fraud appears, disposition of the application shall be deferred pending resolution of the issue.

(d) Statutory authority regarding the identification and treatment of assistance fraud may be found in New Jersey Statutes Annotated, as follows:

1. N.J.S.A. 2C:20–4, Theft by Deception;

2. N.J.S.A. 2C:21–1a, Forgery;

3. N.J.S.A. 2C:21–3b, Offering a False Instrument for Filing;

4. N.J.S.A. 2C:28–2, False Swearing;

5. N.J.S.A. 2C:28–3, Unsworn Falsification to Authorities; and

6. N.J.S.A. 2C:28–7, Tampering with Public Records or Information.

As amended, R.1977 d.9, effective March 1, 1977.
See: 8 N.J.R. 230(a), 9 N.J.R. 90(b).
Amended by R.1988 d.310, effective July 5, 1988.
See: 20 N.J.R. 722(b), 20 N.J.R. 1559(a).
(d) has been revised to comport with the current New Jersey Code of Criminal Justice.

Case Notes

See Marlin v. McCorkle, 117 N.J.Super. 465, 285 A.2d 73 (App.Div. 1971) (decided on statutory grounds).

See J.A. v. Riti, 377 F.Supp. 1046 (D.N.J.1974) (decided on statutory grounds).

10:81–7.41 Criteria for identifying cases of possible fraud

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

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

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

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

(b) The evidence to establish these points must be factual and capable of being demonstrated in a court of law through the testimony of witnesses or by documentary evidence. Since fraud is subject to criminal action, it must be proved beyond a reasonable doubt.

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

10:81–7.42 County welfare agency responsibility; administration plan

(a) The role of the county welfare agency is limited to responsibility for determining whether there is basis in fact for believing that fraud may have been committed, so that referral to the county prosecutor or other proper law enforcement official for legal action is justified. The action taken by the law enforcement official following referral determines what further legal action shall be pursued. Whether fraud has actually occurred is a question for the court.

1. The CWA director may utilize the power of subpoena given him/her by N.J.S.A. 44:7–20 to secure testimony and records pertinent to the investigation and needed to determine true facts.

(b) Each CWB shall develop an operational method to carry out its responsibility which is best suited to its administrative structure and to local conditions and resources. There must be clear allocation of duties and functions in the total process of investigation, reporting, evaluation, decision to refer, and so forth. In respect to the function of investigation, the county welfare board may select one or a combination of the following plans:

1. Cooperative arrangements with other county agencies:

i. The county welfare board may arrange for special investigation of cases of suspected fraud by another appropriate agency or official, such as, office of the county adjustor, the probation department or the office of the county prosecutor, without cost to CWB.

2. Special staff investigator:

i. The county welfare board may appoint to staff a "special investigator(s)" whose duty will be to give special attention to case situations involving suspicion of fraud (and other related situations requiring special investigation skills), to prepare the necessary reports, and to function in a liaison capacity for the director and welfare board to the law enforcement authorities. Such special investigator(s) will have no law enforcement authority and will not engage in activity which is properly the responsibility of the IM worker.

3. Staff function:

i. The CWB may elect to have staff carry the responsibility for the necessary special investigation in instances of suspected fraud, relying upon consideration with CWB counsel for the technical aspects of establishing adequate evidence on which to base a decision.

4. Whatever administrative plan is adopted, there will be instances where discussion should be arranged with welfare board counsel and/or the county prosecutor's office as to the nature and conduct of the investigation.

(c) The CWB shall file with the State division a detailed description of the administrative plan, and shall advise the division of any subsequent proposed change in the plan before it becomes effective.

As amended, R.1977 d.9, effective March 1, 1977.
See: 8 N.J.R. 230(a), 9 N.J.R. 90(b).

10:81–7.43 Referral to law enforcement authorities

When the investigation of any case of suspected fraud is completed, the director of the CWB, in consultation with counsel, shall be responsible for determining whether the matter should be referred to the county prosecutor or other proper law enforcement official.

10:81–7.44 Reports on cases involving fraudulent receipt of assistance

(a) In cases where the county welfare agency has completed an investigation based upon a belief that fraud has been committed, a report (Form PA–33, Investigation Initiation Sheet) shall be routed through the CWA director to the assistance investigations unit of the Division of Public Welfare. The form shall be completed when the county welfare agency determines that no fraud exists, when the case is disposed of through administrative action, or when the case is forwarded to the county prosecutor.

(b) Upon disposition of the case by law enforcement officials (county prosecutor or municipal court), a subsequent report (Form PA–34, Investigation Disposition Sheet) shall be completed and routed through the CWA director to the assistance investigations unit of the Division of Public Welfare.

As amended, R.1977 d.9, effective March 1, 1977.
See: 8 N.J.R. 230(a), 9 N.J.R. 90(b).
As amended, R.1977 d.230, effective July 1, 1977.
See: 9 N.J.R. 233(a), 9 N.J.R. 370(d).

10:81–7.45 Recovery of assistance paid

(a) In every fraud case, in addition to any criminal prosecution, recovery of the assistance illegally obtained may be sought. The threat of prosecution should not be used as a means of effecting recovery; nor should the fact of a recovery affect the CWA decision concerning proper referral to the prosecutor. However, any recovery, or plan for recovery, should be reported to the prosecutor whenever such a referral has been made.

(b) The provisions of subsection (a) of this section are not intended to limit the responsibility and obligation of the CWA to seek recovery, through voluntary agreement or civil action, of funds improperly received by a client under circumstances other than fraud.

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

Case Notes

Terry v. Harris, 175 N.J.Super. 482, 499 (Law Div.1980).

10:81–7.46 Reporting criminal offenses to law enforcement authorities

(a) Investigation of new applications or investigations for redetermination of eligibility may indicate to the county welfare agency that a crime may have been committed. Allegations of the suspected commission of a crime may also be made known to the county welfare agency through various other sources, for example, phone calls, written communications, verbal communications from individuals, and so forth. In matters of reporting of criminal offenses,

the county welfare agency must, at all times, maintain full compliance with the provisions of N.J.A.C. 10:81–7.31, dealing with basic principles for safeguarding of information.

(b) Nature of offenses which must be reported are:

1. To local authorities:

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

ii. In order to afford protection to children, certain other crimes and abuses must also be reported to the proper authorities;

2. To Federal authorities: Knowledge of the actual commission of a Federal felony, unless disclosure of such information is prohibited by law. (Refer to legal counsel for identification of Federal felonies.)

(c) Procedures: When the county welfare agency becomes aware of facts that would indicate that one of the above mentioned crimes has been or may have been committed or receives a direct allegation in any form, written, verbal or anonymous, that such a crime has been committed, it shall proceed as follows:

1. The director shall personally, and in collaboration with counsel, review whatever facts and circumstances are immediately available in order to determine whether there is suspicion that a crime was committed.

2. If the director is satisfied that there is evidence to support an investigation as to whether a crime has been committed, he or she shall, after consultation with counsel, report the matter to the county prosecutor, or to a local police department or to the State Police if so directed by the office of the prosecutor. If such matter involves suspected child abuse or neglect, it shall also be reported to the social service unit which shall contact the Division of Youth and Family Services. (see N.J.A.C. 10:81–3.12(e).)

3. When a decision has been made to report the alleged or suspected commission of the crime, such report shall be made in written form to the appropriate law enforcement agency.

4. The county welfare agency shall cooperate fully with any subsequent investigation initiated by the law enforcement agency, within the limits of the policy and regulations of the Division of Public Welfare. A county welfare agency staff member may sign a written complaint only upon a written request from the law enforcement agency, provided his or her information of the facts to be stated in such complaint is based upon his or her own personal knowledge and belief.

As amended, R.1976 d.137, effective June 1, 1976.
See: 8 N.J.R. 194(b), 8 N.J.R. 286(d).
As amended, R.1977 d.332, effective October 1, 1977.
See: 9 N.J.R. 340(c), 9 N.J.R. 479(a).
As amended, R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).
"board" changed to "agency".
Amended by R.1987 d.449, effective November 2, 1987.
See: 19 N.J.R. 1389(a), 19 N.J.R. 2056(a).

10:81–7.47 Rights of individual under investigation

(a) The CWA shall insure that an individual under investigation shall have the following rights:

1. Right to confidentiality: The agency shall insure that information obtained from or concerning a person under investigation shall be restricted in accordance with N.J.A.C. 10:81–7.31 through 35. The agency shall take special precautions in obtaining information from a third party so that no accusations relevant to the alleged fraud are disclosed, including the reason for the investigation or the nature of the allegation, without the written consent of the individual under investigation.

2. Preservation of civil liberties: The agency shall insure that investigative methods do not infringe on the civil liberties of the individual or interfere with due process of law. The 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. Warning and waiver of rights:

i. When the questioning of an individual regarding a possible charge of fraud becomes accusatory in nature, the investigator shall read and explain the contents of Form PA–45, Warning and Waiver of Rights, to the individual, explaining his/her right to refrain from answering any question and/or to terminate the interview at will, regardless of the fact that the waiver of rights statement has been signed;

ii. The investigator shall ask that the individual sign the waiver of rights statement on Form PA–45, indicating that he/she understands his/her rights and agrees to discuss the matter without the presence of an attorney. The investigator 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 questioning shall occur at this time. If the individual requests the presence of an attorney, he/she shall make such arrangements before any subsequent interview. However, the investigation shall not be delayed pending an interview.

iv. The individual shall be advised of the opportunity, where available, to obtain legal counsel through Legal Services, Legal Aid Society, lawyer referral service or the Office of the Public Defender.

R.1977 d.9, effective March 1, 1977.
See: 8 N.J.R. 230(a), 9 N.J.R. 90(b).
As amended, R.1984 d.227, effective June 18, 1984.
See: 16 N.J.R. 826(a), 16 N.J.R. 1599(b).

SUBCHAPTER 8. OTHER GOVERNMENTAL PROGRAMS

Authority

N.J.S.A. 44:7–6 and 44:10–3.

Source and Effective Date

R.1984 d.238, effective June 4, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).

Cross References

Other related assistance programs, see N.J.A.C. 10:81–1.12.

10:81–8.1 Retirement, Survivors and Disability Insurance

(a) Retirement, Survivors and Disability Insurance (RSDI) is a Federal program administered by the Social Security Administration (SSA) which provides protection to workers and their families against loss or stoppage of earnings resulting from retirement at age 62 or older, death and disability. The possibility of entitlement to Social Security benefits must be explored with every applicant and recipient.

(b) Substantially all workers and self-employed persons, including military servicemen, are now protected by Social Security coverage or are under another governmental retirement system (Civil Service or Railroad Retirement).

(c) Since Social Security benefits are an available resource, a recipient or applicant who has potential eligibility for such benefits, even at a "reduced" rate, shall apply for them.

10:81–8.2 Procedures for securing information from the Social Security Administration

(a) County welfare agencies (CWAs) are required to use the Automated Benefit Information Exchange (ABIE)/Beneficiary Earnings and Data Exchange (BENDEX) and the State Data Exchange (SDX) as the primary source of verification of Social Security (RSDI) and Supplemental Security Income (SSI) benefit information.

(b) The Third Party Query System (TPQY) is to be used to obtain RSDI and SSI data for AFDC applicants and recipients when ABIE/BENDEX and SDX information is not available.

1. Specific procedures for obtaining TPQY information through use of mark sense cards are to be developed by CWAs in conjunction with the local Social Security Administration District Office (SSA/DO).

2. TPQY mark sense cards are to be prepared in accordance with the Social Security Administration (SSA) Program Operations Manual System (POMS) Part 8 Chapter 108.

3. Requests for information through TPQY will generally be processed by SSA within 10 working days. Nonreceipt of any information may necessitate resubmission of the TPQY mark sense card or follow-up action using Form SSA 1610–U2.

(c) The TPQY may be supplemented through use of Form SSA–1610–U2 (Social Security–Public Assistance Agency Request for Information) for the following reasons:

1. To resolve conflicts between other evidence and data shown in the ABIE/BENDEX, SDX and TPQY files, for example, an identification problem; or

2. To secure retroactive historical data not provided by the TPQY.

3. Additional written or telephone requests for previously submitted SSA 1610–U2 information will not be accepted by SSA unless they fall within the categories described in (c)1 or 2 above or involve emergency situations.

As amended, R.1984 d.238, effective June 18, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).
Section substantially amended.
Repealed and new rule by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Administrative Correction in (c)3.
See: 24 N.J.R. 466(b).
Corrected internal cross reference.

10:81–8.3 Release of information by welfare boards

(a) When the Social Security Administration requests information to assist in determining an applicant's eligibility for any benefits, the county welfare board is authorized to release such information from its records.

(b) Medical information when requested, exact copies of reports, abstracts of hospital or clinic records, and so forth, shall be provided since this information will be used by professional medical personnel in determining disability status for disability benefits.

10:81–8.4 (Reserved)

As amended, R.1982 d.90, effective April 5, 1982.
See: 13 N.J.R. 925(a), 14 N.J.R. 344(a).
Repealed rule concerning "lump sum death benefits".

10:81–8.5 Entitlement of illegitimate child

(a) An illegitimate child may be entitled to RSDI benefits based on the earnings record of the natural mother or natural father subject to the following conditions and proofs.

(b) In New Jersey an illegitimate child has the requisite status for entitlement to RSDI benefits based upon the earnings record of the mother without meeting any special requirements beyond proof of the relationship.

(c) In New Jersey an illegitimate child may be entitled to RSDI benefits based upon the earnings record of the natural father under any of the following circumstances:

1. When the wage earner is the natural father and marries the mother and the child is thereby legitimated.

2. When the wage earner has acknowledged in writing that the child is his. The acknowledgement need not be in any special form, but must identify the child in question and further identify such child as his own. Examples of an acceptable written statement include income tax return, a serviceman's application for allotment, a will, an application for insurance or a letter:

i. The written statement should be signed by the wage earner, but an unsigned statement may have value if there is evidence that it was prepared by the wage earner.

3. When the wage earner has been determined to be the father under the provisions of Revised Statutes, Title 9, Chapters 16 or 17, or he has been ordered to contribute to the support of the child on the basis of a determination that such child is his, at a point in time which is:

i. Not less than one year before the time he became entitled to retirement benefits or attained age 65, whichever is earlier; or

ii. Before the beginning of his most recent period of disability on which his claim for disability benefits is based; or

iii. Before his death.

4. The adjudication of paternity or order of support must identify the child in question and further identify such child as the son or daughter of the wage earner. The amount directed to be paid for the support of the child, or whether support payments are actually made, is immaterial.

5. When there is satisfactory evidence of paternity and the natural father was living with or contributing to the support of the child as of the time:

i. The natural father became entitled to retirement benefits or attained age 65, whichever is earlier; or

ii. The natural father's most recent period of disability began; or

iii. The natural father died.

6. Under the conditions of this subsection "satisfactory evidence of paternity" is the existence of a written acknowledgement, an adjudication of paternity or an order of support regardless of the time the action occurred.

10:81–8.6 Division of Employment Services

(a) The Division of Employment Services within the State Department of Labor and Industry is responsible for the administration of the Unemployment Insurance and Temporary Disability Benefits programs, and for the operation of the State Employment Service.

(b) The Division maintains local offices and provides itinerant services at necessary points, which vary from time to time with economic conditions, on specified days or during specified seasons of the year. The county welfare agency may obtain copies of a published list of the local and itinerant offices from the Division of Employment Services, John Fitch Plaza, Trenton, New Jersey 08625.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–8.7 Unemployment insurance and temporary disability benefits

(a) It is essential that the county welfare board staffs familiarize themselves with the general rules of eligibility for receipt of unemployment insurance and temporary disability benefits, payment provisions and duration of weekly payments for persons who have been engaged in "covered" employment.

(b) Eligibility for assistance in relation to benefits:

1. Refusal to apply for benefits:

i. A person who appears to be eligible for either unemployment insurance or temporary disability benefits and who refuses or neglects to apply for such benefits is ineligible to receive assistance.

2. In determination of eligibility for assistance, or continued assistance, unemployment insurance and temporary disability benefits shall be considered as a resource.

(c) Verification of status of claim for unemployment insurance.

1. Claims for unemployment insurance benefits are filed at the appropriate local office of the State Employment Service.

2. It should be possible for the agency to secure from the client all the necessary information about his/her eligibility for and receipt of unemployment insurance benefits.

3. When a client cannot provide the information and fails in his or her efforts to secure it himself or herself, or there is reason to believe that the client is furnishing inaccurate or incomplete information, the agency shall request the necessary data from the Division of Public Welfare, Integrity Control Section.

(d) Verification of status of claim for temporary disability benefits:

1. Unlike claimants for unemployment insurance benefits, persons who have filed for temporary disability are not provided with proof of application for benefits. However, they receive an Entitlement Statement from Disability Insurance Service.

2. It is the responsibility of the client to notify the agency of the status of his/her claim for benefits. The agency shall inquire from him/her whether he/she is covered under private plan, or State plan. If the client has not notified the agency of action on his/her claim prior to issuance of the second assistance payment, the agency shall make further inquiry of him/her before releasing the payment.

3. If the client still has not received payment, or notice of ineligibility for benefits for a claim made under the private plan, a direct inquiry in writing shall be sent to the employer. If filed under the State plan, inquiry shall be made to the Division of Public Welfare, Integrity Control Section, through use of Form PA–24. In such instances assistance shall be continued until receipt of a reply, and further appropriate action taken when the reply is received.

As amended, R.1976 d.373, effective November 23, 1976.
See: 8 N.J.R. 229(c), 8 N.J.R. 558(d).
As amended, R.1984 d.238, effective June 18, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).
"Public Welfare, Integrity Control Section" added.

10:81–8.8 Function of State Employment Service

(a) Types of service available from State Employment Service:

1. The local offices of the State Employment Service have information about many local job opportunities.

2. An important two-fold function of the New Jersey State Employment Service is to help unemployed persons who register for work to find a job suitable to their training and experience, and at the same time to help employers to fill job openings by referring persons who appear to meet the qualifications of specific jobs.

3. An additional service offered by the New Jersey State Employment Service is that of counseling with persons and testing for occupational skills of persons with disabilities or other problems which affect employability.

4. Persons who have filed claim for unemployment insurance benefits are automatically registered for employment. Registration for these persons is continued by the New Jersey State Employment Service until the person secures employment or until the end of the benefit payment period. If the person has not secured employment by the end of his/her benefit payment period, it is necessary for him/her to renew registration for employment in order to continue to receive referrals for job openings for which he/she may be qualified.

(b) The recipient(s) who registers for employment is given a card (Form NJES 506) showing the date of his/her registration. The agency shall ask the recipient(s) to show this card as verification that he/she has registered for employment and record the number thereof.

10:81–8.9 Functions of the Department of Veteran Affairs

(a) The Department of Veteran Affairs operates the Federal program of benefit payments and health and welfare services to veterans and to certain of their dependents or survivors. To be eligible for these benefits and services the veteran, serving in either war or peacetime service, shall have been released with other than a dishonorable discharge.

(b) Exploration of veterans benefits condition of eligibility for public assistance provisions are as follows:

1. Veterans benefits are a resource for a number of public assistance clients, and shall be carefully explored in the process of determining need.

2. In the case of a person who is a veteran (or a dependent or survivor of a veteran) and presumptively eligible for any form of veterans benefits, it shall be required as a condition of eligibility for public assistance that application for such benefits be made and fully processed.

i. The exceptions to this requirement are certain persons who had been receiving Veterans Administration (VA) pensions prior to December 1978 and elected to continue receiving "lower" pension amounts in order to retain AFDC and Medicaid eligibility. Those individuals shall not, as a condition of eligibility for AFDC, be required to apply for "improved" or higher pension amounts to which they may be entitled.

(c) Information concerning eligibility for benefits and services may be obtained from the following sources:

1. The details of all benefits and services are outlined in fact sheets issued by the Department of Veteran Affairs.

2. The New Jersey Bureau of Veterans Services, Department of Military and Veterans Affairs, maintains service offices to which persons seeking information or wishing to file for veterans benefits or services may be referred. The Department of Military and Veterans Affairs can be reached by calling 1–800–624–0508. That agency can provide the addresses of the local Veterans Service Office.

As amended, R.1984 d.238, effective June 18, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).
"Human Services" was "Institutions and Agencies".
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Department of Veteran Affairs added, Human Services deleted, as source of benefit information.

10:81–8.10 Municipal welfare departments (general assistance)

(a) In New Jersey the administration of general assistance is a municipal responsibility. The term "municipality" includes city, borough, township, town and village. It is the legal responsibility of the municipal governing body to appoint a local assistance board, which in turn is responsible for appointing a director of welfare as its chief executive officer in the administration of general assistance.

(b) The Division of Public Welfare is the State agency responsible for the supervision of the general assistance program and for the administration of State aid to municipalities for public assistance.

(c) The law provides for State aid, under certain conditions, to reimburse a municipality for 75 per cent of assistance expenditures. Municipalities receiving State aid assume the obligation to administer general assistance in accordance with the regulations and standards issued by the State Division of Public Welfare.

10:81–8.11 Requirement for general assistance

(a) Economic need is the only eligibility requirement for general assistance. According to law every needy person residing in this State, who is not otherwise provided for under the law of the State, is entitled to receive general assistance.

(b) Since the law provides for financial assistance to certain needy families through the AFDC program, applicants who appear to be eligible for AFDC must be referred to the appropriate county welfare agency.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–8.12 Methods for providing general assistance

(a) The local assistance board with the approval of its governing body is permitted to determine the method by which general assistance shall be provided. Various methods are currently used by municipalities:

1. Cash in form of a check payable to the client and covering his/her total needs;

2. A combination of cash payment to client and vendor payments for certain items; or

3. Voucher payments (relief orders) to both clients and vendors.

10:81–8.13 Referral by CWA to municipal welfare department

(a) It is the responsibility of the county welfare board staff to inform clients and members of their immediate families of the availability of general assistance, and where and how to apply, in the following situations:

1. During an initial contact, the person does not file an application because it appears that he/she cannot qualify for a program administered by the county welfare board but he/she states he/she is in economic need.

2. A recipient becomes ineligible for continued assistance from the county welfare board for some technical reason even though he/she continues to be in need. However, a recipient who becomes ineligible for such assistance because of refusal to comply with a program requirement is not eligible for general assistance and shall not be referred to a municipal welfare department.

3. Members of an applicant's or recipient's immediate family lack resources to meet their share of expenses in the household, are not themselves eligible for a program administered by the county welfare board, and cannot be included in the client's assistance budget.

4. An individual or family is financially ineligible for a program administered by the county welfare board but there is an indication that assistance may be required in meeting excessive costs of medical care.

(b) Methods of referral from CWA are:

1. Direct referrals to municipal welfare departments shall be made by use of Form PA–14, Referral for Services. The form is to be reproduced by the CWAs.

2. If the person(s) being referred is a recipient of assistance or a member of such a client's immediate family, prepare Form PA–14 in triplicate. One copy shall be given to the client or person to present to the municipal welfare official in the municipality where he/she is currently living; one copy shall be mailed directly to the municipal welfare official; the third copy shall be retained for the county welfare board files and follow up control as necessary:

i. Consult directory of local agencies issued by State Division to identify appropriate municipal welfare departments or other official responsible for welfare.

3. When the person wishing to apply for general assistance is other than a recipient or member of the immediate family, the county welfare board shall instruct the person how and where to apply for general assistance, but shall not make formal referral by use of Form PA–14.

As amended, R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).

10:81–8.14 Responsibility of municipal welfare department receiving referral assistance

The municipal welfare department will complete the PA–14 as appropriate to the situation and return it to the county welfare agency.

As amended, R.1984 d.238, effective June 18, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).
Deleted "the 'the tear sheet' portion of".

10:81–8.15 Medical assistance (Medicaid)

(a) The New Jersey Medical Assistance and Health Services Program is a State program with Federal participation. It is designed to make payments to providers for medical care and services on behalf of certain individuals whose resources are determined to be inadequate to enable them to secure quality medical care at their own expense.

(b) Payments of medical assistance are authorized for the following health services:

1. Inpatient hospital services;
2. Outpatient hospital services;
3. Clinic services;
4. Laboratory and X-ray services;
5. Skilled nursing home services;
6. Physicians' services;
7. Certain other practitioners' services;
8. Home health care service;
9. Dental services;
10. Pharmaceutical services;
11. Prosthetic devices and appliances; medical supplies and equipment;
12. Whole blood;
13. Preventive and rehabilitative services;
14. Transportation for medical care;
15. Intermediate care facilities;
16. Early periodic screening diagnosis and treatment;
17. Family planning.

(c) In addition to the services listed in (b) above and subject to the limitations imposed by Federal law, the medical assistance program may also include any other medical care and any other type of remedial care recognized under State law, specified by the Secretary of the Federal Department of Health and Human Services, and approved by the Commissioner of the Department of Human Services.

As amended, R.1984 d.238, effective June 18, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).
Added "Human Services".

10:81–8.16 Administrative organization

(a) Department of Human Services: The Department of Human Services is the administrative unit of State government which has the responsibility for the medical assistance program and is designated under Federal law as the "single State agency".

(b) The Division of Medical Assistance and Health Services is the administrative unit of the Department responsible for the general policies governing administration of medical assistance, and for effecting the issuance of rules, regulations and administrative bulletins to implement statutory provisions and to coordinate the administration of medical assistance with the public welfare program. The Division of Medical Assistance provides for the payment of claims, evaluates health services rendered under the program, maintains administrative liaison with the other Departmental divisions, and provides a professional medical and paramedical staff.

(c) Medicaid District Offices (MDO): The Division of Medical Assistance and Health Services has local medical offices throughout the State. The role of these offices is to provide liaison with providers of health services; provide information about Medicaid to recipients and members of the community; and provide information about Medicaid to, and cooperate with, appropriate agencies in order to ensure maximum utilization of the services available through the Medicaid program.

(d) Any questions with respect to the policy, regulations or procedures of the Medicaid program should be directed to the Division of Medical Assistance and Health Services. That Division can provide the address of the local Medicaid District Office (MDO).

As amended, R.1984 d.238, effective June 18, 1984.
See: 16 N.J.R. 679(a), 16 N.J.R. 1603(a).
Section substantially amended.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Addresses changed.

10:81–8.17 Manner of payment

Payments of authorized health services will be made by the Division of Medical Assistance and Health Services or as provided in existing contracts with the Hospital Services Plan of New Jersey and the Prudential Insurance Company of America.

10:81–8.18 (Reserved)

As amended, R.1976 d.97, effective March 30, 1976.
See: 8 N.J.R. 231(a).

10:81–8.19 Certification relative to eligibility

(a) When eligibility for medical assistance has been determined, the county welfare board will immediately provide the client with Form MAP–16, Temporary Identification and Validation of Eligibility, and will complete and process

a Medicaid Status File Transaction, Form MAP–1, within ten working days from date of such determination.

(b) Continuing eligibility for medical assistance:

1. Each month the county welfare board will issue to each person or family currently eligible for medical assistance a validation of such eligibility. The validation shall be issued at the time of the monthly assistance payment, shall be in a form approved by the Division of Medical Assistance and Health Services, and shall be valid for the period covered by the assistance payment.

2. Eligibility of any person for medical assistance shall be redetermined at such intervals and in such manner as prescribed for the program upon which such person's eligibility for medical assistance is based.

3. A special redetermination of a person's eligibility shall be made when information is received indicating a change in circumstances which may effect continuing eligibility.

(c) When it is determined that eligibility for medical assistance has been subject to a change in status, the county welfare board shall take proper action as provided in the Medicaid status file instruction manual by submitting a MAP–1 within ten working days of such determination.

10:81–8.20 Eligible medical institutions for purposes of reimbursement

(a) For purposes of reimbursement, an "eligible medical institution" in New Jersey is a total facility, or a designated part thereof, which meets the standards as set forth by the Division of Medical Assistance and Health Services. These include the following:

1. Hospital—general or special;
2. Skilled nursing home;
3. Public psychiatric or tuberculosis hospital;
4. Certified section of State operated institution for the mentally retarded;
5. Intermediate care facility.

(b) An "eligible medical institution" outside New Jersey is a public or voluntary medical institution which is licensed, certified or approved by the proper authority of the jurisdiction in which the institution is located, so that the costs of care and services provided therein may be paid. Evidence of such license, certification or approval shall be obtained from the Department of Welfare or similar authority of the jurisdiction.

(c) An amount of $25.00 plus the gross amount of additional income derived from work that is considered essential toward satisfying the individual's developmental need to achieve a certain degree of independence shall be exempt from income available for payment to the facility. The combined total exemption may not exceed the individual's pro rata share of the appropriate AFDC allowance standard.

Amended by R.1980 d.188, effective May 1, 1980.
See: 12 N.J.R. 190(b), 12 N.J.R. 322(c).
Added subsection (c).

10:81–8.21 Function of Division of Vocational Rehabilitation Services

(a) The function of the Division of Vocational Rehabilitation Services Commission is to provide services to needy and disabled residents of the State, other than those visually disabled, in order that such individuals will be afforded the opportunity to reach the highest possible level of independent functioning through the cure, correction or amelioration of their disabling condition.

(b) In order to promote effective interagency cooperation, the Division of Economic Assistance and the Division of Vocational Rehabilitation Services have formulated an "Agreement of Cooperation" and a "Supplementary Statement to the Agreement of Cooperation". See appendix B for copies of these documents.

(c) When a client of the county welfare board is receiving service or training through DVRS, it is essential that the county welfare board carefully review the financial factors involved. The "Agreement" and "Supplement" clearly delineate the respective responsibilities of the public assistance agency and DVRS related to the allowances and expenses associated with the program of rehabilitation. The county welfare board should assure itself that there is no duplication of funds, goods or services provided a client by DVRS. In addition, it must also avoid making payment for any expenses related to a rehabilitation program which are properly those DVRS.

Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–8.22 Persons eligible for medical assistance

(a) All children and their parents or needy parent-persons who are eligible for AFDC money payments (-C, -F and -N segments), or no money payments due to the provisions of N.J.A.C. 10:82–11, are eligible for Medicaid benefits. If an eligible unit chooses not to receive a money payment, members are eligible for Medicaid coverage. Medicaid coverage commences with the date that eligibility is established.

1. When a family becomes ineligible for AFDC cash assistance due to the deeming of income from a sibling(s) or stepparent, or the deeming of an alien's sponsor's income and resources, the Medicaid eligibility of the other eligible family members shall be determined without consideration of the deemed income or resources. Any child eligible for AFDC as a result of the provisions of N.J.A.C. 10:82–2.10 shall also be eligible for Medicaid.

2. Medicaid eligibility does not exist for a caretaker relative in cases where, after excluding the child(ren) whose income caused the ineligibility for AFDC, there is no eligible child in the family.

3. When a family is determined financially ineligible for AFDC cash assistance due to deeming of the income of the parent(s) of an adolescent parent in accordance with N.J.A.C. 10:82–3.14, the dependent child(ren) of the adolescent parent shall be or continue to be eligible for AFDC categorically-related Medicaid coverage as long as the family's countable income, excluding the deemed income of the parent(s) of the adolescent parent, is less than the AFDC eligibility standard set forth at N.J.A.C. 10:82–1.2(b), Schedule II, as applicable for the family size. Medicaid eligibility, in such instances, would be limited to the dependent child(ren) of the adolescent parent; the adolescent parent, therefore, would remain ineligible for such Medicaid coverage.

(b) Extension of Medicaid benefits: Extended Medicaid benefits shall be provided former AFDC families in accordance with the provisions of this subsection unless such families fall within the provisions of N.J.A.C. 10:86–11, the Family Development Program, in which case Medicaid eligibility continues for a period of 24 months beginning with the month in which the family is no longer eligible for AFDC.

1. When an AFDC–C, -F or -N family loses eligibility for AFDC (including families deemed to be recipients of AFDC) due to the following reasons, Medicaid eligibility continues for a period of 12 months beginning with the month in which the family is no longer eligible for AFDC:

i. Earnings or increased earnings from employment, including earnings from new employment;

ii. Loss of the $30.00 or one-third disregards of earned income (see N.J.A.C. 10:82–4) because of the time-limited application of those disregards;

iii. Increased hours of employment; or

iv. Receipt of New Jersey state unemployment or temporary disability insurance benefits.

2. New members added to the eligible family during the 12 month extension period, or 24 month FDP extension period, as appropriate, are not included under the extended coverage with the exception of a child born to the family during the 12 or 24 month extension period. For children born during this period, the child and the mother may be eligible for additional coverage if the 60–day post-partum period continues beyond the termination of the extension period applicable to the remainder of the household, or if the child's 12–month guaranteed period of Medicaid eligibility continues beyond that termination date (see N.J.A.C. 10:81–8.22(e)). In either case, Medicaid eligibility terminates at the end of the guaranteed eligibility period, if that termination date is later than the termination date of the 12 or 24 month Medicaid extension.

3. Eligibility for the 12–month Medicaid extension is not available for any month to any individual who, except for income, resources or hours of employment, is not otherwise eligible to receive AFDC. The following individuals shall not be included in the eligible family for Medicaid extension.

i. Any child who reaches the age of 18, or any child who is attending a secondary or vocational school full-time up to the month of graduation or age 19, except that such child shall be evaluated for Medicaid eligibility for other appropriate Medicaid programs; and

ii. All other family members who are receiving Medicaid extension solely because of the presence in the home of a child who "ages out," as in (b)5i, above.

4. When an AFDC–C family loses eligibility for a money payment as a result (wholly or in part) of the collection of child or spousal support through the Child Support and Paternity process, Medicaid eligibility continues for a period of four calendar months beginning with the month in which such ineligibility begins.

i. In order to qualify for this extension of Medicaid benefits, the family must have received and been eligible to receive AFDC–C in at least three of the six months immediately preceding the month in which ineligibility for a money payment begins;

ii. Any child who reaches the age of 18, or any child who is attending a secondary or vocational school full-time up to the month of graduation or age 19, except that such child shall be evaluated for Medicaid eligibility for other appropriate Medicaid programs; and

iii. All other family members who are receiving Medicaid extension solely because of the presence in the home of a child who "ages out," as in (b)5i, above.

(c) AFDC applicants may be eligible for retroactive Medicaid benefits; such determinations are made by DMAHS. The IM worker will ask if the family has unpaid medical bills from the previous three months and will provide the applicant with appropriate forms.

(d) AFDC eligible families which receive no AFDC payments solely because the amount payable would be less than $10.00, are eligible for Medicaid benefits. Likewise, AFDC families which would be ineligible for AFDC solely because of rounding of the amount that would otherwise be payable, are eligible for Medicaid benefits.

(e) For newborns of eligible women who have applied (before or on the date of the birth) and are eligible for Medicaid on the date of birth (except for a presumptively eligible pregnant woman, as defined at N.J.A.C. 10:72–6.1, who is subsequently found ineligible for the month the child was born) eligibility continues for both mother and child through the last day of the month in which the 60–day post-partum period ends, without regard to other program requirements. So long as the mother remains eligible, or would remain eligible if pregnant, and the child resides with her, the child remains eligible for Medicaid for a period of

one year, whether or not application has been made for the child.

(f) Individuals who were admitted to a hospital and were subsequently referred to the CWA through the use of Form PA–1C, Public Assistance Inquiry, may be eligible for Medicaid benefits from the date the PA–1C was completed, provided:

1. Such individual was an inpatient at the time the referral was made;

2. Except for good cause, the individual applies for Medicaid benefits within three months after the referral is made.

i. If the CWA determines that the individual had good cause for not applying within three months, an extension may be granted for an additional three months.

ii. Newborns of eligible women are deemed to have applied and shall be added to the Medicaid case, effective the date of birth, upon receipt of a valid Form PA–1C (see N.J.A.C. 10:81–8.22(e) for coverage limits).

(g) Those cases which are in Medicaid extension only shall also be transferred to the new county of residence when the family moves from the county of origin in the same manner as active AFDC cases. The procedures established at N.J.A.C. 10:81–3.27(b) and the current FAMIS procedural manual are to be followed when transferring a case in Medicaid extension.

R.1976 d.97, effective March 30, 1976.
See: 8 N.J.R. 231(a).
Amended by R.1978 d.140, effective May 1, 1978.
See: 10 N.J.R. 106(c), 10 N.J.R. 225(a).
Amended by R.1979 d.233, effective June 14, 1979.
See: 11 N.J.R. 68(c), 11 N.J.R. 346(d).
Amended by R.1979, d.425, effective November 1, 1979.
See: 11 N.J.R. 447(a), 11 N.J.R. 560(b).
Amended on an emergency basis by R.1981 d.397, effective September 30, 1981, (operative October 1, 1981), expired November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(d) added.
Amended by R.1982 d.357, effective October 18, 1982.
See: 14 N.J.R. 893(a), 14 N.J.R. 1161(c).
The word "termination" was deleted and other terms added.
Amended by R.1982, d.441, effective December 1, 1982.
See: 14 N.J.R. 1168(g), 14 N.J.R. 1459(a).
Originally filed on an emergency amendment (R.1982 d.366) on October 1, 1982.
Readopted as R.1982 d.441.
Medicaid eligibility extended to families otherwise losing AFDC eligibility due to rounding of benefits to the next lower whole dollars.
As amended on emergency basis by R.1984 d.464, effective September 28, 1984 (operative October 1, 1984).
See: 16 N.J.R. 2833(a).
(b) substantially amended.
Readopted, R.1984 d.569, effective December 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
(b)3i(3) added the word "members".
Amended by R.1984 d.618, effective January 21, 1985.
See: 16 N.J.R. 2740(a), 17 N.J.R. 202(a).
(e) added.
Emergency Amendment, R.1987 d.495, effective October 26, 1987 (operative November 1, 1987, expires December 24, 1987).
See: 19 N.J.R. 2206(a).
Substantially amended.
Adopted Concurrent Proposal as R.1988 d.47, effective December 24, 1987.
See: 19 N.J.R. 2206(a), 20 N.J.R. 291(a).
Amended by R.1989 d.448, effective August 21, 1989.
See: 21 N.J.R. 967(a), 21 N.J.R. 2513(a).
"Unit" changed to "family". Eligibility for newborns and continuing eligibility for the mother added.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Deeming specifications added to eligibility determination; Medicaid extension provisions added to exclude specific applicants.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Deleted (b)2, recodifying (b)3 through 6 as (b)2 through 5. In new (b)3–4, updated text. In new (b)5, added new ii-iii.
Amended by R.1991 d.438, effective August 19, 1991.
See: 23 N.J.R. 1657(a), 23 N.J.R. 2542(a).
In (e): added text regarding presumptively eligible pregnant women and program eligibility.
Amended by R.1992 d.36, effective January 21, 1992.
See: 23 N.J.R. 2988(a), 24 N.J.R. 287(b).
In (b), deleted 3; recodified 4 and 5 as 3 and 4.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Medicaid benefits extended for income-ineligible FDP families.
Amended by R.1993 d.519, effective November 1, 1993.
See: 25 N.J.R. 2815(a), 25 N.J.R. 4931(b).

Case Notes

AFDC recipient whose benefits were terminated or suspended for a month in which she received five paychecks is entitled to continued Medicaid assistance. Monmouth Cty. Bd. of Social Services v. A.B., 194 N.J.Super. 4, 475 A.2d 1266 (App.Div.1984).

Alford v. Somerset Cty. Welfare Bd., 158 N.J.Super. 302, 308, 385 A.2d 1275 (App.Div.1978).

Sister's social security not deemed income for brother. Middlesex County Welfare Agency v. J. H., 92 N.J.A.R.2d (DEA) 55.

10:81–8.23 Medicaid Special

(a) An individual under age 21 who does not qualify as a dependent child for AFDC, whether or not he/she lives with his/her parent(s) may be eligible for Medicaid Special even though he/she is not eligible for AFDC and Medicaid coverage under that program. Financial eligibility for Medicaid Special is established when in accordance with N.J.A.C. 10:82 and the provision below, a grant would otherwise be payable (including amounts below $10.00).

(b) When the individual lives in the same household as his or her natural or adoptive parent(s), financial eligibility will in all cases include the parent's(s) income and resources. If applicable, the deemed income of the stepparent shall be included. For the determination of financial eligibility of an individual under the age of 21, he or she shall be considered to be in an eligible family consisting of the applicant, his or her parent(s) and their dependent children.

(c) When an individual does not live with his or her natural or adoptive parent(s), eligibility shall be determined for an eligible family of one, considering only the individual's income and resources (see N.J.A.C. 10:81–8.24(c) regarding LRRs).

1. If the individual is married and living with his or her spouse, they shall be considered an eligible family of two and all income and resources of both parties shall be considered.

i. Medicaid coverage is not extended to a spouse age 21 or older although his or her income must be considered. If the spouse is under 21, both will be included.

2. College students: College attendance is generally construed as a temporary absence from the home and students are considered to be living with their parent(s) even if away from home during the school year. Procedures for those students under age 21 who claim permanent residence elsewhere are given in N.J.A.C. 10:81–8.25.

(d) Rules concerning pregnant women age 21 and over are:

1. Medicaid Special may be provided on behalf of an unborn child when the pregnant mother is age 21 or over and is financially eligible for AFDC–C or -F, regardless of other program requirements.

2. Eligibility is determined for an eligible family of two, or more if a multiple pregnancy (woman and unborn children) based on her income and available resources only, or, if she is married and living with her spouse, on an eligible family of three or more (woman, spouse and unborn children) including income and available resources of both spouses. Medicaid coverage does not include the spouse even though his income is included in the eligibility determination.

i. A pregnant woman with other dependent children should be assisted in making immediate application for AFDC. If she is found ineligible for AFDC, the CWA shall determine eligibility for Medicaid Special on behalf of her unborn child. The eligible family shall consist of the woman, her spouse if present, any dependent child(ren) and the unborn child. All income and resources shall be applied to the appropriate AFDC–C or –F standard but only the woman and the unborn child may be eligible for Medicaid coverage.

(1) Coverage under Medicaid Special begins with the medical determination of pregnancy and ends, for the mother, with the last day of the month in which the 60–day post-partum period expires. So long as the mother remains eligible, or would remain eligible if pregnant, and the child resides with her, the child remains eligible for Medicaid for a period of one year, whether or not application has been made. The child may remain eligible for Medicaid Special in accordance with this subsection or with (b) above; he or she will keep the same case number.

(2) Medical documentation of pregnancy will include the estimated date of conception and delivery date. Cost of the examination to determine pregnancy may be made from the administrative account. The allowable rate of payment for the examination by a specialist in obstetrics and gynecology is $22.00 plus $3.00 for the pregnancy test.

(3) See N.J.A.C. 10:81–3.9(a)5 regarding pending application for AFDC prior to birth of the child.

(e) A pregnant woman under age 21 who is eligible for Medicaid Special in her own right as provided in (b) and (c) above is covered for medical care during pregnancy.

1. If the woman is not covered under those provisions, she may be eligible on behalf of her unborn child as provided in (d) above. In that event, eligibility is determined for an eligible family of two (or three if a spouse is present), and the parents of the expectant mother are evaluated as LRRs.

i. See N.J.A.C. 10:81–3.9 regarding pending application for AFDC prior to birth of the child.

R.1976 d.97, effective March 30, 1976.
See: 8 N.J.R. 231(a).
As amended, R.1979 d.233, effective June 14, 1979.
See: 11 N.J.R. 68(c), 11 N.J.R. 346(d).
As amended, R.1979 d.425, effective November 1, 1979.
See: 11 N.J.R. 447(a), 11 N.J.R. 560(b).
As amended on an emergency basis, R.1981 d.397, effective September 30, 1981, (operative October 1, 1981), expired November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(a): "the income ... or –F" deleted and "(of Chapter 82 ... $10.00)" added.
(b): "parent" was "parent(s)"; "If applicable ... included" added.
As amended, R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Language added concerning eligibility of those under 21 years of age and not eligible for AFDC.
Amended by R.1987 d.455, effective November 15, 1987.
See: 19 N.J.R. 1490(a), 19 N.J.R. 2189(a).
Allowable rate for examination raised from $21.00 to $22.00.
Amended by R.1989 d.448, effective August 21, 1989.
See: 21 N.J.R. 967(a), 21 N.J.R. 2513(a).
"Unit" changed to "family". Eligibility for newborns and continuing eligibility for the mother added.
Amended by R.1991 d.438, effective August 19, 1991.
See: 23 N.J.R. 1657(a), 23 N.J.R. 2542(a).
In (d)2: added multiple pregnancy language.
In (d)2i.(1): Added language regarding Medicaid coverage period for a newborn under Medicaid Special.

Case Notes

Eligibility of children under age 21. Alford v. Somerset Cty. Welfare Bd., 158 N.J.Super. 302, 308, 385 A.2d 1275 (App.Div.1978).

10:81–8.24 Determination of eligibility; Medicaid Special

(a) All appropriate regulations in the Assistance Standards Handbook regarding income shall apply in determin-

ing financial eligibility. Requirements related to the FDP or REACH program, employment or training, school attendance of a child, and the Child Support and Paternity program are not applicable.

(b) Income calculations: Earned income shall be calculated in accordance with AFDC–C and -F procedures found in Chapter 82.

1. General Assistance payments whether in the form of cash, check or assistance order or a combination of the above shall be countable as income for purposes of determining eligibility for Medicaid Special.

(c) Obligations of LRRs who live in the same household as the applicant/recipient are accounted for in the eligibility determination process. No further evaluation or pursuit of contributions from such LRRs is required. Actual contributions from parents outside the household shall be considered in all eligibility determinations but pursuit of non-voluntary contributions from parents outside the household shall be made only by or on behalf of applicant/recipients under the age of 18. Contributions from a spouse outside the household shall be sought in all cases.

(d) Medicaid Special is available only for U.S. citizens or lawfully admitted aliens.

(e) Eligibility for Medicaid Special does not include eligibility for burial expenses nor does the four month extension of Medicaid benefits apply.

R.1976 d.97, effective March 30, 1976.
See: 8 N.J.R. 231(a).
Amended by R.1979 d.233, effective June 14, 1979.
See: 11 N.J.R. 68(c), 11 N.J.R. 346(d).
Amended on an emergency basis by R.1981 d.397, effective September 30, 1981, (operative October 1, 1981), expired November 30, 1981.
See: 13 N.J.R. 759(a).
Readopted, R.1981 d.518, effective December 31, 1981.
See: 13 N.J.R. 759(a), 14 N.J.R. 102(c).
(b): "in sections 211 or 212 ... appropriate" deleted and "found in chapter 82" substituted therefor and "The $30 ... longer than four months" deleted.
Amended by R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Language of deleted and replaced with clarification of obligations of LRRs.
Amended by R.1984 d.239, effective June 18, 1984.
See: 16 N.J.R. 682(a), 16 N.J.R. 1605(a).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a): changed "WIN" reference to "REACH" reference.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Reference to FDP added.

10:81–8.25 College students and Medicaid Special

(a) A student's permanent residence is considered to be with his/her parents even though he/she is temporarily absent to attend college. A student shall be determined "not living with parents" only when the CWA has verified that all of the following conditions exist:

1. The student lives apart from his/her parents for reasons other than convenience of attending school;

2. His/her parents do not provide one-half or more of his/her support; and

3. His/her parents did not claim the student as an exemption on their most recent federal income tax return or they affirm that the student will not be claimed on their next return.

(b) Eligibility shall be determined on a semester basis inclusive of vacations during such semester. When a student is not actually attending college classes during other periods, such as summer vacations or other breaks of one month or more, a separate eligibility determination shall be required based on current circumstances.

(c) Income from all sources shall be applied in determining eligibility of college students not living with his or her parent(s), except that educational loans and grants shall be treated in accordance with N.J.A.C. 10:82–1.7(c). All earnings of the student shall be considered for purposes of Medicaid Special (see N.J.A.C. 10:81–8.24(b)). Resources such as bank accounts, certificates of deposit, stocks and bonds shall be counted as available income. Contributions from LRRs are treated as stated in N.J.A.C. 10:81–8.24(c).

(d) See N.J.A.C. 10:81–8.24 for other factors relating to eligibility.

R.1979 d.233, effective June 14, 1979.
See: 11 N.J.R. 68(c), 11 N.J.R. 346(d).
As amended, R.1982 d.482, effective January 17, 1983.
See: 14 N.J.R. 1078(a), 15 N.J.R. 92(a).
Added N.J.A.C. citation.

SUBCHAPTER 9. DEFINITIONS

Authority

N.J.S.A. 44:7–6 and 44:10–3.

Source and Effective Date

R.1984 d.92, effective March 15, 1984.
See: 16 N.J.R. 206(a), 16 N.J.R. 727(b).

Subchapter Historical Note

See annotations at the section level for amendments.

10:81–9.1 Definitions

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise.

"Adequate notice" means notice of a client of county welfare agency (CWA) decision or action which must state the nature, effective date, factual and legal basis of the decision or action, and the right to a fair hearing.

"Adjusted allowance" means, as used on Form PA–3A or Form 105, the balance remaining when total income of an eligible unit is subtracted from the unit's public assistance allowance.

"Adjusted gross income" means as used on Form PA–3A or Form 105, in self-employment, the net income as determined by subtracting the cost of producing the income from total gross earnings.

"Adverse action" means any action by a CWA resulting in denial of application for medical or financial assistance, suspension, reduction or termination of assistance, including eligibility and benefit level for participation in the Food Stamp Program. The term is also applicable to decisions pertaining to protective and restricted payments and denial of requests for special payments.

"AFDC" means Aid to Families with Dependent Children.

"AFWP" means Assistance to the Families of the Working Poor (State funded program in existence from 7/1/71 to 7/1/77).

"Agency" means the Division of Economic Assistance or county welfare agency, as appropriate.

"Agency decision" means a decision made by the CWA either by executive authority of the director or by the Board itself.

"Aid to Families with Dependent Children (AFDC–C, -F and -N)" means:

1. AFDC–C–families with eligible children deprived of parental support or care by reason of death, continued absence, or physical or mental incapacity of one or both parents.

2. AFDC–F–families with eligible children when both parents are in the home, are not incapacitated and the father meets the Federal definition of unemployment.

3. AFDC–N–families with eligible children when both parents are in the home, are not incapacitated and there is insufficient income or other resources for support of the family.

"Allowance" means the amount of money recognized in the Assistance Standards Handbook for a specific purpose.

"Applicant" means parent or parent-person who applies for financial assistance and whose application has not been officially acted upon by the CWA.

"Application process" means all activity performed by the Income Maintenance Section until there is an official disposition of the application; includes determination of basic eligibility and amount of financial assistance to be provided.

"Approved application" means applicant has been determined to be eligible for assistance.

"Assistance payment" means the money amount authorized and issued by the CWA.

"Authorized representative" means an individual (or organization) whom a client designates orally or in writing to act on his/her behalf; or in cases of incompetency the person designated to act for the client.

"Available resource" means a resource, usually cash, which can be used immediately to meet the needs of an eligible unit.

"BARA" means the Bureau of Administrative Review and Appeal in the Division of Economic Assistance.

"BBS" means the Bureau of Business Services in the Division of Economic Assistance.

"BIC" means Bureau of Integrity Control.

"Boarder, roomer, roomer-boarder" means a person, other than a member of an eligible unit, whose acceptance in the household is a business arrangement based upon payment in cash for board, room, or room and board.

"BQC" means the Bureau of Quality Control in the Division of Economic Assistance.

"BTS" means the Bureau of Transitional Services in the Division of Mental Health and Hospitals.

"Calculated earned income" means amount of earned income remaining after applicable disregards and deductions have been subtracted from total gross earnings. This is the accountable amount to be used in determining the eligible unit's total income.

"Capacity of a legally responsible relative (LRR) to support" means amount of contribution to be anticipated from an LRR.

"Carnegie unit" means the credit given for the successful completion of one year's study in one subject in a secondary school. Four Carnegie units per year represents full time attendance.

"Case record" means the official file of forms, chronological narrative, correspondence and other documents pertinent to the application and eligibility of a client; constitutes a complete record which supports the decisions and actions of the CWA on a case.

"Categorical assistance" means Federal programs including Aid to Families with Dependent Children and Refugee Resettlement Program.

"Categorical program" means a program established by the Federal Social Security Act for the purpose of enabling a state to furnish financial assistance to financially eligible individuals or families who meet specific eligibility requirements.

"CETA" means Comprehensive Employment and Training Act of 1973.

"Child of eligible age" means a child up to the age of 18 and a child up to the age of 19 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training and reasonably expected to complete the program before reaching age 19.

"Client" means an all-inclusive term including an applicant or recipient of assistance.

"Codes" means Central Operation for Data Exchange and Services.

"Collateral investigations" means contacts with individuals other than members of the applicant's immediate household made with the knowledge and consent of the applicant(s).

"County residence" relates only to identification of the CWA charged by law with responsibility for the official receipt, registration and processing of applications, and for making payments to eligible persons; not an eligibility requirement and does not limit the opportunity for any person residing in New Jersey to qualify for assistance.

"CRA" means Cuban Refugee Assistance.

"CSP" means Child Support and Paternity Program.

"Cuban Refugee Assistance Program (CRA)" means a federally-funded program for individuals who left Cuba on or after January 1, 1959 and who meet specified eligibility requirements.

"CWA" means county welfare agency.

"CWA Director" means the County Welfare Agency Director or staff member to whom he/she has delegated specified responsibility.

"Date of eligibility (initial payment)" means, for eligible applicant, the date of the application or as soon thereafter as there is evidence of financial need; or when verification of eligibility has been satisfactorily completed.

"Day care center" means group care for children, usually between 2–5 years of age, which includes supervised educational work and play experiences under the direction of trained personnel. Day care centers that provide care for six or more children are required by law to be licensed and approved by the Division of Youth and Family Services (DYFS).

"Deferred payment" means payment which is held because application is approved prior to date applicant becomes eligible or shows evidence of financial need; issuance must be within 3 calendar months following completion of investigation.

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

"Dependent child" means an eligible child, living in New Jersey with a parent or other enumerated relative.

"Deprivation" means where death, incapacity or continued absence of one or both natural or adoptive parents causes the loss of parental support.

"Desertion" denotes a willful abandonment of duty in violation of a legal obligation; failure to provide support and maintenance or to perform other duties owed to the family members, thus depriving them of care.

"Designated payee" means a person signing the application to whom the check will be issued.

"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 discounted in the AFDC programs according to Federal and/or State regulations.

"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 Economic Assistance" means office within the State Department of Human Services responsible for supervision of the administration of local assistance agencies.

"DMR" means the Division of Mental Retardation.

"DPW" means the Division of Public Welfare.

"DVRS" means the Division of Vocational and Rehabilitation Services.

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

"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 (nursing homes or intermediate care facilities).

"Eligible unit" means those family members who apply for and are eligible to receive public assistance.

"Emancipated" means a child released from the duty to serve and obey his/her parent(s) and having the right to his/her earnings. Emancipation may be expressed or implied from the circumstances.

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

"Emergent situation" means a sudden and urgent occasion calling for immediate financial assistance when the occurrence is one over which the eligible unit had no control or opportunity to plan in advance.

"EPSDT" means Early and Periodic Screening, Diagnosis and Treatment. A program of early and periodic screening, diagnosis and treatment service to assure that all AFDC children are receiving adequate medical supervision.

"Essential person" means a particular member of a household who is required to be in the home on a substantially continuous basis because of the (certified) mental or physical impairment of another member and no other appropriate individual of the household is available.

"Exempt resource" means a resource which is not to be considered in computing extent of need and is not subject to liquidation.

"Fair hearing" means a formal procedure through which a public assistance client may protest an adverse action or decision of the CWA regarding eligibility, amount or manner of granting assistance.

"Family day care" means care for any age child by a day care person usually in his/her own residence. This may also include before or after school care. If care is provided for more than five children (including the caretaker's own children) then the person is required to be licensed by DYFS.

"Family planning" means information, education and/or medical services provided to enable individuals (including minors who are sexually active) to limit their family size voluntarily or to space their children or to prevent or reduce the incidence of unwanted pregnancies.

"Family size" means, in an LRR's household, those persons identified in Section 334.2 of the Assistance Standards Handbook (members of the eligible unit are not included).

"FDP" means Family Development Program. The FDP replaces REACH/JOBS and the General Assistance Employability Program (GAEP) as the education/work/training program for AFDC and GA respectively when a county implements FDP. The FDP is New Jersey's initiative to help public assistance individuals and families overcome barriers to employment to become members of the productive work force employed in full-time unsubsidized jobs with wages and benefits at adequate levels to support themselves and their families.

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

"Financially eligible" means lacking sufficient income and/or resources to maintain the public assistance standard of living.

"FNS" means the Food and Nutrition Service, U.S. Department of Agriculture.

"Food Stamp Program" means a program to increase the food purchasing power of low income households and thus improve the nutritional adequacy of the diets of such families; a joint responsibility of the U.S. Department of Agriculture and the Division of Economic Assistance.

"Form PA–3A" means a worksheet and authorization for public assistance prepared for each eligible unit.

"Form 105" means the computer input form utilized by the CWA in the determination of eligibility and to provide program information for AFDC, Food Stamps and Medicaid Only.

"Formal board action" means action taken at a regular or special meeting of the county welfare board.

"FSP" means the Food Stamp Program.

"GA" means general assistance.

"General assistance" means assistance provided by municipal welfare departments to those needy persons who are not eligible for any program administered by the CWA.

"Gross earned income" means the total earnings of members of the eligible unit before applicable disregards and deductions are subtracted.

"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 eligible unit, through no fault of its members, is imperiled by a substantial loss of shelter.

"IM" means income maintenance.

"Immediate need" means the condition when a family's available resources, at the time of application or before eligibility is established, are less than the appropriate public assistance standard, and applicant is apparently eligible.

"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 the parent's ability to support or care for the otherwise eligible child, which is expected to last for at least 30 days.

"Incompetent (alleged)" means a parent or parent-person evaluated by the CWA as inadequate to manage his/her own affairs, even though not officially identified as mentally incompetent.

"Incompetent (certified)" means certified by a court of law as incompetent.

"Indochinese Refugee Program" means assistance provided to needy individuals who left Vietnam, Cambodia or Laos and entered into the United States on or after April 8, 1975.

"Inquiry" means any request for information about assistance programs which is not a request for application.

"JOBS" means Job Opportunities and Basic Skills Training Program (created by the Family Support Act of 1988, P.L. 100–485) for recipients of Aid to Families with Dependent Children (AFDC) to assist recipients to become self-sufficient by providing needed employment-related activities and support services.

"LMAU" means Local Medical Assistance Unit in the Division of Medical Assistance and Health Services.

"Local agency" means county welfare agency.

"LRR" means legally responsible relative.

"MA" means Medical Assistance (Medicaid).

"MAA" means Medical Assistance for the Aged.

"MAAC" means Medical Assistance for the Aged Continuation.

"Mandatory payroll deductions" mean Federal, State and city withholding taxes; Social Security; unemployment compensation taxes; and garnishments as verified by legal document in possession of the employer.

"Medicaid" means a Federal/State program administered by the Division of Medical Assistance and Health Services providing for payment of claims for and evaluation of health services; eligibility is limited to persons who are receiving or who are eligible to receive AFDC–C, –F, –N or SSI (medical needs of AFDC–N recipients are met solely from State funds).

"Medicaid Only" means provision of medical assistance only to a family or individual eligible for a money payment who chooses to waive such payment, and to certain other persons who meet the SSI criteria for aged, blind or disabled but do not choose to apply for cash benefits.

"Medicaid Special" means Medicaid coverage available to the following individuals on the basis of financial eligibility regardless of other program requirements (for example, REACH, employment, training, CSP, or school attendance): any dependent child under 21 or an independent child under age 21.

"Medicaid Special" means Medicaid coverage available to the following individuals on the basis of financial eligibility regardless of other program requirements (for example, FDP or REACH, employment, training, CSP, or school attendance): any dependent child under 21 or an independent child under age 21.

"Medical Assistance for the Aged Continuation (MAAC)" means a State program for individuals 65 years of age or older who can normally maintain themselves, are not eligible for Medicaid, but who are in need of hospitalization, home health care or long-term care and are unable to meet such costs.

"Money payment" means an assistance check paid to a recipient or his/her authorized payee.

"Monthly amount" means the amount of money required or provided for one month.

"Monthly grant" means the amount of money payment to be made each month to an eligible unit.

"Needy" see "financially eligible".

"Needy person" means a person who lacks sufficient income and resources to maintain the public assistance level of living.

"New application" means a written request for assistance under a specified program from an individual/family who has never previously requested assistance in any county in the State under that program.

"N.J.A.C." means New Jersey Administrative Code.

"NJSES" means the New Jersey State Employment Service, New Jersey Department of Labor.

"Noneligible person" means a person ineligible for county welfare assistance either due to excess resources, age, relationship or for incurring a penalty of ineligibility.

"Official discharge (from an institution)" means legal discharge of a patient from the institution in which he/she has been confined.

"Out-of-wedlock child" means a child born to a mother who is not married to the father of such child.

"Ownership of real or personal property", as used in this Manual, includes any and all rights, title or interest legal or equitable to such property.

"Parent" refers to natural and/or adoptive parent(s) or to parent-person(s).

"Parent-minor" means a parent of a child or children who is him/herself under the age of 18.

"Parent-person" means certain relatives of a child who, in the absence of a natural or adoptive parent, assume parental responsibility.

"Payee" means the person designated to receive assistance payments on behalf of the eligible members of a family.

"PEC" means presumptive eligibility confirmed.

"Penalty of ineligibility" means when a member(s) of an eligible unit has incurred a penalty for not complying with program requirement(s) and such member(s) is excluded from the eligible unit.

"Pending application" means a general term for application, reapplication, reopened application, or transfer application prior to official disposition.

"Per capita" means an amount equal to one individual's share of the total (allowance, cost, income, etc.).

"Personal interview" means face-to-face discussion between individuals.

"Policy" means guidelines, limited by and consistent with law, which control CWA and DEA staff in carrying out public assistance programs.

"Potential resource" means a resource which, through liquidation, will provide cash for the use of the eligible unit or for reimbursement to the agency.

"Presumptive eligibility" means a basis for granting assistance when applicant appears otherwise eligible and provides a written statement of eligibility signed under oath.

"Presumptive eligibility confirmed (PEC)" means verification by the welfare agency that the client(s) meets all eligibility requirements, either through official documentation or collateral sources, within a prescribed time period.

"Primary wage earner" means principal earner and shall be referred to as the principal earner in this chapter.

"Principal earner" means the parent who earned the greater amount of income in the 24–month period immediately preceding the month of application for AFDC–F or -N.

"Protective payee" means a person authorized by the CWA under certain conditions to receive and administer assistance payments on behalf of an eligible family.

"Protective payment" means assistance payment made to an individual other than the parent or parent-person, as designated by the CWA under certain conditions.

"Public assistance" means a resource created by law to protect and promote the welfare of the State and community by providing financial assistance to eligible persons.

"Public assistance allowance" means the money amount recognized in the Assistance Standards Handbook for the needs of an eligible unit, according to its size and applicable program.

"REACH" means Realizing Economic Achievement, REACH is New Jersey's JOBS program to assure that AFDC recipients obtain the education, training and employment that will help them avoid long-term welfare dependence.

"Reapplication" means a written request for assistance by an individual who has previously applied for, but never received, assistance under that program in any county in the State.

"Recipient" means the family unit of parent(s) or parent-person(s) and child(ren) of eligible age who have been found eligible for assistance; any individual who is an eligible member of such family.

"Recoupment" means a procedure through which the agency is reimbursed for an overpayment to a client.

"Recovery" means the process whereby the CWA seeks the repayment of assistance improperly obtained.

"Redetermination of eligibility" means investigation of all facts and circumstances relating to the recipient's application for continuation of assistance; decision as to whether recipient continues to be eligible.

"Referral" means a request from an agency, institution, or individual on behalf of another individual who is interested in applying for financial assistance; or a request from the CWA to another agency.

"Refugee Resettlement Program (RRP)" means a federally-funded program designed to help meet the needs of refugees as defined by the Immigration and Naturalization Service.

"Registration" means the action of the CWA in making an official record of and assigning a control number to an application.

"Rejected application" means an inclusive term covering applications which have been denied, dismissed, or withdrawn.

"Relatives, legally responsible" means relatives held to be legally responsible by the laws of this State, as identified in subchapter 3 of this chapter.

"Release without discharge" means an arrangement under which a patient in an institution is, for a special purpose, permitted to reside outside the institution; includes extended visit and convalescent leave.

"Reopened application" means a written request for assistance by an individual who has previously received assistance under that program in any county in the State.

"Representative payee" means a person appointed by the Court under certain conditions to receive and administer payments on behalf of an eligible family.

"Request for local administrative review" means any clear expression (oral or written, by letter or otherwise) by a client or his/her authorized representative that he/she wishes to present his/her case in a proceeding before the CWA director or his/her delegated representative. This is not to be confused with a request for a fair hearing.

"Resident" means a person who is living in the State for other than a temporary purpose and who has no intention of moving from the State.

"Restricted payments" means checks drawn to the order of a specified person and subject to some condition or restriction which prevents immediate and unconditional negotiations and use by the payee upon delivery; checks drawn to the order of a third person (not a vendor) and intended for use on behalf of the client.

"Retirement, Survivors and Disability Insurance (RSDI)" means the Federal program administered by the Social Security Administration (SSA) which provides protection to workers and their families against loss or stoppage of earnings resulting from retirement at age 62 or older, death or disability.

"Return to state of origin" designates the desire of a family who has resided in New Jersey for a relatively short period to return to the state from which it came.

"RRP" means the Refugee Resettlement Program.

"RSDI" means Retirement, Survivors and Disability Insurance.

"Social Security payment" means RSDI benefit.

"Spouse" means a husband or wife of a specified individual.

"SSA" means Social Security Administration.

"SSI" means Federal Supplemental Security Income Program, including State supplemental payments administered through this program for aged, blind or disabled of any age.

"State institution" means any institutional facility for the mentally ill or retarded, penal institution or veteran's hospital under the jurisdiction of the State of New Jersey.

"State office" means the Division of Economic Assistance in Trenton.

"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.

"Temporary payee" means a person designated temporarily by the CWA to receive assistance payment on behalf of an eligible family, usually in an emergency situation.

"Timely notice" means a notice of CWA decision or action which if adverse (see adverse action) must be mailed to the client at least 10 days prior to the date when such decision or action will become effective. If such decision or action is not adverse, notice may be sent with the affected payment.

"Total income" means, as used on Form PA–3A or Form 105, sum of all recognized income of the eligible unit, including unearned and calculated earned income.

"Transfer application" means a request for assistance for an individual who is presently receiving assistance under the same program in another county within the State.

"Undue hardship" means certain situations which, in the judgment of the CWA, will result in unreasonable financial stress upon recipient families.

"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.

"Validation (of presumptive eligibility)" means verification of eligibility factors within prescribed time period.

"Vendor payment" means a check 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.

"WIN" means Work Incentive Program.

"Withdrawn application" means an oral or written request by an applicant that the CWA terminate its activity on his/her application.

"Work Incentive Program (WIN)" means a former program prior to JOBS designed to place in employment, or train for employment, appropriate recipients of AFDC–C or -F.

"Worksheet and Authorization for Public Assistance", Form PA–3A, on which is recorded the computations relating to allowance, income, and monthly grant for an eligible unit and including the action recommended or approved by the CWA.

Amended by R.1979 d.110, effective March 15, 1979.
See: 10 N.J.R. 486(a), 11 N.J.R. 196(e).
Amended by R.1979 d.428, effective October 18, 1979.
See: 11 N.J.R. 344(a), 11 N.J.R. 560(e).
Amended by R.1984 d.92, effective April 2, 1984.
See: 16 N.J.R. 206(a), 16 N.J.R. 727(a).
"BARA", "BMA", "CHEP", "Cuban/Haitian Entrant Program", "DMR", "N.J.A.C.", "PEC", "Recovery", "Refugee Resettlement Program", "Retirement, Survivors and Disability Insurance", "RRP", "RSDI", "State institution" and "WIN".
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Deleted old definitions for CHEP, WIN and Medical Review Team. Added: "BIC", "Categorical assistance", "JOBS", "Medicaid Special", "NJSES", "Primary wage earner", "Principal earner", "REACH", and an updated definition of "WIN".
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Definition of Family Development Program added.

Case Notes

"Immediate need" defined. Gilbert v. Tull, 145 N.J.Super. 53, 59 (Law Div.1976).

SUBCHAPTER 10. REFUGEE RESETTLEMENT PROGRAM

Authority

N.J.S.A. 44:7–6 and 44:10–3; Public Law 96–212 (Refugee Act of 1980); and 45 CFR Parts 400 and 401.

Source and Effective Date

R.1982 d.425, effective December 6, 1982.
See 14 N.J.R. 948(a), 14 N.J.R. 1397(b).

10:81–10.1 Purpose and funding

(a) The Refugee Resettlement Program (RRP) is a federally funded program designed to help meet the needs of refugees.

(b) Federal financial participation for refugees under RRP is 100 percent. For refugees who meet AFDC–C or -F segment criteria, 50 percent of the Federal reimbursement is from Title IV–A funds and 50 percent from refugee funds subject to the availability of funds. For those refugees meeting AFDC–N or GA criteria, 100 percent Federal financial reimbursement is from refugee funds.

Recodified by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
References to CHEP deleted.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–10.2 Identifying refugees

An individual is considered a refugee for purposes of RRP if he or she fled from and cannot return to his or her place of national origin because of fear of persecution on account of race, religion or political opinion. Such an individual may be eligible under RRP if he or she is included in one of the statuses granted by the Immigration and Naturalization Service (INS) as delineated in this subchapter (see N.J.A.C. 10:81–10.3).

Recodified by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
References to CHEP deleted.

10:81–10.3 INS statuses for RRP

(a) Applicants may be eligible for assistance under the RRP if they have been classified in one of the following INS statuses:

1. A person from any country who has been granted parole status as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) and so indicated by INS Form I–94. An "applicant for asylum" is not eligible for RRP;

2. A person admitted from any country as a conditional entrant under section 203(a)(7) of the INA and so indicated on Form I–94;

3. A person from any country admitted as a refugee under section 207 of the INA and so indicated on Form I–94;

4. A person from any country who has been granted asylum under section 208 of the INA and so indicated on Form I–94;

5. A person from any country who previously held one of the statuses identified in (a)1 through 4 above whose status has subsequently been changed to that of permanent resident alien. In addition to the required form I–151 or I–551 (resident alien forms) showing the status of resident alien, the individual must also provide sufficient documentation to substantiate that one of the eligible statuses indicated in (a)1 through 4 above was held prior to that of resident alien;

6. A person identified as an AmerAsian from Vietnam with their close family members admitted in immigrant status under Section 584 of the Foreign Operations Appropriations Act, to be admitted during the two year period authorized by that law, beginning March 20, 1988 and so indicated on Form I–94 or I–551; or

7. A Cuban or Haitian national granted parole for humanitarian reasons or in the public interest; or a Cuban or Haitian national who applies for asylum; or a Cuban or Haitian national who is subject to exclusion or deportation proceedings and a final order of deportation or exclusion has not been issued.

Recodified by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Text on INS status for CHEP repealed. Text on INS status for RRP, previously at N.J.A.C. 10:81–10.2 recodified and references to CHEP deleted; references to Vietnam immigrants added.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–10.4 Resettlement

(a) Most refugees are resettled by a voluntary agency and will have a sponsor. This sponsor, which may be an individual, church or organization, shares certain responsibilities as a moral commitment with the resettling agency. Such responsibilities include: receiving the refugee, helping him or her find food, shelter, clothing, furniture, and employment; and assisting the refugee to adjust to a new environment. (See N.J.A.C. 10:81–10.7(c)).

(b) Verification with sponsors: When a sponsor no longer provides adequate financial aid for the refugee, the refugee may turn to a CWA for assistance. As part of its regular verification process, the CWA shall contact the sponsor and inquire as to what, if any, assistance the sponsor may still be providing to the refugee; and whether the refugee has refused an offer of employment or has voluntarily quit a job without good cause. The CWA shall also request that such sponsor notify the resettlement agency of these changes in circumstance. The CWA shall also promptly notify the resettlement agency that the refugee has applied for assistance. In addition, the refugee's sponsor or resettlement agency shall be contacted to verify the possible existence of any matching grant assistance being provided to the refugee (see N.J.A.C. 10:81–10.7(d)). Meanwhile the CWA shall grant assistance to eligible refugees. Any cash assistance to the client from the sponsor or resettlement agency shall be treated as unearned income (see N.J.A.C. 10:82–4.13(c)). All contacts with the sponsor and/or resettlement agency shall be recorded in the case record (see N.J.A.C. 10:81–10.7(c)).

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
References to CHEP deleted.

10:81–10.5 Termination of RRP: Continued eligibility for assistance

(a) Case numbers: For refugee cases no longer eligible for RRP benefits, the suffix "R" is to be deleted from the case numbers.

(b) Race codes: Race codes (RCs) shall be changed for all cases (C, F, N, L and K). For FAMIS purposes, change the RC in blocks 531/BE, 519/BN and/or 13/QF of FAMIS Form 105 for C, F and L type cases from "R" to the appropriate racial/ethnic code.

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Computer coding system updated.

10:81–10.6 Registration of RRP cases

(a) The application for all AFDC–N segment and GA type cases shall be registered in accordance with N.J.A.C. 10:81–2.3(e).

(b) Program number: In the segment indicator of FAMIS Form 105, the suffix "R" is to be used to designate all refugees eligible under RRP cases.

(c) For FAMIS purposes, the race code of "R" shall be entered in blocks 519/BN, 531/BE or 13/QF of the 105 document for RRP cases.

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
References to CHEP and CODES deleted.

10:81–10.7 Eligibility

(a) No U.S. citizen is eligible for RRP (exception: see (a)2 and 3 below) and a refugee may be eligible only if he or she meets the appropriate definition and INS status in N.J.A.C. 10:81–10.2 through 10.3. In addition, all refugees whose time limitations have expired will cease to be eligible for cash and medical assistance under RRP (see (b) below). Such ineligible refugees who are still in need shall, as appropriate, be assisted under AFDC–N or referred to the municipal welfare department via Form PA–14, "Referral for Services", giving the reason for referral.

1. Family composition: For a large extended family group, the CWA shall establish a separate budget unit for each non-AFDC eligible individual or couple in the household.

2. Two parent families: When both parents are refugees, the case is treated as a single RRP case even if one or more children are U.S. citizens. When only one parent is a refugee, RRP assistance is granted only to family members who are refugees.

3. One parent families: When the parent is a refugee, the entire family is treated as a single RRP case, even if one or more of the children are U.S. citizens. If the parent is a U.S. citizen but one or more of the children are refugees, RRP assistance is granted only to family members who are refugees.

(b) Eligibility limitations: Eligibility for assistance under RRP is limited to a total of eight months for AFDC–N and General Assistance type cases, and four months for AFDC–C and –F type cases. Pursuant to Sections 207 and 101(a)(42) and 1522(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C.) and 45 CFR 400.202, refugee assistance (both RCA/RMA) is limited by the extent of available Federal appropriations in any Federal fiscal year (FFY), and on data concerning refugee arrivals, eligibility and participation in RCA/RMA. Therefore, the State administered RCA/RMA program period of eligibility is dependent on the fixed Federal appropriation made available to the states for any given FFY, based on the aforementioned criteria. Eligibility periods for RCA and RMA are published periodically in the Federal Register. Subsequent updates to these eligibility periods in the Federal Register will be published as a public notice by the Department in the New Jersey Register, and this subsection revised accordingly as an administrative change.

1. AFDC–C or –F segment cases: For all AFDC–C or –F type cases, need shall be determined by the same procedures used for the AFDC–C or –F segments (see N.J.A.C. 10:82–2.7).

2. Rules concerning GA (AFDC–N or GA) type cases are as follows:

i. For all GA and AFDC–N type applicants/recipients residing in the U.S. for eight months or less from their initial entry date or when parole status was first granted as identified on INS Form I–94, income and resources shall be treated in accordance with the standards and criteria applicable to AFDC–C or –F, except, that CWA's shall not apply the $30.00 and one-third earned income disregard. The assistance standard for applicants/recipients shall be the appropriate amount for the eligible family.

ii. During the eight month period, all eligible GA type cases will retain Medicaid eligibility.

(c) Treatment of income and resources: The CWA shall consult with sponsors and/or the resettling agency about the possibility of contributions. Cash assistance to the client shall be considered as unearned income (see N.J.A.C. 10:81–10.4(b)); however, the income and resources of the sponsors themselves shall not be considered. No resources which are in fact not available to the refugee shall be considered in determining eligibility. This includes resources in the refugee's native land owned by the refugee or a responsible relative.

(d) Refugees included under the matching-grant program with voluntary agencies: A Soviet refugee or other non-Cuban, non-Indochinese refugee may be receiving assistance under a matching grant. These grants are separate and distinct from the one-time per capita grant which the Department of State makes to resettlement agencies for the reception and initial placement of newly arriving refugees. The refugee's sponsor or resettlement agency shall be contacted to verify the existence of matching grant assistance and the amount of the grant, if applicable. If assistance is being provided under a matching grant, the entire amount receiving shall be treated as unearned income in determining the refugee's eligibility and the amount of assistance that will be provided.

(e) Work and training requirements: Refugees who are under the –C or –F segment of the AFDC program are subject to the work and training requirements governing that program.

1. An affidavit signed by the applicant(s) of a two-parent family attesting to past work history shall be considered sufficient official verification for AFDC–F purposes provided the affidavit indicates the period of time in which the work was performed (see N.J.A.C. 10:81–3.18(b)7).

2. Refugee cases that are under the –N segment of the AFDC program and those considered GA type cases are subject to the work and training requirements detailed in (e)2i through iii below:

i. Work registration: All refugees who are not exempt from the work requirements (see (i)1 below shall be registered with an Employment Service Provider (ESP). Registration is accomplished through completion and transmittal of Form PA–54, Refugee Program Interagency Referral, to the appropriate ESP. In some instances, however, a refugee may have been referred by a resettlement agency to an ESP which in turn referred the individual to the CWA to apply for assistance. In that instance the ESP will complete Parts A and C of Form PA–54 and provide the individual with a copy to present to the CWA for its files; the CWA need not complete another Form PA–54 for registration purposes.

ii. Appropriate work and training criteria: All employable refugees shall accept appropriate work or training opportunities. The job or training assignment shall be related to the physical and mental capability of the individual to perform the task on a regular basis. Any claim of adverse effect to physical or mental health shall be based on an adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health. Cost of obtaining such medical evidence is an allowable 100 percent reimbursable cost to the agency.

(1) The total daily commuting time to and from home shall not exceed two hours. If a greater distance or time is generally accepted in the community, then the round trip commuting time shall not exceed community standards. Round trip time shall not include the time needed to transport a child to and from a child care facility.

iii. Training requirements for employed refugee recipients: In the instance of a refugee who is employed and receiving public assistance, the welfare agency shall require part-time training such as English language instruction or skill training, if available and determined appropriate, if the refugee is employed part-time (less than 100 hours per month), as a condition for continued receipt of assistance. Additionally, the CWA shall encourage, but not require part-time English language instruction or skill training if the refugee is employed full-time (100 or more hours per month).

(f) Provisions relating to refugees attending school are as follows:

1. A full-time student age 18 will be eligible for assistance if the student is reasonably expected to complete a program of secondary school (or the equivalent level of vocational or technical training) before attaining age 19.

2. A refugee of any age who is otherwise eligible shall not be denied cash assistance while enrolled and participating in a full-time training program which is approved by the welfare agency and intended to have a definite short-term (less than one year) employment objective.

(g) Provisions concerning voluntary termination of employment are as follows:

1. New applicants: For the 30 consecutive calendar days immediately prior to receiving aid, an employable refugee shall not have voluntarily terminated employment in order to receive assistance nor have refused to apply for or accept an appropriate job offer. However, the dependent family of such an ineligible applicant may apply for and receive cash assistance.

2. Current recipients: Employable refugees currently receiving aid shall not have voluntarily terminated employment in order to continue to receive assistance nor refuse to apply for or accept offers of appropriate work or training.

(h) Sanctions: Refusal of an employable adult recipient to accept or continue an employment or training opportunity without good cause will result in the following actions:

1. A conciliation period prior to the imposition of sanctions shall be provided for in accordance with the following time limitations:

i. The conciliation effort shall begin as soon as possible, but not later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days.

2. If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated 30 days after the date of his or her original refusal. Either the welfare agency or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation. The refugee shall be given at least 10 days written notice of the termination of assistance and the reason therefore (see N.J.A.C. 10:81–6 and 7.1). This sanction shall be applied in the following manner:

i. If the eligible family includes other individuals, then the assistance payment shall be reduced by the amount included on behalf of that refugee. If the employable refugee is a caretaker relative, assistance in the form of protective or vendor payment will be provided to the remaining members of the eligible family.

ii. If such individual is the only individual in the eligible family, assistance shall be terminated.

(1) The refugee's sponsor, or the voluntary resettlement agency where there is not a sponsor, will be notified of the action taken in (h)2i or ii above.

iii. A decision by the refugee to accept employment or training, made at any time within the 30–day period after the date of the original refusal, shall result in the continuation of assistance without interruption if the refugee continues to meet the income eligibility requirements for continued assistance.

iv. Refugees who refuse without good cause to accept or continue in an employment or training opportunity shall be subject to the following penalties of ineligibility:

(1) Three payment-months for the first such refusal; and

(2) Six payment-months for the second and each subsequent occurrence.

(i) Exemptions from employment or training requirements: The inability to communicate in English does not make the refugee "unemployable".

1. The following refugees are exempt from the employment or training requirements given in (e) above.

i. An individual who is under age 16; or between 16 and 18, enrolled or accepted for enrollment as a full-time student for the next school term in an elementary, secondary, or vocational or technical school; or under age 19 and attending full-time, a secondary school, or the equivalent level of a vocational or technical school, and expected to complete the program of the school before reaching age 19;

ii. A person who is ill, incapacitated or age 65 or over;

iii. A person whose presence in the home is required because of illness or incapacity of another member of the household;

iv. The parent or other caretaker relative of a child under three years of age who personally provides care for the child with only very brief and infrequent absences from the child;

v. The parent or other caretaker of the child who is deprived of parental support or care by reasons of death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative in the home is registered and has not refused to participate in the program or accept employment without good cause;

vi. An individual working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 days.

vii. An individual who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the next six months.

viii. The person is enrolled full-time in training approved by the welfare agency or its designee as part of an approved employability plan.

(j) Initial assistance payments and immediate need: When there is an urgent need for assistance, the initial assistance payment shall be based on presumptive eligibility (see N.J.A.C. 10:81–3.3).

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Eligibility for cash assistance under RRP reduced from three to two years. Work registration, conciliation period and exemption provisions added.
Amended by R.1990 d.365, effective August 6, 1990.
See: 22 N.J.R. 1225(a), 22 N.J.R. 2317(a).
Refugee Resettlement Program eligibility limitations reduced.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (e)1: revision to internal citation.
Amended by R.1993 d.648, effective December 20, 1993.
See: 25 N.J.R. 3919(a), 25 N.J.R. 5948(a).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).
Amended by R.1995 d.590, effective November 20, 1995.
See: 27 N.J.R. 3552(a), 27 N.J.R. 4716(a).

Case Notes

Reduction of eligibility under refugee resettlement program subject to APA's rulemaking. M.E. v. Bergen County Board of Social Services, 93 N.J.A.R.2d (DEA) 10.

10:81–10.8 Medical assistance and medical expense spend-down

(a) Medical assistance: State eligibility standards for Title XIX shall apply to a refugee's eligibility for medical assistance except:

1. Requirements for categorical relatedness for medical assistance shall not be imposed. Actual receipt of financial assistance for living expenses shall not be required as a condition of eligibility for medical assistance;

2. The AFDC allowance standard for the appropriate family size shall constitute the medical assistance financial standard. However, the Medicaid "Cap" shall apply to eligible refugees in Title XIX approved facilities;

3. No financial resources which are in fact not available to the refugee, including resources remaining in the place of national origin owned by a refugee or a responsible relative, shall be considered in determining eligibility for medical assistance;

4. The income and resources of sponsors, and in-kind services and shelter provided to refugees by their sponsors, shall not be considered in determining eligibility for medical assistance;

5. All refugees who have been in the U.S. for eight months will no longer be eligible for medical or cash assistance under RRP. Any subsequent update to this eligibility period for medical or cash assistance under RRP will be published as public notice by the Department in the New Jersey Register (see N.J.A.C. 10:81–10.7(b)), and this paragraph revised accordingly as an administrative change; and

6. GA and AFDC–N type refugees who lose eligibility for financial assistance due to increased earnings are eligible for Medicaid extension for up to eight months. This eight month extension is only allowable during the refugee's first eight months in the country. In cases where a refugee obtains private medical coverage, any payment of refugee medical assistance for that individual must be reduced by the amount of the third party payment.

(b) Those refugees who may be eligible for New Jersey's Medically Needy Program shall be referred to that program.

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Provisions to refer refugee to Medically Needy program added. Spend-down provisions deleted.
Amended by R.1993 d.648, effective December 20, 1993.
See: 25 N.J.R. 3919(a), 25 N.J.R. 5948(a).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).
Amended by R.1995 d.590, effective November 20, 1995.
See: 27 N.J.R. 3552(a), 27 N.J.R. 4716(a).

10:81–10.9 Social services

Referral and information about other services available in the community should be offered to refugees regardless of their eligibility for financial assistance (see N.J.A.C. 10:81–7.20).

10:81–10.10 Fair hearings

The procedures and provisions for fair hearings in N.J.A.C. 10:81–6 and 7 shall apply in RRP.

10:81–10.11 Case records

(a) A separate record shall be established for each individual or family receiving assistance. For continuing cases, all changes in the status of each case and the dates on which changes occurred shall be recorded. For inactive cases, since RRP is federally financed, the case records are considered Federal records. Therefore, they cannot be disposed of in the same manner that CWAs dispose of case records for other inactive public assistance cases. Accordingly, the records for closed refugee cases shall be retained until a Federal audit is completed.

(b) Each case record must contain:

1. The alien registration number as it appears on Form I–94 issued by INS;

2. The name and address of the refugee's sponsor (if known);

3. Documentation of contacts with the sponsor and/or resettlement agency; and

4. Date of entry into the United States.

Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
CHEP provision deleted.

SUBCHAPTER 11. CHILD SUPPORT AND PATERNITY

Authority

N.J.S.A. 44:7–6 and 44:10–3 Title IV–D of the Social Security Act, 45 CFR Part 232, 45 CFR Chapter III.

Source and Effective Date

R.1984 d.147, eff. April 16, 1984.
See: 16 N.J.R. 328(a), 16 N.J.R. 898(a).

Subchapter Historical Note

The rules in this subchapter were formerly codified at 10:81—Appendix D. See Historical Note at that citation for further reference. See, also, Chapter Historical Note.

10:81–11.1 Introduction

The rules contained in this subchapter are applicable, as appropriate to the AFDC and non-AFDC program in New Jersey. P.L. 93–647 establishes Title IV–D of the Social Security Act, which mandates procedures for enforcing support obligations owed by absent parents to their children, locating absent parents and establishing paternity for children born out-of-wedlock.

Amended by R.1985 d.210, effective May 6, 1985.
See: 17 N.J.R. 164(a), 17 N.J.R. 1094(b).
Added text "as appropriate" and "non-AFDC."
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Stylistic revisions.

10:81–11.2 Eligibility requirements

(a) In addition to the eligibility requirements contained in N.J.A.C. 10:81–3 and 5, requirements for AFDC eligibility shall include the following:

1. (Reserved).

2. Assignment of support rights: AFDC–C and –F applications or recipients as a condition of eligibility automatically assign to the county welfare agency all rights to support from the children's absent parent(s) or any other person 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. 10:81–11.4). An assignment of rights is also required from 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.

3. Cooperation: The AFDC/Medicaid Only applicant shall be required to cooperate in obtaining support and medical insurance to which members of the eligible unit are entitled (see N.J.A.C. 10:81–11.5).

(b) Child support and paternity regulations contained in this subchapter are not required for the Cuban/Haitian Entrant Program (CHEP) or the Refugee Resettlement Program (RRP). Although county welfare agencies will not receive incentive payments for amounts collected for individuals in those programs, there is no bar to utilizing the methods herein to ensure collection of child support.

(c) Title IV–D support collections and paternity determinations shall be made available to any individual not receiving AFDC, who files an application with a county IV–D agency.

(d) Title IV–D support collections and paternity determination shall be made available to the Division of Youth and Family Services (DYFS) upon application and referral.

Amended by R.1986 d.55, effective March 3, 1986.
See: 17 N.J.R. 2845(a), 18 N.J.R. 480(a)
(c) added.
Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1644(a), 22 N.J.R. 3373(a).
New (d) provides that child support and paternity determinations services be provided to DYFS upon application and referral.
Amended by R.1994 d.233, effective May 16, 1994.
See: 26 N.J.R. 324(a), 26 N.J.R. 2099(a).
Amended by R.1994 d.463, effective September 6, 1994.
See: 26 N.J.R. 896(a), 26 N.J.R. 3729(a).

10:81–11.3 (Reserved)

Amended by R.1986 d.243, effective July 7, 1986 (operative August 1, 1986).
See: 17 N.J.R. 2516(b), 18 N.J.R. 1383(b).
(c) Substantially amended; (f) added.
Amended by R.1987 d.350, effective August 17, 1987 (operative September 1, 1987).
See: 19 N.J.R. 619(a), 19 N.J.R. 1559(b).
SS–5 amended from "last" day to "first" day.
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
References to "CODES" replaced with "FAMIS". Additional procedural changes made.
Recodified as 10:81–2.6(d) by R.1994 d.233, effective May 16, 1994.
See: 26 N.J.R. 324(a), 26 N.J.R. 2099(a).
Section was "Social Security numbers".

Case Notes

Termination of eligibility for AFDC benefits for violation of state and federal regulations requiring recipient to provide and/or obtain a Social Security number for each member of eligible unit proper; regulation upheld against constitutional and statutory claim of violation of right to privacy (citing former Public Assistance Manual Appendix D § 210). Chambers v. Klein, 419 F.Supp. 569 (D.N.J.1976), affirmed 564 F.2d 89 (3rd Cir.1977).

10:81–11.4 Assignment of support rights

(a) The IV–D agency is required to provide IV–D services to families which have assigned their rights to support under AFDC (45 C.F.R. 232.11), DYFS (Section 471(a)17 of the Social Security Act) or as a condition of receipt of Medicaid (42 C.F.R. 433.146), without an application or application fee.

(b) State law provides that application for or receipt of AFDC shall automatically operate as an assignment to the county welfare agency of any rights to support under Titles IV–A and IV–D of the SSA, except in those cases in which the only legally responsible relative is a member of the eligible unit or is the incapacitated parent in an AFDC–C case. Any support collections assigned to the CWA are subject to the provisions at N.J.A.C. 10:82–4.17 concerning the disregard payment. The first $50.00 of support collected in a month and the first $50.00 of any payment for a prior month paid by the absent parent in the month due shall be sent to the client.

(c) Purpose: Upon application for AFDC benefits, each client assigns to the county welfare agency all rights to support from the absent parent of the AFDC children and any other legally responsible relative to which the eligible unit may be entitled and includes any support obligation which has accrued at the time such application is executed.

(d) Applicability: The assignment of supports rights applies to the AFDC and DYFS programs. AFDC/Medicaid Only applicants will assign only their rights to medical support. It is not an eligibility requirement for the Refugee Resettlement Program.

(e) IM worker's responsibility: The IM worker shall advise the AFDC client that upon signing an application (PA–1J) for AFDC or AFDC/Medicaid Only, he or she assigns to the county welfare agency any rights to past due support and future support when applying for AFDC and when applying for AFDC/Medicaid, he or she assigns any rights to past due or future medical support and subsequent to its completion, he or she shall be responsible for informing the county welfare agency of any payments which may be received either directly or through the probation department from an absent parent. Additionally, the AFDC client shall be informed of his or her cooperation responsibilities (see N.J.A.C. 10:81–11.5).

1. Referral to CWA/IV–D Unit: The IM worker, at the time of application for AFDC–C or Medicaid Only, shall complete the appropriate parts of the IV–D referral document and route this form to the CWA/IV–D Unit within two working days of issuance of an assistance check, or determination of eligibility, but no later than 45 days of initial application. Information describing available IV–D services and the individual's rights and responsibilities must be provided to all applicants within five working days of the IV–D referral.

i. Relationship to application process: The fact that eligibility is not immediately established shall not delay routing of the IV–D referral document to the IV–D Unit. However, when a case is determined ineligible the IM worker shall notify the IV–D Unit immediately, or within 24 hours of such determination.

ii. Direct support payments: The IV–A Unit shall treat assigned support payments retained in the current month as income in determining need and amount of assistance payments.

iii. Overpayment resulting from direct support payments: When a full grant has been issued, any support payments received directly by the client shall, upon receipt, be forwarded to the CWA/IV–D Unit. If the IV–D Unit discovers that directly received support payments are being, or have been retained by the client, it shall immediately notify the IV–A Unit in writing.

(1) The client shall be required to remit the support payment to the CWA. If the client fails to comply, the amount of the direct support, less the $50.00 disregarded child support payment, shall be counted as unearned income received in the budget month and used to determine the amount of the assistance payment to be issued for the corresponding payment month as set forth at N.J.A.C. 10:90–4.3(c)2ii.

(2) If, due to lack of timely notification, the grant cannot be adjusted, the assistance payment issued for the payment month corresponding to the budget month in which the direct support was received shall be considered an overpayment. The CWA's Income Maintenance Unit shall recover the overpayment, less the $50.00 disregarded child support payment amount, upon termination of assistance or in subsequent payment months as set forth at N.J.A.C. 10:82–2.19(a)5.

iv. Termination or suspension of assistance: In the case of termination or suspension of assistance the IM worker shall concurrently send a copy of the adverse action notice to the AFDC client and the IV–D Unit (see N.J.A.C. 10:81–11.12). The IV–D Unit shall be notified immediately if assistance is continued pending or following a fair hearing.

v. Continuing IV–D services for families that lose AFDC, DYFS or Medicaid eligibility: Whenever a family is no longer eligible for assistance under the AFDC, DYFS or Medicaid programs, the IV–D agency must notify the family within five working days of the notification of ineligibility, that IV–D services will be continued unless the IV–D agency is notified by the family that IV–D services are no longer desired. The IV–D agency is required to pay all amounts collected representing support to the family. An IV–D agency may not recover costs from either parent.

(1) If services are terminated, the IV–D agency shall require that a IV–D application be filed for services if the family requests these services to be reinstated.

(2) The application for non-AFDC services will require a $6.00 fee on all cases where an application is filed.

(f) It is the responsibility of the Division of Youth and Family Services to refer DYFS cases, which include IV–E and non-IV-E cases, to the CWA/IV–D Unit.

(g) Those cases in which there is an assignment under 42 C.F.R. 433.146 include, but are not limited to, Medicaid Only, Medically Needy and New Jersey Care. The Medicaid agency will determine which Medicaid recipients need child support services and refer those cases to the appropriate county CWA/CSP unit.

Amended by R.1985 d.210, effective May 6, 1985.
See: 17 N.J.R. 164(a), 17 N.J.R. 1094(b).
Amended by R.1987 d.467, effective November 16, 1987.
See: 19 N.J.R. 1171(a), 19 N.J.R. 2189(b).
(d)1iii forwarded substituted for returned and retained substituted for not returned.
Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1644(a), 22 N.J.R. 3373(a).
$50.00 per month maximum established, timeframes for distribution established and automatic continuation of child support services without time constraints.
Amended by R.1993 d.1, effective January 4, 1993.
See: 24 N.J.R. 2327(a), 25 N.J.R. 115(a).
In (d)1: Added final sentence specifying maximum time frame (five working days) for CWAs to provide AFDC clients with information concerning Title IV–D services and their rights and responsibilities.
Amended by R.1993 d.634, effective December 20, 1993.
See: 25 N.J.R. 881(a), 25 N.J.R. 5951(a).
Amended by R.1994 d.463, effective September 6, 1994.
See: 26 N.J.R. 896(a), 26 N.J.R. 3729(a).

Case Notes

Circular letter from Department of Human Services to counties providing for state sharing in child support collection incentive payments from the federal government was void as improper rulemaking; state is not entitled to share incentive payments to counties since it has delegated support collection and enforcement to counties rather than retain function itself (citing former N.J.A.C. 10:81 Appendix D § 201). Shapiro v. Albanese, 194 N.J.Super. 418, 477 A.2d 352 (App.Div.1984).

Assignment of support rights to county welfare board makes payment arrearage under support order and obligation owed to the board rather than alimony owed to former wife, regardless of reduction of arrearage to judgment or former wife's remarriage (Citing former N.J.A.C. 10:81 Appendix § 220). Dolberry v. Dolberry, 188 N.J.Super. 265, 475 A.2d 71 (Ch.Div.1982).

Assignment of father's court-ordered child support payments by mother to county division of welfare valid and enforceable; trial court order designating mother as support payment beneficiary violated the AFDC assignment program (citing former N.J.A.C. 10:81 Appendix D §§ 220, 221.1 and 221.4). Essex Cty. Div. of Welfare v. Simon, 178 N.J.Super. 523, 429 A.2d 609 (App.Div.1981).

Welfare board, as assignee of support rights, permitted to intervene in matrimonial action for the purpose of enforcing litigant's rights (citing former N.J.A.C. 10:81 Appendix D § 220). Kernbach v. Kernbach, 174 N.J.Super. 544, 417 A.2d 70 (Ch.Div.1980).

10:81–11.5 Cooperation in establishing paternity and obtaining support

(a) Cooperation in obtaining support and medical insurance and establishing paternity whenever necessary is a condition of eligibility for AFDC and AFDC/Medicaid Only for each applicant and recipient. The IM worker and supervisor have responsibility for the determination of whether or not good cause for refusal to cooperate exists. This determination shall be based on evidence provided by the client and on consultation, where appropriate, with the CSP Unit.

(b) Notice to applicant or recipient: At the time of application, the IM worker will explain to the client the requirements for cooperation in connection with establishment of paternity, collection of support, and medical insurance. The worker shall also provide a written notice (PA–46) of the client's right to claim good cause for refusal to cooperate. Should the client claim to have good cause for noncooperation or request further clarification, he or she shall be given a further written notice (PA–47) describing the circumstances and evidence necessary for a finding of good cause.

1. Acknowledgment of notice: The client and the IM worker shall both acknowledge that the client received the notice(s) by signing and dating two copies of Form PA–46 (and PA–47). One copy of each notice will be given to the client and one placed in the case record.

(c) Cooperation requirements: Each applicant/recipient is required to cooperate with the CWA/CSP Unit, probation department, county prosecutor's office and other child support agencies in the following:

1. Assisting in identifying and locating the parent of each child for whom aid is requested;

2. Assisting in the establishment of paternity of each child born out of wedlock for whom aid is requested;

3. Assisting in obtaining support payments and medical insurance for each individual for whom aid is requested; and

4. Assisting in obtaining any other payments, including medical support, or property due any individual for whom aid is requested.

(d) Cooperation explained: The term "cooperation" includes the following actions by the client:

1. Appearing at the offices of the appropriate child support agencies as necessary to provide oral or written information, or documentary evidence relevant to, obtaining support and medical insurance, which is known to, possessed by, or reasonably obtainable by the client;

2. Appearing as a witness at court or other hearings or proceedings necessary to obtain support;

3. Providing information, or attesting to the lack of information, under penalty of perjury; and

4. After receipt of a grant, paying to the CWA any child support payments which are received directly from the absent parent, whether voluntary or court ordered, or through the probation department.

(e) Good cause for refusal to cooperate: A client who claims to have good cause for refusal to cooperate has the burden of establishing the existence of a good cause circumstance.

1. Client requirements: To establish good cause, the client will be required to:

i. Specify the circumstances which he or she believes provide sufficient good cause for noncooperation;

ii. Corroborate the good cause circumstance; and

iii. If requested, provide sufficient information (such as name and address, if known, of putative father or absent parent) to permit an investigation.

2. Good cause circumstances: Only when at least one of the following circumstances exist will the CWA determine that the client's cooperation is against the best interests of the child and there is good cause for refusal to cooperate:

i. The client's cooperation is reasonably anticipated to result in physical or emotional harm to the child for whom support is to be sought;

ii. The client's cooperation is reasonably anticipated to result in physical or emotional harm to the parent or parent-person of such nature or degree that it reduces such person's capacity to care adequately for the child; or

iii. Proceeding to establish paternity or collect support and medical insurance in the particular case would be detrimental to the child because:

(1) The child was conceived as a result of incest or forcible rape;

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) The client is currently (for a period of not more than three months) being assisted by a public or licensed private social agency to decide whether to keep the child or relinquish him or her for adoption.

3. Physical and emotional harm: Physical and emotional harm must be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment which substantially affects the individual's functioning.

i. Anticipated emotional harm: When the good cause determination is based in whole or in part upon anticipated emotional harm to the child, parent or parent-person, the CWA will consider the following:

(1) The present emotional state and the emotional health history of the individual;

(2) The intensity and probable duration of the emotional impairment;

(3) The degree of cooperation to be required; and

(4) The extent to which the child will be involved in paternity establishment, court proceedings, and/or support collection and medical insurance activity.

(f) Proof of good cause claim: The applicant/recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional situations, the CWA may allow a reasonable additional period of time if it determines the client requires additional time because of the difficulty of obtaining the evidence.

1. Corroborative evidence: The CWA will make a good cause determination within 45 days of the date of the claim by the client, based on the corroborative evidence supplied by the client, but only after it has examined the evidence and finds that it actually verifies the good cause claim. The CWA will make an entry in the case record regarding the decision and will document the basis of its decision. The claim may be corroborated by the following types of evidence:

i. Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

ii. Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

iii. Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child, parent, or parent-person;

iv. Medical records which indicate emotional health history and present emotional health status of the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the parent, parent-person or the child for whom support would be sought;

v. A written statement from a public or licensed private social agency that the applicant/recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him or her for adoption; and

vi. Sworn statements from individuals other than the applicant/recipient with knowledge of the circumstances which provide the basis for the good cause claim.

2. Additional information: If, after examining the corroborative evidence, the CWA finds additional information is necessary in order to make a good cause determination, it will promptly notify the client, specifying the type of document which is needed.

i. Upon request by the client, the CWA will make a reasonable effort to obtain specific documents the

client is not reasonably able to obtain without assistance.

3. Corroborative evidence not submitted or inadequate:

i. Claim based on client's anticipation of physical harm: The CWA will evaluate the good cause claim when the agency believes the claim is credible without corroborative evidence and such evidence is not available. A decision will be made based on the client's statement and the results of the investigation. This determination will be reviewed, approved or disapproved by supervisory personnel and the findings recorded in the case record.

ii. Corroborative evidence insufficient for determination: The CWA may further verify the good cause claim and, where necessary for a final determination, conduct an investigation. The investigation will include contact of the absent parent or putative father. Prior to such contact, however, the client will be notified so that he or she may:

(1) Present additional corroborative evidence to make the contact unnecessary;

(2) Withdraw the application for assistance or have the case closed; or

(3) Have the good cause claim denied.

(g) Granting or continuation of assistance: If the client has complied with the requirements of (f) above for providing corroborative evidence, assistance shall not be denied, delayed or discontinued pending the determination of whether or not good cause for refusal to cooperate exists.

1. Periodic review: Determinations of good cause which are based on circumstances subject to change such as those discussed in (e)2 above will be reviewed not less frequently than at each redetermination. If the CWA determines that circumstances have changed and good cause no longer exists, it will rescind its findings and enforce the cooperation requirements delineated in (c) above.

(h) Refusal to cooperate: If the CWA determines that no good cause exists for the client's refusal to cooperate, the client shall be notified of the determination and given an opportunity to cooperate, withdraw the application for assistance, or have the case closed. The client shall also be advised of his or her rights to a fair hearing to appeal this adverse decision in accordance with N.J.A.C. 10:81–7.1(c).

1. In the event of continued refusal to cooperate, the parent or parent-person will be denied eligibility without regard to other eligibility factors (see N.J.A.C. 10:82–2.4). Any aid for which the child is eligible shall then be provided in the form of protective payments (see N.J.A.C. 10:81–4.9). The appointment of a protective payee may be appealed in accordance with provisions of N.J.A.C. 10:81–4.14.

2. If the CWA/CSP Unit determines that the client has refused to cooperate and has not claimed good cause for that refusal, his or her needs will be deleted from the assistance grant and he or she will become ineligible for Medicaid benefits. The Medicaid Only client who refuses to cooperate in establishing paternity and providing information to assist in the establishment of an order for medical support without good cause will become ineligible for Medicaid. The CWA/CSP Unit will refer those Medicaid Only cases where non-cooperation is determined to the unit which handles Medicaid eligibility on the county level.

i. In the event the custodial parent is initially uncooperative and later becomes cooperative, the needs of the custodial parent will be deleted retroactively for the actual period of noncooperation.

ii. In the event the custodial parent refuses to cooperate but the CSP Unit is successful in its efforts, the needs of the custodial parent will be deleted retroactively for the period during which the refusal to cooperate frustrated the CSP Unit's efforts.

iii. While genetic testing results may be a factor in determining whether the recipient has cooperated, a finding of non-cooperation cannot be based on genetic testing alone. Genetic testing must be considered along with any other evidence, which evidence is the client's responsibility to provide. The client shall provide evidence that truthful information was given, including an affidavit taken from the client stating that she did not have sexual relations with any other man around the time of conception. If it appears that, despite the genetic testing results, the mother has truthfully given all information she has or can reasonably obtain about the paternity of her child, she must be deemed to have cooperated. At that time an affidavit will be taken from the client stating that she has given all the information she has about the paternity of her child.

3. Maintenance of CSP effort: The deletion of the AFDC parent or parent-person from the eligible unit shall not be construed as a bar to continuing effort by the CSP Unit to establish paternity or obtain support and medical insurance for the AFDC children.

(i) CSP interaction:

1. Review of CSP Unit: Prior to a final determination of good cause for refusing to cooperate, the Income Maintenance Unit will provide the CSP Unit an opportunity to review and comment on the findings and will consider recommendations from that unit. Additionally, the CSP Unit may participate in any fair hearing resulting from a good cause determination.

2. Notice to CSP Unit: If the CSP referral form has already been routed to the CSP Unit, the IM worker shall promptly notify the CSP Unit that good cause has been claimed. The worker shall also report promptly to the CSP Unit as soon as a determination in the good cause has been made and shall advise whether or not child support enforcement may proceed without the participation of the parent or parent-person (see (j) below).

(j) Enforcement without parent's cooperation: When the CWA makes a determination that good cause for refusal to cooperate exists, it will also determine whether or not child support enforcement and/or establishment of paternity and medical insurance can proceed without risk of harm to the child or parent with whom he or she lives if the enforcement or collection activities do not involve their participation. This decision, with the basis for the determination, will be recorded in the case record.

1. CSP recommendation: The CSP Unit will be given the opportunity to review the proposed determination and will be notified immediately or within 24 hours regarding the decision.

2. Notification of client: The client will be notified that child support enforcement or establishment of paternity and medical support will proceed without the client's cooperation. The client may choose to withdraw his or her application or have the case closed. The client must also be advised of his or her rights to appeal this decision in accordance with N.J.A.C. 10:81–7.1(c).

(k) Record keeping: The CWA shall maintain records of activities relative to good cause claims and shall make them available for Federal or State review upon request. Form PA–48, Summary of Good Cause Claims, shall be used for maintaining records of activities connected with good cause claims. Form PA–48, Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support, shall be prepared semi-annually. It shall cover the October–March and April–September report periods and must be sent to the Division by April 15 and October 15, respectively.

As amended, R.1984 d.569, effective December 28, 1984.
See: 16 N.J.R. 2833(a), 16 N.J.R. 3439(b).
(h): Deleted "The noncooperating parent or parent-person may not be named as the protective payee."
Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1644(a), 22 N.J.R. 3373(a).
Requires the securing and enforcement of medical support as a condition of eligibility for IV–D services.
Amended by R.1993 d.282, effective June 7, 1993.
See: 24 N.J.R. 2328(a), 25 N.J.R. 2589(b).

Case Notes

Reduction in AFDC grant reversed upon finding that petitioner's refusal to corporate in establishing paternity was based upon her reasonable anticipation of physical or emotional harm to child or parent, thus constituting good cause for refusal (citing former N.J.A.C. 10:81 Appendix D §§ 233 and 234). J.H. v. Warren Cty. Welfare Bd., 2 N.J.A.R. 393 (1980).

10:81–11.6 Incentive payment

(a) CWAs shall receive an appropriate share of any incentive payments made to the State, based on the efficiency and effectiveness of the CWA's activities in carrying out the requirements of the Title IV–D State Plan. A portion of the incentive payments shall be computed as a percentage of the State's AFDC collections and a portion shall be computed as a percentage of non-AFDC collections. The percentages shall be computed separately for each segment, based on the ratio of the State's AFDC collections to the State's total IV–D administrative costs. The portion of the incentive payments in recognition of non-AFDC collections shall be limited by the percentage of the portion of the incentive payments paid for a specific year in recognition of its AFDC collections, and shall equal 105 percent in Fiscal Year 1988, 110 percent in Fiscal Year 1989, and 115 percent in Fiscal Year 1990.

1. AFDC collections means support collections satisfying an assignment support obligation, including support collected by one state on behalf of individuals receiving IV–D services and parents residing in another state, which shall be treated as having been collected in full by each state.

2. Non–AFDC collections means support collections on behalf of individuals receiving Title IV–D services, satisfying a support obligation which has not been assigned via Form PA–IJ, including collections made by one state on behalf of individuals receiving IV–D services and parents residing in another state. Such interstate collections shall be treated as having been collected in full by each state.

3. Total IV–D administrative costs means total IV–D expenditures claimed by a state in a specified fiscal year, excluding fees paid by individuals, recovered costs and program income, such as interest earned on collections. Another exclusion from administrative costs shall be laboratory fees incurred in determining paternity.

4. In calculating the amount of incentive payments, only those AFDC and non-AFDC collections distributed and expenditures claimed by the State in the fiscal year shall be used to determine the incentive payment payable for a year. The methodology to be employed in the calculation of incentive payments will be the same for both program segments (AFDC and non-AFDC); however, the incentive payment for non-AFDC, as noted above, cannot exceed the amount earned for AFDC collections. Each county will receive its share of the State's incentive payments, based on the collections to expenses ratio truncated at the first decimal place. This methodology requires the determination of the average collections to expenses ratio among the counties. The standard deviation from the average is then determined. A scale is established and a value of six percent is assigned to the State average. For each movement of a full V 1/2 standard deviation by a county's collections to expenses ratio, that county will be entitled to one percent more of

incentive payment. Any resultant surplus will be distributed according to the counties' proportionate share of the total qualified caseload.

(b) The Federal Office of Child Support Enforcement (OCSE) will estimate the total incentive to be received by a state for the upcoming fiscal year. In the quarterly collection report, the State will estimate the total payment, thus reducing the amount to be paid to the Federal government to reimburse its share of assistance payments, IV–A and Foster Care maintenance payments. At the end of a fiscal year, the OCSE will determine if the estimated incentive payments were correct and, if not, adjustments will be made accordingly.

1. Collections made in one jurisdiction for another jurisdiction shall be forwarded to the originating jurisdiction no later than 10 days after collection was received.

i. States and other jurisdictions must have an identifying code for interchange procedures.

Repeal and New Rule, R.1989 d.465, effective September 5, 1989.
See: 21 N.J.R. 663(a), 21 N.J.R. 2789(b).
Incentive payment plan now tied to cost-benefit ratio.

Case Notes

Circular letter from Department of Human services to counties providing for state sharing in child support collection incentive payments from the federal government was void as improper rulemaking; state is not entitled to share incentive payments to counties since it has delegated support collection and enforcement to counties rather than retain function itself (citing former N.J.A.C. 10:81 Appendix D § 241 and former regulation). Shapiro v. Albanese, 194 N.J.Super. 418, 477 A.2d 352 (App.Div.1984).

10:81–11.6A Access to child support information

(a) The New Jersey Child Support Hotline's 800 number will allow interested parties to obtain child support information 24 hours a day, seven days a week, in English or Spanish.

1. By dialing 1–800–621–KIDS, individuals can access the following:

i. Description of support services and how to apply;

ii. Information regarding emancipation, custody and visitation;

iii. Information regarding direct payments;

iv. Information regarding credit reporting;

v. Information regarding the $50.00 disregard check;

vi. Tax offset information;

vii. Check and payment information; and

viii. A message voice mail system, whereby callers may leave a message for a specific worker.

New Rule, R.1994 d.566, effective November 21, 1994.
See: 26 N.J.R. 3353(a), 26 N.J.R. 4616(a).

10:81–11.6B County payment of fees for services

(a) Each CWA will be billed quarterly, according to its usage, for the service provided by the New Jersey Child Support Hotline's 800 number.

(b) Each county will be billed for submitting the following types of cases to the Federal Parent Locator Service (FPLS):

1. Child support cases in which an assignment of support rights to the State is not required;

2. Non–IV–D locate-only cases;

3. Parental kidnapping cases; or

4. Child custody cases.

(c) The counties will be billed quarterly, per case, at a rate determined by the Office of Child Support Enforcement of the United States Department of Health and Human Services. FPLS fees paid by the counties will be used to reimburse the Federal government for the expense of operating the FPLS.

New Rule, R.1994 d.566, effective November 21, 1994.
See: 26 N.J.R. 3353(a), 26 N.J.R. 4616(a).

10:81–11.7 Responsibilities of the State agency

(a) The State Office of Child Support and Paternity Programs, located in the Division of Family Development, shall be the single organizational unit responsible for the supervision of the administration of the Child Support and Paternity Program. This unit shall be referred to as the Office of Child Support and Paternity Programs (OCSPP). Responsibilities of the OCSPP include, but are not limited to, the following:

1. The coordination of activities involving CWA/CSP Units, the county probation departments, county prosecutor's offices, the county adjuster's offices (for URESA activity), the county sheriff's offices, the State Attorney General's Office, and the Administrative Office of the Courts;

2. The operation of the State Parent Locator Service (SPLS) and the coordination of the local parent location efforts;

3. The transmittal of regulatory and procedural information to the CWA/CSP Units;

4. The supervision of the Child Support and Paternity Program including monitoring activities;

5. Application to the U.S. Department of Health and Human Services for use of Federal courts with regard to the collection of child support;

6. The initiation of collection action through the U.S. Secretary of the Treasury;

7. Provisions of technical aid to county agencies encountering problems;

8. The coordination of activities involving collection of past due child support through Federal/State tax refunds;

9. Transmittal of all health benefits information, both voluntary and/or on support orders for AFDC and Medicaid Only clients, to the State's Division of Medical Assistance and Health Services.

10. The processing of requests from consumer reporting agencies, concerning the amount of overdue support owned by an obligor (see N.J.A.C. 10:81–11.9(a)). ("Consumer reporting agency" means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.)

i. Upon receipt of Form CSP–166 (Consumer Credit Request) from a county agency or a direct request from a Consumer Reporting Agency, the Child Support and Paternity Unit (CSPU) shall investigate the status of the person in question, to determine whether that person is identified in a IV–D case as an obligator;

ii. If the person is identified as an obligor but the support account is not more than $1,000 in arrears, the CSPU will complete Form CSP–167 (Credit Report) and send it to the inquiring consumer reporting agency, indicating that it has been an inappropriate inquiry;

iii. If the person is identified as an obligor and has a support account that is more than $1,000 in arrears, the CSPU will prepare Form CSP–168 (Notice of Account Disclosure) and send it to the obligor, advising that overdue support is more than $1,000 and that the consumer reporting agency is to be advised of the amount. The notice will also advise the obligor of procedures to follow for an administrative hearing if the amount owed is contested.

(1) The obligor shall be given 10 days, from the mailing date of Form CSP–168 to request a hearing. If a hearing is requested, Form CSP–169 (Hearing Request) will be forwarded to the Administrative Office of the Courts (AOC). A hearing shall be scheduled within 30 days from the date of receipt of the request. The hearing decision shall be sent to the obligor and simultaneously to the CSPU for further action.

(2) If it is found that the obligor does not owe more than $1,000, the consumer reporting agency shall be advised, via Form CSP–167.

(3) If it is determined that the obligor does not have an arrearage of more than $1,000, Form CSP–167 will indicate the request was inappropriate.

11. Setting the policy that a late payment fee will not be imposed on obligors who owe child support.

12. The operation of the Automated Child Support Enforcement System (ACSES), which will control, account for and monitor all the factors in the support collection and paternity determination processed under the State plan. At a minimum, this shall include:

i. Maintaining identifying information, such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal zip codes) on individuals against whom support obligations are sought to be established or enforced and on individuals to whom support obligations are owed, and other data as required by OCSPP;

ii. Periodically verifying the information on individuals referred to in (a)12i above with Federal, State and local agencies, both intrastate and interstate;

iii. Maintaining data necessary to meet Federal reporting requirements on a timely basis as prescribed by OCSPP;

iv. Maintaining information pertaining to:

(1) Delinquency and enforcement activities;

(2) Intrastate, interstate and Federal location of absent parents;

(3) The establishment of paternity; and

(4) The establishment of support obligations;

v. Collecting and distributing both intrastate and interstate support payments;

vi. Maintaining and distributing incentive payments to political subdivisions which share in the cost of funding the program and to other political subdivisions, based on efficiency and effectiveness in accordance with N.J.A.C. 10:81–11.6;

vii. Maintaining accounts receivable on all amounts owed, collected, and distributed;

viii. Maintaining costs of all services rendered, either directly or by interfacing with State financial management and expenditure information;

ix. Accepting electronic case referrals and updating information from the State's Title IV–A program and using that information to identify and manage support enforcement cases;

x. Transmitting information electronically to provide data to the State's AFDC system so that the IV–A agency can determine (and report back to the IV–D system) whether a collection of support causes a change in eligibility for, or the amount of aid, under the AFDC program;

xi. Providing security to prevent unauthorized access to, or use of, the data in the system;

xii. Providing management information on all IV–D cases under the State plan from initial referral or application through collection and enforcement;

xiii. Providing electronic data exchange with the State Medicaid system to provide for case referral and the transfer of the medical support information;

xiv. Providing electronic data exchange with the State IV–F program for purposes of assuring that services are furnished in an integrated manner unless the requirement is otherwise met through the exchange conducted under ix above;

xv. Using automated processes to assist the State in meeting State plan requirements and standards for program operations, including, but not limited to:

(1) The automated maintenance and monitoring of accurate records of support payments;

(2) Providing automated maintenance of case records for purposes of management and tracking requirements;

(3) Providing Title IV–D case workers with on-line access to automated sources of absent parent's employer(s) and wage information maintained by the State when available, by establishing an electronic link or by obtaining an extract of the data base and placing it on-line for access throughout the State;

(4) Providing locate capability by automatically referring cases electronically to locate sources within the State (such as the Division of Motor Vehicles, Department of Labor, and other State agencies), and to the Federal Parent Locator Service, and utilizing electronic linkages to receive return locate information and place the information on-line to Title IV–D case workers throughout the State;

(5) Providing capability for electronic funds transfer for purposes of income withholding and interstate collection; and

(6) Integrating all processing of interstate cases with the computerized support enforcement system, including the central registry; and

xvi. Providing automated processes to enable OCSPP to monitor State operations and assess program performance.

(b) Federal law mandates that the State must have a written and publicly available plan indicating how and when IV–D child support orders in effect in the State will be periodically reviewed and adjusted. Non–AFDC, IV–D child support orders and those interstate non-public assistance cases in which New Jersey is the responding state will be processed by the Office of Child Support and Paternity Programs (OCSPP) for review as provided for in this subsection. Interstate public assistance cases in which New Jersey is the initiating state will be processed by the county welfare agencies. Information with respect to the processing time frames and the responsibilities of the initiating and responding states regarding interstate cases is outlined at N.J.A.C. 10:81–11.21(b)4iii through 6ii.

1. An adjustment is an upward or downward change in the amount of child support, based on the application of State guidelines under New Jersey Court Rule 5:6A for setting and adjusting child support awards, and/or a provision for the child's health care needs through health insurance coverage or other means.

2. Review means an objective evaluation of information, conducted by the OCSPP, making it necessary for application of New Jersey Child Support guidelines, Court Rule 5:6A, to determine:

i. The appropriate support award amount; and

ii. The need to provide for the child's health care needs in the order, through health insurance coverage or other means.

3. Case identification procedures are as follows:

i. Written notice will be given by the OCSPP, advising both parties to a current child support order of their right to request a review within 30 days of the date of the notice.

ii. Those requesting a review will be instructed to write to the OCSPP.

iii. Upon receipt of the request for review, the OCSPP will establish a file. Written notice will be issued to both parties advising that a review of their current order will commence 30 days from the date of the notice, or that no review will be conducted because the request was not made timely within 30 days of the receipt of the identification notice.

iv. A request for information will be mailed to the individual qualifying for a review. The case file will be referenced by obligor's last name, first name, obligee's name and ACSES case number.

v. Upon receiving return responses to initiate the review, qualified cases shall be processed by OCSPP, which shall:

(1) Verify parties' employment and income through an interface with the New Jersey Department of Labor (DOL);

(2) Cross reference the case on ACSES to determine if multiple cases exist (the amount of the obligor's court order(s) in other cases will be considered in accordance with the State guidelines);

(3) Generate employment letters to the last known employer and/or any new employer information received on the parties; and

(4) Generate postal verification letters to the last known address of the parties and/or any new address information received.

4. A case can be eliminated from the review process if it is found that:

i. The current order is less than three years old or a request for review has been determined frivolous by the OCSPP. A frivolous request would exist if any one of the following occurs:

(1) If either party's income has not increased or decreased by a minimum of 20 percent;

(2) If either party is temporarily out of work or temporarily injured and unable to work;

(3) The child(ren) for whom support is owed no longer resides with the custodial parent;

(4) If either party is incarcerated or institutionalized; or

(5) There is a good cause determination that the review of the case is not in the best interest of the child(ren).

ii. If a case has been eliminated from the review process, a notation shall be made in the file on the "Adjustment of Review Document," indicating the date of the review and the reason(s) for eliminating the case from the adjustment work list.

5. When all needed information is obtained, calculations using both parents' income and the New Jersey Child Support Guidelines, Court Rule 5:6A, will be formulated to determine the anticipated child support order. OCSPP will compare the amount to the current child support order.

6. No adjustment will be initiated if calculations determine the adjusted amount is not 20 percent over or under the current order.

i. A written notice will be issued to both parties advising that, as a result of the review, the case does not qualify for an adjustment; and if either party disagrees, he or she has 30 days to file a request for redetermination. The notice shall also advise the parties that a redetermination may be filed only if information on which the determination was made was incorrect or incomplete.

7. If calculations determine that the adjusted amount is 20 percent over or under the current order, or if medical support is not currently in the order, a notice of adjustment will be sent to both parties advising of the new amount as a result of the review. Both parties have 30 days to request a redetermination of the decision, or either party may file the appropriate application with the court.

Amended by R.1985 d.219, effective May 6, 1985.
See: 17 N.J.R. 165(a), 17 N.J.R. 1095(a).
(a)1ix added.
Amended by R.1986 d.55, effective March 3, 1986.
See: 17 N.J.R. 2845(a), 18 N.J.R. 480(a).
(a)1 recodified into (a); (a)1i-ix renumbered (a)1–9; (a)10–12 added.
Amended by R.1987 d.253, effective June 15, 1987.
See: 19 N.J.R. 343(a), 19 N.J.R. 1093(a).
(a)11 deleted; (a)12 renumbered (a)11.
Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Deleted late payment fee of five percent for overdue support.
Administrative Correction to (a)10.
See: 24 N.J.R. 1499(a).
Amended by R.1993 d.282, effective June 7, 1993.
See: 24 N.J.R. 2328(a), 25 N.J.R. 2589(b).
Amended by R.1993 d.649, effective December 20, 1993.
See: 25 N.J.R. 2816(a), 25 N.J.R. 5949(a).
Amended by R.1994 d.159, effective March 21, 1994.
See: 26 N.J.R. 84(a), 26 N.J.R. 1349(a).

10:81–11.8 Responsibilities of the CWA

(a) Each CWA shall maintain a Child Support and Paternity (CSP) Unit.

(b) Staffing requirements: The CWA shall allocate and/or hire staff for the CSP Unit in quantity sufficient to effectively and efficiently carry out the provisions of N.J.A.C. 10:81–11.9 and parent locator functions outlined in N.J.A.C. 10:81–11.13 through 14. No CSP functions may be performed by staff that also performs income maintenance or social service functions. The CWA must maintain a separate line of authority for CSP staff. Exceptions may be granted to the staff separation requirement if it can be documented that such separation is not administratively feasible in sparsely populated counties. Approval for such exception must be granted by the Director of the Division of Family Development and the U.S. Department of Health and Human Services.

10:81–11.9 Responsibilities of the CWA/CSP Unit

(a) The CWA/CSP unit shall be responsible for taking appropriate action in those cases where an order does not exist to locate obligors, to establish paternity and/or secure child support and medical insurance due AFDC and Medicaid Only recipients. Upon application non-AFDC persons will be provided with location services; once location is established, non-AFDC persons will be referred to the Family Intake Unit to file a complaint. The CWA/CSP unit shall be responsible to annually send a notice of the amount of support payments collected during the preceding year to individuals who have assigned rights to support, as per N.J.A.C. 10:81–11.2(a)2; for securing all health benefits information, for referral of cases, when the whereabouts of the obligor is unknown, to the State Parent Locator Service; for providing services for location, filiation and obtaining and enforcing support for non-public assistance persons; and for referral of requests from consumer reporting agencies, concerning the amount of overdue support owed by an obligor, to the State Office of Child Support and Paternity, via Form CSP–166. (See N.J.A.C. 10:81–11.7 regarding responsibilities of the State agency.)

(b) Notification to remit support payments to the CWA:

1. Purpose: All support rights due AFDC–C recipients are assigned to the CWA and paid through the appropriate county probation department.

2. Appropriate probation department defined: The appropriate probation department shall be defined as the probation department which is currently collecting support payments for the AFDC recipient pursuant to a court order or in direct pay cases the probation department in the county in which the absent parent resides.

(c) Investigative interview: In cases where a court order does not exist and sufficient current information is not already available, the CSP Unit shall interview the AFDC recipient or IV–D applicant no later than 20 calendar days after receipt of the referral document.

1. Purpose of interview: The purpose of the interview shall be to obtain any information which may be necessary to assist the CSP Unit in the establishment of paternity and/or support and medical insurance and/or in its search for an absent parent (see N.J.A.C. 10:81–11.13 through 11.14). Such information shall be recorded in the case record as specified in (e) below.

2. Action resulting from the interview:

i. If the information provided by the AFDC recipient is sufficient to warrant legal action, such action shall be taken in accordance with (d) below. If information provided by the non-AFDC client is sufficient to warrant legal action, the non-AFDC client will be referred to the county family intake unit to file a paternity or non-support complaint and schedule a consent conference.

ii. If the AFDC recipient refuses to cooperate (see N.J.A.C. 10:81–11.5), the CSP Unit shall immediately contact the IM worker and such recipient's needs shall be deleted from the grant, subject to the requirements of adverse notice (see N.J.A.C. 10:81–7.1(k)).

iii. If the probation department refers an AFDC parent or parent-person to the CSP Unit for refusal to cooperate (see N.J.A.C. 10:81–11.5), the CSP Unit shall conduct an interview with such client within 10 working days to ascertain if there exists actual refusal to cooperate. The CSP Unit shall proceed in accordance with (c)2ii above. If it is determined that such person has cooperated, any pertinent information shall be forwarded to the probation department immediately.

(d) Legal action taken by the CSP Unit: If the CSP Unit collects information sufficient to locate the absent parent, legal proceedings shall be initiated for the purpose of establishing paternity and/or obtaining support and medical insurance within 90 working days of location. Each county welfare agency is required to have attorneys, all of which hold a plenary license to practice law in this State, who are in good standing and maintain a bona fide office for the practice of law in this State, either on staff or under contract, sufficient to represent the CWA in child support enforcement matters in court as necessary.

1. Consent process: For all cases in which sufficient information is available to initiate proceedings for the purpose of establishing paternity and/or obtaining support and medical insurance, a consent order will be attempted in accordance with individual county procedures within 90 calendar days of location.

i. Purpose: The consent process is to facilitate time efficient and cost effective methods to establish paternity and/or support and medical support orders.

ii. Definition: The consent process is a conference between the plaintiff and the defendant before a Family Division Intake Officer, to agree to a specific amount of child support based on an approved support formula, as outlined in the New Jersey Child Support Guidelines, Court Rule 5:6A, to be paid through the appropriate probation department.

iii. Results: If paternity is acknowledged and/or support and medical insurance are agreed upon, an order shall be established and forwarded to the appropriate court for review and approval by the judge within 90 calendar days.

2. Filiation proceedings: With regard to AFDC and AFDC/Medicaid Only cases in which paternity has not been acknowledged, the CWA/CSP Unit shall file a complaint to establish paternity in a court of competent jurisdiction within 90 calendar days of locating the alleged father.

i. Genetic test scheduling: If paternity is denied and the court orders genetic tests, the CWA/CSP Unit shall schedule the test at a legally and medically acceptable State approved facility within one year of successful service or the child reaching six months of age.

(1) The Office of Child Support and Paternity Programs shall develop a list of approved genetic testing laboratories through the competitive procurement process. The State shall award a contract to each laboratory on the list. In order for a county to receive Federal reimbursement for genetic testing fees it must choose the lowest cost vendor that can provide accessible, timely service and fulfill the unique needs of that agency. The CWA must contact and interview the laboratories on the list, beginning with the lowest cost vendor, until a qualifying vendor is chosen. Once a vendor is chosen, the CWA is not under obligation to contact or interview those laboratories of higher cost. The county must then request State approval to use the State contract with the chosen laboratory or to independently negotiate a contract with that laboratory at a lower cost than the State contract. If the lowest cost vendor on the list was not the county's choice, reasons for not using that vendor must be given. The same would apply to the next lowest cost vendor and so on until the chosen vendor is reached. Once State approval is granted the county agency will be responsible for carrying out the terms of the contract.

ii. Payment for genetic test: The CWA shall provide initial payment for paternity determinations in all AFDC and non-AFDC cases through any of the laboratories approved by the State. Although the CWA will provide initial payment, the CWA/CSP Unit shall have the court stipulate that the cost for genetic testing be paid by either of the parties involved as determined by the practice of the court. The only exceptions would be for the following reasons:

(1) The defendant is excluded and the court specifies that the defendant is not financially responsible.

(2) The defendant has been declared indigent by the court.

(A) Note: Defendant can be held liable for the cost and possible future payment in cases where he is found indigent.

iii. Legal proceedings waived: Filiation proceedings shall be waived when good cause is established as per section 402(a)(26)(B) of the Social Security Act. Good cause includes any case involving incest or forcible rape, or in any case in which legal proceedings for adoption are pending, if, in the judgment of the CWA, it would not be in the best interest of the child to pursue the establishment of paternity.

iv. Order of filiation: If the court finds that the person charged is the father, an order of filiation is made which also specifies the amount of support and medical coverage to be provided by the father for the maintenance of the child.

v. Refusal or inability to identify father: In cases where the mother refuses, or claims inability, to reveal the identity of the reputed father, a complaint may be filed naming the defendant as follows:

(1) "John Doe, reputed father of (name of child) said name John Doe being fictitious." Such a complaint must be accompanied by the affidavit of inquiry made by the CWA director or duly authorized representative, stating the mother's refusal or inability to identify the reputed father and that other diligent inquiry has failed to reveal the identity. The court may then hold an examination of the mother who withheld disclosure of the name of the reputed father. If she refuses to cooperate, the court may hold her in contempt.

(A) Normally after such a complaint is filed and an examination held as required for disclosure or identity of the reputed father, a warrant will be issued against the reputed father so that when he is personally served, he may be subject to the jurisdiction of the court. This is followed by a hearing where testimony is given by the parties, on the basis of which the court decides the issue of paternity.

vi. Order of filiation denied: If a court of competent jurisdiction denies an order of filiation against an individual, the CSP Unit shall take no further action with regard to that alleged absent parent, except for appeal of the decision of the court, if warranted. If the court or administrative authority dismisses a petition for a support order without prejudice, the CWA/CSP unit shall examine the reasons for dismissal, determine when it would be appropriate to seek a support order in the future, and seek a support order at that time.

3. Support proceedings: In cases where paternity has been legally established through marriage and an agreement cannot be reached at the consent conference, the defendant will be brought before a hearing officer the same day or on the first available date. However, in all cases, establishing paternity or establishing a court order must take place within 90 days of location.

4. Filing of complaint: The applicant/recipient is not required, as a condition of eligibility for assistance, to sign a complaint to establish paternity or obtain support and medical insurance. Such complaints shall be filed in the name of the CWA by the director or his or her authorized representative within 90 calendar days of location or paternity establishment. Whenever possible, the complaints should be filed in the name of both the CWA and the client to ensure continuation of the court action should the client's assistance be terminated. In non-AFDC cases only the custodial parent will sign the complaint.

5. Treatment of cases in which the absent parent resides out-of-State: In cases where the absent parent resides out-of-State, proceedings to establish paternity and/or secure child support and medical insurance shall be in accordance with the Uniform Reciprocal Enforcement of Support Act (1968) (URESA) or, to establish paternity, in accordance with the State's long arm statute, under the Parentage Act at N.J.S.A. 9:17–46(b); whenever appropriate. Within 20 calendar days of determining the absent parent is out-of-State, the CWA/CSP Unit, with the client's cooperation, will file a Uniform Support Petition and General Testimony for URESA or, when necessary, a request for location services with the State's central registry.

i. Where an order for support exists, the CWA will request payment enforcement through the local County Probation Department (CPD) by use of URESA Action request (OS546–01).

6. Treatment of cases in which the absent parent is incapacitated: In cases where it has been verified that the absent parent is permanently disabled, the case shall be processed in the routine manner for obtaining or enforcing a court order, thus ensuring periodic financial evaluation.

7. Treatment of cases in which bankruptcy has been declared: The discharge of any child support obligation in

bankruptcy proceedings conducted under Title 11 of the U.S. Code is prohibited. Therefore, cases in this category shall be brought to the attention of the county probation department for appropriate action.

8. Treatment of cases in which the absent parent is incarcerated and involved in a work release program: If the absent parent is incarcerated in a prison that has a work release program, the CWA shall notify the work release coordinator that the prisoner is liable for child support.

9. Treatment of case in which the absent parent is deceased: In cases where the absent parent is deceased, verification of death must be obtained and a copy of the death certificate placed in the IV–D file. The case shall be designated as a closed IV–D case for statistical purposes.

10. Treatment of a case in which the absent parent is in the military: In cases where the absent parent is serving in the military, formal legal proceedings should be initiated (see (d)1 through 5 above).

i. If the absent parent is temporarily stationed out of the country and New Jersey does not have reciprocity with the particular country, the absent parent's commanding officer shall be contacted to obtain a voluntary admission of paternity and/or a military allotment for child support and medical coverage.

ii. In cases where the absent parent is serving in the military and there is a valid court order under the jurisdiction of a probation department within the State, a request for an allotment shall be made through the appropriate probation department.

(e) Rules on CSP case record are as follows:

1. CSP case record: Automated CSP case records shall be maintained for all AFDC cases referred to the CSP Unit. The case record shall be established on the Automated Child Support Enforcement System (ACSES) within 20 calendar days after receipt of referral from IV–A or the filing of a IV–D application. The case record shall be updated with new information within five working days of receiving such information.

i. Purpose of CSP case record: The purpose of the automated CSP case record is to compile, in one easily accessible location, all information relevant to CSP activities.

ii. The automated CSP case record shall contain the following information as applicable to each case:

(1) The date of the referral from IV–A to IV–D for each AFDC applicant/recipient or the date an application was filed for those individuals requesting nonpublic assistance (NPA) services.

(2) Information such as social security numbers, names, dates of birth, home addresses and mailing address on individuals against whom support obligations are sought to be established or enforced and on individuals to whom support obligations are owed.

(3) A record of any contact with the AFDC applicant/recipient or NPA individual. The date and reason for contact, and the result thereof shall also be documented.

(4) A record of any contacts with the absent parent, the date and reason therefor, and the results of such contacts.

(5) A record of all efforts to utilize locate sources, including the dates and results of these efforts.

(6) Paternity establishment information.

(7) A record identifying the court order and information regarding delinquency and enforcement activities, as well as collection and distribution.

(8) Medical support information.

(9) A record of communications to and from the Office of Child Support and Paternity Programs or any other CSP agency.

(10) A record of communications to and from income maintenance staff concerning the case.

(11) A record of deletions, terminations, suspensions or transfer of case/individual, the date and the reason for such action.

iii. Legal proceedings waived: If legal proceedings are waived in accordance with (d)2iii above, that fact shall be noted in the CSP case record and no further action shall be taken by the CSP Unit.

(f) Application for IRS full collection: Application for full collection by the IRS may be made only in those cases which involve a delinquent amount of a child support obligation under the order of a court of competent jurisdiction. Applicants/recipients of AFDC may be eligible for this service under Section 402(a)26 of the Social Security Act and 45 CFR 232.11 since the application for assistance assigns support rights to the State. Under Section 454(6) of the Social Security Act, non-AFDC families may also be eligible for this service when a signed "Application for IV–D Services" is obtained from the client.

1. Minimum amounts for IRS collection: Application for collections by IRS may be made only when the delinquent amount owed exceeds $750.00

2. Fee chargeable to CWA: The CWA in the county in which the application was initiated (whether for AFDC or non-AFDC case) will be billed a collection fee of $122.50 for each application certified by DHHS.

3. Frequency of application: No application for certification can be made within six months of a previous application in the same case except to correct an error or to make an adjustment to a prior application.

4. Approval or disapproval of application: If the Office of CSP Programs approves the application, it will then be submitted to the DHHS Regional Office of Child Support Enforcement, which will approve or disapprove the application. The CWA or county probation department (CPD) will be notified, in writing, by the Office of CSP Programs with regard to approval or rejection of the application.

5. Diligent effort to collection delinquent child support: The local CWA/CPD IV–D Unit must first make diligent and reasonable efforts to collect the delinquent amounts utilizing the State collection mechanisms. These efforts should include, among others, appropriate steps to locate the delinquent support obligor, to ascertain that person's current or last known employer, and to locate and levy against that person's assets.

6. Form CSP–109, Application for IRS Collection of Child Support: Application for such services is made via Form CSP–109, Application for IRS Collection of Child Support. Applications may be submitted by the director of the CWA or his or her designee or the chief probation officer or his or her designee. Certification and authorization of pertinent court order information and arrearage amounts must also be signed by the chief probation officer or any individual so designated by the chief. The application shall be submitted to the Office of CSP Programs and a copy retained in the case record.

(g) Access to IRS data for child support enforcement: Upon written request, the IRS is authorized to disclose individual income tax return information to State and local child support enforcement agencies. The State CSP Unit has been designated the single State unit responsible for requesting information and ensuring adequate safeguards against wrongful disclosure in accordance with Federal requirements. Records that may be accessed include master file information and tax return information.

1. Master file information: This information includes filing status, dollar amounts, nature of income, and the number of dependents. The State will record this information and then forward it to the requesting county.

2. Tax return information: This information includes gross income, names and addresses of payers of income, and names of dependent(s) claimed. The IRS will supply this information only if it is not reasonably available from any other source. The State will attempt to verify this information through third party sources. Only third party verification will be forwarded to the requesting CSP Unit.

3. Fee chargeable to CWA: The fee to the CWA for master file information is $.20 per name search and $2.65 per name for tax return information. The CWA will be billed at the end of each report quarter for the number of requests received by the State Child Support Unit. These expenses are reimburseable at the 70 percent Federal matching rate.

4. Restrictions against use of IRS data: Tax information disclosed to child support enforcement agencies shall not be used in litigation and shall not be divulged to third parties.

5. Security requirements: The Federal Government has issued the following security requirements for IRS tax information.

i. Minimum security required will be that of a locked container stored in a room that is locked when not in use and located in a building that is either locked or under security guard protection when not occupied. No more than two authorized personnel are permitted to have keys for the lock combination of the container. Only authorized personnel may be allowed access to the tax information on a "need to know" basis.

ii. An access list of persons authorized to process and request IRS data must be submitted to the New Jersey Office of Child Support and Paternity Programs before any information can be released. Access to areas where IRS information is stored or processed must be controlled to the degree that unauthorized personnel, to include janitorial staff, must be escorted there by an authorized individual during non-working hours. Locks or combination to the security container must be changed yearly or upon departure or reassignment of authorized personnel. When written material containing IRS data is no longer needed, it must be returned to the State CSP Office. No information provided by IRS may be copied in any manner. Records must be maintained as to the disposition of such material. Periodic inspections of State and local facilities by the IRS will be conducted to ensure that security precautions and confidentiality requirements are being met.

6. Unauthorized disclosure of information: It shall be unlawful for any officer, employee or agent, or former officer, employee or agent of any state or any local child support enforcement agency to disclose to any person, except as authorized in this title, any return or return information acquired by him or another person. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution.

7. IRS data request procedures: A request for IRS data is accomplished by submission of CSP Form –122, Request for IRS Master File Information, or CSP Form–123, Request for IRS Return Information.

i. Completion of Form CSP–122 shall be completed in duplicate and shall include the name(s) and title(s) of the designated official(s) authorized to maintain IRS master file data, the name(s) and title(s) of agency personnel authorized access to IRS information, a signature of the agency's director or designated representative, and the name, Social Security number, and welfare case number (WC#) (or probation case number) for each case requested.

ii. Completion of Form CSP–123: Form CSP–123 shall be completed in duplicate and shall include the name(s) and title(s) of the designated official(s) authorized to maintain IRS return information, the name(s) and title(s) of agency personnel authorized access to IRS information, the signature of the agency's director or designated representative, the taxpayer's name, welfare case number (WC#) (or probation case number), address, SSN, and tax period requested. In addition, a statement shall be included outlining the need for this request.

iii. Routing of Form CSP–122 and Form CSP–123: Forms CSP–122 and CSP–123 shall be submitted in duplicate to the State CSP Unit.

8. Documentation by CWA/CPD: The CWA/CSP Unit or CPD IV–D staff shall maintain individual records noting the dates when the information was received, who received the information, who had access to the information, and the date the information was returned to State.

(h) Collection of delinquent child support payments through offset of Federal income tax: Federal income tax refunds shall be offset when court ordered child support payments owed to county welfare agencies are delinquent.

1. Eligible cases: Court order child support payments must be at least three months in arrears and the delinquency must total at least $150.00 to be eligible for Federal Tax Refund Offset.

2. CWA responsibilities: CWA/CSP Unit shall be responsible for submitting cases to the IRS Offset process where child support or a judgment has been ordered payable directly to the CWA by a court of competent jurisdiction via Form CSP–152 Tax Refund Offset Data Form. The CPDs will be responsible for submittal of those public assistance cases under their supervision which meet the eligibility requirements.

i. Completion of Form CSP–152, Tax Refund Offset Data Form: Form CSP–152 must be completed for each absent parent to be submitted for IRS Offset in accordance with instructions listed on the form. It should be noted that if the absent parent is under multiple court orders, only one Form CSP–152 should be completed.

ii. Completion of Form CSP–151, Batch Transmittal Tax Refund Offset Form: A CSP–151 form will be completed to transmit a batch of CSP–152 forms. Batches will include up to 25 cases. Each CSP–151 form must include a batch control number. The batch control number must be three digits and is to be prefaced with the submitting county's local code as outlined on Form CSP–152. Batches should be numbered consecutively (for example Atlantic: 001–001, 001–002, 001–003).

iii. Routing of Form CSP–152 and Form CSP–151: Forms CSP–151 and CSP–152 are to be forwarded to the State CSP Unit.

iv. Payment for submittal and collection costs: County welfare agencies shall pay the State IV–D agency for all direct costs incurred in submittals and collections for the Federal Tax Offset Program. Such payments are retroactive to the date of Offset Program implementation. Since the Division of Family Development prepays these fees, payment from the county welfare agency will be in the form of reimbursement of the Division of Family Development.

3. Automated submittal of cases for IRS Offset: Those county probation departments that are automated may submit cases for IRS Offset via magnetic tape. Specifications for magnetic tape layout will be issued annually.

4. Submittal date: The State CSP Unit must submit all requests for collection annually by October 1 of each tax year to the Office of Child Support Enforcement (OCSE).

5. Notification procedure for cases potentially eligible for offset: All taxpayers submitted for offset against their Federal income tax refund due to child support arrearages will receive notification of the offset prior to the end of the current tax year.

6. Inquiries or appeals pertaining to the offset: Taxpayers will be notified that any inquiries or appeals regarding the offset of their Federal income tax refund should be directed to the State CSP Unit.

7. Update of cases submitted for offset: Necessary updates (deletions or corrections) of cases submitted for offset, will be submitted via Form CSP–152 to the State CSP Unit. All updates must be received by OCSE prior to December 15 of the current tax year.

i. Completion of Form CSP–152; Deletions: If the original arrearages figure submitted for offset has been paid in full, the original amount of arrearage will be placed in "amount owed" (blocks 68 through 75) on Form CSP–152 and a "D" will be placed in the "Action Code" (block 80). A deletion may be submitted immediately provided the arrears have decreased to $49.00 or less.

ii. Completion of Form CSP–151; Deletions: Deletion forms should be batched in the same manner as initial submittals (see (h)2ii above). These batches should contain only deletions and the batch transmittal must be identified as containing only deletions by printing a large "D" above the batch information area.

iii. Completion of Form CSP–152; Corrections: If the arrears have been reduced since the original submittal of the case, the new arrearage figure will be placed in "Amount Owed" (blocks 68–75) of Form CSP–152 and a "C" will be placed in the "Action Code" (block 80).

iv. Completion of Form CSP–151; Corrections: Correction forms should be batched the same number as original submittals (see (h)2ii above). These batches should contain only corrections and the batch transmittal must be identified as containing corrections by printing a large "C" above the batch information area. Multiple corrections should be tracked to ensure submittal of the most current information possible.

(1) Note: Batches should be numbered sequentially in order of submittal regardless of the type of batch.

v. Routing of Forms CSP–151 and CSP–152 for update: Forms CSP–151 and CSP–152 are to be routed in the same manner as original submittals (see (h)2iii above).

vi. Automated submittal of deletions and corrections for IRS offset: Those counties that are automated and have submitted original request for offset via magnetic tape, will submit request for deletion or correction via magnetic tape in accordance with annual instructions for tape layout.

8. Joint returns for cases submitted for Federal IRS tax refund: In situations where a taxpayer and his employed spouse have filed a joint return and the spouse is not responsible for the child support debt, the involved parties should be referred to their nearest IRS Service Office to complete a 1040X Form for a prorated refund. The parties should bring a copy of their completed tax return and copies of all W–2 forms.

9. Interstate notification: In interstate cases, only the state that has been assigned the support rights may request offset of IRS refunds. The submitting state must inform the reciprocating state of the submittal and advise that state when a collection is received so that accurate accounts can be maintained.

10. Restriction of information to IV–A units: The IV–D units shall not release address information obtained from IRS through the Tax Refund Offset Program to IV–A units.

(i) Collection of delinquent child support payments through the New Jersey State Income Tax/Homestead Rebate (SOIL) Project: Delinquent child support payments owed to the county welfare agency may be offset through the New Jersey State Income Tax/Homestead Rebate (SOIL)Project.

1. Eligible cases: Cases with a minimum arrearage of $25.00 may be submitted for offset under this program.

i. Note: Cases submitted under the Federal IRS Offset Project should not be submitted under this program. Cases submitted for the Federal Offset Project will automatically be forwarded for offset under the SOIL Project.

2. Submittal of eligible cases: CWA/CSP Unit shall be responsible for submitting cases to the SOIL Project where child support or a judgment has been ordered payable directly to the CWA by a court of competent jurisdiction. The CPDs shall be responsible for submittal of those public assistance cases under their supervision which meet the eligibility requirements. Cases will be submitted via Form CSP–152.

i. Completion of Form CSP–152, Tax Refund Data Form: Form CSP–152 shall be completed in the same manner used when submitting for the Federal Tax Refund Offset (see (h)2i above).

ii. Completion of Form CSP–151, Batch Transmittal Tax Refund Offset Form: Form CSP–151 shall be completed in the same manner used when submitting for the Federal Income Tax Refund Offset (see (h)2ii above). Each batch should contain only cases submitted for the SOIL Project and must be indicated as such by printing a large "S" above the batch information area on the batch transmittal form.

(1) Note: Batches should be numbered sequentially, in order of submittal, regardless of the type of batch.

iii. Routing Forms CSP–151 and CSP–152: Forms CSP–151 and CSP–152 shall be routed to the State CSP Unit in the same manner used when submitting for the Federal Income Tax Refund Offset (see (h)2iii above).

3. Automated submittal of cases for collection of delinquent child support payments through the N.J. State Income Tax/Homestead Rebate (SOIL) Project: Counties that are automated may submit cases for State Income Tax/Homestead Rebate Offset via magnetic tape in accordance with specifications issued annually.

4. Submittal date: The State CSP Unit must submit all requests for collection of delinquent child support through the N.J. State Income Tax/Homestead Rebate (SOIL) Project annually by January 1.

5. Additions for collections of child support payments through Homestead Rebate: The State CSP Unit must submit all additional requests for Homestead Rebate Offset annually by June 1.

6. Notification procedure for cases potentially eligible for offset of State Income Tax/Homestead Rebate: All taxpayers submitted for offset against their State Income Tax/Homestead Rebate due to child support arrearages will receive notification of the offset from the Division of Taxation.

7. Inquiries or appeals pertaining to the offset: Taxpayers will be notified that any inquiries or appeals regarding the offset of their State Income Tax/Homestead Rebate should be directed to the State CSP Unit. Taxpayers will have 35 days from the date of the notice to appeal the offset.

8. Update of cases submitted for offset, State Income Tax Refund/Homestead Rebate: Necessary updates (deletions or corrections) will be processed in the same manner as cases submitted for Federal Income Tax Refund Offset (see (h)7 above).

i. Note: Cases submitted should be identified as Offset of State Income Tax Refunds/Homestead Rebate by printing a large "S", in addition to the "D" for deletions or "C" for corrections, on the CSP–151, Batch Transmittal Tax Refund Offset Form.

9. Joint returns for cases submitted for State Income Tax Refund/Homestead Rebate: In situations where the debtor and his employed spouse may have filed a joint return and the spouse is not responsible for this child support debt, a written request for an appeal must be forwarded to the State CSP Unit and must include taxpayer's name, spouse's name, and both Social Security numbers. This appeal will be referred to the Division of Taxation for appropriate action.

10. County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Income Tax Refund/Homestead Rebate Program. Such payments are retroactive to the date of Rebate Program implementation. Since the Division of Public Welfare prepays such fees, payments from county welfare agencies will be in the form of reimbursement to the Division of Public Welfare.

(j) Payment of costs for unemployment garnishments: County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Unemployment Garnishment Agreement with the New Jersey Department of Labor. Such payments are retroactive to the date of garnishment program implementation. Since the Division of Public Welfare prepays such fees, payments from the county welfare agencies will be in the form of reimbursement to the Division of Public Welfare.

(k) Payment of costs for lottery intercept: County welfare agencies shall pay all direct costs incurred in submittals and collections under the State Lottery Intercept Agreement with the New Jersey Department of Treasury. Such payments are retroactive to the date of program implementation. Since the Division of Public Welfare prepays such fees, payment from the county welfare agencies will be in the form of reimbursement to the Division of Public Welfare.

(*l*) The first $50.00 of child support collected in a month, that is received in the month due, shall be sent to the AFDC family within 15 calendar days of the end of the month in which the support is received.

1. The first $50.00 of the child support payment, as described in paragraph (*l*) above, is disregarded when determining AFDC eligibility and the amount of the AFDC payment. This $50.00 payment to the family is referred to as the $50.00 disregard payment.

(m) Title IV–D services available to non-public assistance persons: Appropriate child support services are to be made available to non-public assistance persons upon application filed by such individual with the IV–D Agency. These services shall include locating obligors, establishing paternity and securing support and medical insurance.

1. State of New Jersey Title IV–D Program Application for Child Support Services: Non-public assistance individuals requesting services from the CWA shall apply for such services by signing the State of New Jersey Title IV–D Program Application for Child Support Services. This form shall be executed in duplicate. (See N.J.A.C. 10:81–11.2(c) regarding application fee.) The CWA will provide an application for services on the day a request is made in person. The CWA will provide an application for services in no more than five working days of receipt of a written or telephone request. Information describing services, rights and responsibilities, fees, cost recovery and distribution policies must accompany all applications for services. An application must be accepted on the day it is received.

i. Purpose: In order for the CWA/CPD to obtain FFP for non-public assistance child support and collection activities, an individual must sign an application for such services.

ii. Routing of Form CSP–111: This form must be executed in duplicate. The original shall be filed in the NPA applicant's case record and the duplicate given to the client at the time of application.

2. Parent Locator Services: NPA persons are entitled to receipt of PLS services to the same extent and for the same purposes as public assistance persons.

i. No active intrastate order: If no active intrastate order exists, the parent locator service shall be utilized by the county welfare agency to locate the absent parent for the purpose of obtaining child support (see N.J.A.C. 10:81–11.14).

ii. Active intrastate support order: If an active intrastate order exists, the county probation department charged with enforcement of the order will be responsible for providing parent locator service to the non-public assistance person.

3. Establishing paternity: Non-public assistance persons are entitled to receipt of services regarding the establishment of paternity to the same extent as public assistance persons.

4. Obtaining an order: Non-public assistance persons seeking support payments and medical insurance shall be referred to the county intake unit responsible for initiating consent conference.

i. Once an order has been established, non-AFDC cases will be processed for review and adjustment as outlined at (b) above.

5. Documentation of action taken by CSP Unit: All action taken by the CSP Unit on behalf of a non-public assistance person shall be documented in a CSP case file in accordance with (e) above.

Amended by R.1985 d.219, effective May 6, 1985.
See: 17 N.J.R. 165(a), 17 N.J.R. 1095(a).
Added text in (a): "for securing and . . . and Health Services;".
Amended by R.1986 d.55, effective March 3, 1986.
See: 17 N.J.R. 2845(a), 18 N.J.R. 480(a).
(a) Substantially amended.
Amended by R.1985 d.62, effective March 17, 1986.
See: 17 N.J.R. 369(a), 18 N.J.R. 562(a).
Amended (h)-(*l*).
Amended by R.1986 d.243, effective July 7, 1986 (operative August 1, 1986).
See: 17 N.J.R. 2516(b), 18 N.J.R. 1383(b).
(h)10 added.
Amended by R.1987 d.253, effective June 15, 1987.
See: 19 N.J.R. 343(a), 19 N.J.R. 1093(a).
Text added to (a) "to annually send . . . per N.J.A.C. 10:81–11.2(a)2;".
Amended by R.1989 d.496, effective September 18, 1989.
See: 21 N.J.R. 1795(a), 21 N.J.R. 3006(a).
Procedural requirements deleted.
Amended by R.1990 d.401, effective August 6, 1990.
See: 22 N.J.R. 1053(a), 22 N.J.R. 2318(a).
CWA pays all fees for paternity determination tests, AFDC and non-AFDC.
Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Established maximum timeframes; deleted use of obsolete form; "blood test" replaced by "genetic test" and required medical support as condition for IV–D services.
Amended by R.1993 d.1, effective January 4, 1993.
See: 24 N.J.R. 2327(a), 25 N.J.R. 115(a).
In subsection (d): added text indicating that each CWA must have attorneys, either on staff or under contract, to represent the CWA in court in paternity establishment and child support enforcement matters.
Amended by R.1993 d.282, effective June 7, 1993.
See: 24 N.J.R. 2328(a), 25 N.J.R. 2589(b).
Administrative Correction.
See: 25 N.J.R. 5950(a).
Amended by R.1993 d.649, effective December 20, 1993.
See: 25 N.J.R. 2816(a), 25 N.J.R. 5949(a).
Amended by R.1994 d.159, effective March 21, 1994.
See: 26 N.J.R. 84(a), 26 N.J.R. 1349(a).
Amended by R.1995 d.271, effective June 5, 1995.
See: 27 N.J.R. 1937(a), 27 N.J.R. 2223(a).

10:81–11.10 Fiscal record maintenance

The CWA shall be responsible for the maintenance of records involving receipt of child support payments. Procedures contained in Chapter IV of the Accounting Manual shall be followed.

10:81–11.11 Good cause determination

(a) The CSP Unit shall not undertake to establish paternity or secure child support and medical insurance when the unit has received notice from the income maintenance unit that there has been a finding of good cause for noncooperation (N.J.A.C. 10:81–11.5), except as noted in N.J.A.C. 10:81–11.5(j)2.

1. Activities suspended: Upon receipt of notice from the IM Unit that an applicant/recipient has claimed good cause (see N.J.A.C. 10:81–11.5(i)2), the CSP Unit will, until notified of a final determination, suspend all activity in regard to establishment of paternity, and collection of support and/or medical insurance.

2. CSP activity without client participation: When there has been a finding that good cause exists but the IM Unit notifies the CSP Unit that child support enforcement may proceed without participation of the applicant/recipient, the CSP Unit will undertake to establish paternity and/or secure child support and medical insurance without involvement in any way of the applicant/recipient (see N.J.A.C. 10:81–11.5(j)).

Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Requires the securing and enforcement of medical support as a condition of eligibility for IV–D.

10:81–11.12 Notification of deletions, terminations, suspension or transfer of case/individual

(a) In the case of termination of AFDC assistance, the IV–D agency will notify the family that it will continue to collect and distribute current child support payments. The appropriate IV–D agency collecting support must be notified of the continuation of IV–D services for families that lose AFDC eligibility.

Amended by R.1985 d.210, effective May 6, 1985.
See: 17 N.J.R. 164(a), 17 N.J.R. 1094(b).
(b) added.
Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Deleted use of obsolete form CSP–157.

10:81–11.13 Parent Locator Service

(a) The locating of absent parents for the purpose of establishing paternity and enforcing child support and medical insurance obligations is a CWA responsibility. To fulfill this requirement, the CWA shall establish a parent locator service within the CSP Unit to perform parent locator services as described in N.J.A.C. 10:81–11.14.

1. The CSP Unit will conduct parent location activity in all cases for which no court order exists within 30 working days of application or referral. In cases where a court order does exist, the probation department has responsibility for parent location activities; however, it is recommended that on cases where court ordered support is not being received the CWA notify the probation department of the need for enforcement.

Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Established within 30 day time frame for conducting parent location activity.

10:81–11.14 CWA parent locator responsibilities

(a) The CSP Unit shall conduct ongoing investigations to locate the absent parent at the local, State and Federal levels as necessary based on information obtained during the investigative interview or other leads. The opening of a case and referral for location must take place within 20

calendar days. All locate sources are required to be accessed and responses verified within 75 calendar days of determining that location is necessary. CWA/CSP shall utilize the Automated Child Support Enforcement System (ACSES) to do searches and appropriate systems-generated forms. When the absent parent is believed to be in another county within the State, the CSP Unit shall access ACSES to obtain all necessary information to pursue location.

1. Sources: The following sources are to be used by the CWA/CSP Units during its investigation, as appropriate. All of these sources may not be available in every county. This list of sources is not exclusive.

i. Gas and electric utilities (regarding disconnections or transfer of services);

ii. Telephone company;

iii. Neighbors and landlords;

iv. Last known employer of absent parent regarding:

(1) Current employment;

(2) Date and reason for termination;

(3) Social Security number and date of birth;

(4) Address to which last W–2 form was mailed;

v. Friends of absent parent;

vi. Local post office for change of address;

vii. Absent parent's relatives;

viii. Recipient's relatives;

ix. Loan companies;

x. County court house records:

(1) Loan agreements;

(2) Mortgages;

(3) Real property ownership;

(4) Other family court matters pertaining to child support matters;

xi. Voter registration records;

xii. Local law enforcement agencies; and

xiii. Credit bureaus and credit reporting agencies and the ACSES Find Screen to determine if the absent parent is connected to any other AFDC case.

(b) Inter-county cooperation requirement:

1. When an absent parent is believed to be in another county within the State, the CSP Unit shall send a request to such county's CSP Unit for assistance in locating the parent.

2. Counties are directed to share known information on an absent parent even when it is not requested by another county, or the requesting county has changes. This information should be sent to the county in charge of the case where it can be input onto the ACSES system. The information will be entered as an update to the absent parent screen and known system-wide via ACSES.

(c) Absent parent located at client's address: If the absent parent is located and is residing at the same address as the client, an immediate referral from the CSP Unit to the appropriate IM Unit and the Fraud Unit is required. Such referral shall be recorded in the CSP file and shall include the date and reason for the referral.

(d) The following State sources are to be utilized by CWA/CSP for absent parent searches via automated interfaces on ACSES. This list is not all inclusive:

1. State Division of Motor Vehicles;

2. State Department of Labor;

3. Records of Public Assistance Agencies;

4. State Department of the Treasury;

5. State Department of Corrections; and

6. Parent Locator Services of other states (where appropriate).

(e) Federal PLS is to be utilized via tape interface to check the following sources:

1. National Personnel Records Commission (NPRC);

2. Department of Veterans Affairs (DVA);

3. Social Security Administration (SSA);

4. Internal Revenue Service (IRS); and

5. Department of Defense (DOD).

(f) If the Federal PLS is unsuccessful in the location process, cases which meet the minimum data requirements shall be resubmitted at least annually.

Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Align State rules with Federal statutes on the location of absent parents.

10:81–11.15 State PLS/Federal Parent Locator Service (PLS)

(a) The State PLS shall be responsible for absent parent searches at the State agency level, coordination of interstate location activities, and referrals to the Federal PLS. This includes the Division of Youth and Family Services (DYFS), parental kidnapping, Administrative Office of the Courts (AOC) referrals, out-of-State and out-of-county locate requests.

1. Sources to be utilized by State PLS: The following sources are to be utilized by the State PLS, as appropriate. This list is not exclusive.

i. State Division of Motor Vehicles;

ii. State Division of Unemployment and Disability Insurance;

iii. Records of public assistance agencies;

iv. Parent Locator Services of other states;

v. Federal PLS;

vi. State Department of Treasury; and

vii. State Department of Corrections.

(b) All State PLS cases, excluding AOC and out-of-country, will access Federal PLS via PC to search the following sources:

1. National Personnel Records Commission (NPRC);

2. Department of Veterans Affairs (DVA);

3. Social Security Administration (SSA);

4. Internal Revenue Service (IRS); and

5. Department of Defense (DOD).

(c) The State PLS will notify the requesting office immediately via form PA–450A, Source Response Form, or other hard copy, of information obtained on a case.

(d) The "quick locate" process may be used for those interstate cases in which information indicates that the absent parent could be in one of several states.

1. A request for "quick locate" shall be made directly to the State Parent Locator of each of the states the absent parent could be in. The "quick locate" request shall not be made to another state's central registry.

2. A "quick locate" request does not constitute an official interstate case.

3. The "quick locate" request should be sent to the other state's SPLS in whatever format the requesting state chooses, with the exception of the Child Support Enforcement Interstate Transmittal (FSA–200). The FSA 200 shall not be used because it constitutes an official interstate request.

4. It is the responsibility of the requesting state to complete location activity within the 75 calendar day time frame as required by Federal regulations at 45 C.F.R. 303.3(b)(3).

Amended by R.1990 d.541, effective November 5, 1990.
See: 22 N.J.R. 1664(a), 22 N.J.R. 3373(a).
Align State rules with Federal statutes on the location of absent parents.
Amended by R.1994 d.566, effective November 21, 1994.
See: 26 N.J.R. 3353(a), 26 N.J.R. 4616(a).

10:81–11.16 Disclosure of information

(a) The use or disclosure of information concerning applicants or recipients of child support services is limited to purposes directly connected with the administration of public assistance as it relates to the establishment of paternity and collection of child support.

1. Information concerning this program may be provided in connection with:

i. Administrative requirements of the Child Support and Paternity Program including Parent Locator activities;

ii. The administration of any Federal or federally assisted program which provides assistance, in cash or in kind, or services directly to individuals on the basis of need;

iii. Any investigations, prosecutions, criminal or civil proceedings conducted in connection with the administration of this program.

iv. Probation department activities as they relate to the Child Support and Paternity Program.

2. Nothing in this subchapter is to be construed to be in conflict with the regulations on safeguarding information as stated in N.J.A.C. 10:81–7.30 through 7.35.

10:81–11.16A Closing criteria for IV–D cases

(a) All IV–D cases are subject to the case closing criteria set forth in this section. IV–D cases are those cases in which there has been an assignment of rights to support to the State under AFDC (45 C.F.R. 232.11), DYFS (Social Security Act, Section 471(a)17) or Medicaid (42 C.F.R. 433.146) or an application for IV–D services has been filed and an application fee has been paid.

(b) In order to be eligible for closure, a IV–D case must meet at least one of the following criteria:

1. In the case of a child who has reached the age of majority, there is no longer a current support order, and arrearages are $150.00 or less or unenforceable as determined in a court of law;

2. In the case of a child who has not reached the age of majority, there is no longer a current support order, and arrearages are $150.00 or less or unenforceable as determined in a court of law;

3. The non-custodial parent or putative father is deceased and there has been no support collection for at least 18 months and no further action including a levy against the estate can be taken;

4. Paternity cannot be established because:

i. The child is at least 18 years old and action to establish paternity is barred by a statute of limitation;

ii. A genetic test or a court administrative process has excluded the putative father and no other putative father can be identified; or

iii. The IV–D agency has determined that it would not be in the best interest of the child to establish paternity;

5. The location of the non-custodial parent remains unknown. Regular attempts using multiple sources over a period of three years for welfare-owned cases and over a period of four years for probation-owned cases have been continuously unsuccessful;

6. The non-custodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential and there has been no collection for at least 18 months.

i. When the non-custodial parent is institutionalized, and there has been no collection for at least 18 months, a thorough investigation to ascertain if he or she has any assets shall be completed. The institution should also be contacted to determine a release date. A determination must also be made that no income or assets are available to the non-custodial parent which could be levied or attached for support;

7. The non-custodial parent is a citizen of, and has lived in, a foreign country for at least two years; does not work for the federal government or a company headquarters or offices in the United States; and has no reachable domestic income or assets; the State has been unable to establish reciprocity with the country; and there has been no support collection for at least 18 months;

8. The IV–D agency has provided location-only services requested by the custodial parent, legal guardian, attorney or agency of a child who is not receiving aid under Title IV–A of the Act;

9. The non-AFDC custodial parent requests closure of a case and there is no assignment to the State of medical support or of arrearages which accrued under a support order. The closing of a case at the custodial parent's request is subject to the court's approval;

10. There has been a finding of good cause and the State or local IV–A, IV–E, or Medicaid agency has determined that support enforcement may not proceed without risk or harm to the child or caretaker relative;

11. In a non-AFDC case receiving IV–D services, the IV–D agency is unable to contact the custodial parent within a six-month period despite attempts by both telephone and at least one registered letter; or

12. In a non-AFDC case receiving IV–D services, the IV–D agency documents the circumstances of the custodial parent's non-cooperation and an action by the custodial parent is essential for the next step in providing IV–D services.

(c) In those cases meeting any of the criteria in (a)1 through 7 and (a)11 and 12 above, the custodial parent must be notified, in writing, 60 calendar days prior to closure of the case of the intent to close the case. The case must be kept open if the custodial parent supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of any order.

1. If the case is closed, the custodial parent may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order.

(d) The IV–D agency must retain all records for cases closed for a minimum of three years.

(e) If the IV–D agency has complied with the State's case closing criteria, as outlined at (a) through (c) above, the State may close a case regardless of a support order or the amount of arrearages owed.

(f) Case closure does not affect the support order or arrearages which have accrued under the order; it only means that services under the IV–D program will no longer be provided and no Federal Financial Participation is available for those cases. The support order remains in effect and arrearages continue to accrue for the life of the order. These arrearages are judgments by operation of law and subject to enforcement. Until the court terminates the support obligation or the obligation ends by virtue of emancipation of the minor child or the court amends the support order to command the obligor to pay directly, the probation department must maintain overall responsibility to enforce and monitor the case. However, if after an AFDC case is IV–D closed and a judgment is satisfied, the case will be reopened on ACSES to reflect the collection, the money will be processed through the system, and the case will then be closed again.

New Rule, R.1993 d.634, effective December 20, 1993.
See: 25 N.J.R. 881(a), 25 N.J.R. 5951(a).

10:81–11.17 Retention and destruction of case records

(a) Authorization: Each county welfare agency will retain all material normally kept in the IV–D case folder for the time periods indicated below. At the expiration of such time period the Child Support and Paternity Unit may, at its option destroy records in accordance with the retention period indicated below, continuing to retain those portions as indicated in (b) below. In permanent available archives, the CSP Unit will retain information showing the date and manner of destruction of each "IV–D case folder" destroyed.

1. NOTE: "IV–D case file" can be construed to mean the referral document from the IV–A Unit, and any and all other documents and information relevant to the client and the absent parent(s).

(b) Retention periods:

1. No arrears owed to CWA "Closed Case": In destroying records in which no arrears are owed in the court order, the CSP Unit should provide for the permanent retention of information by which to assure itself in the future of the absence of any claim and the reason(s) therefor. See table below.

	Case Folders	Retention Period
i.	Absent parent has died during which period a court order for child support existed.	Three and one-third (3⅓) years after agency action or court action, or all arrears have been satisfied.
ii.	Client terminates her assistance grant and no court order for child support existed at any time.	
iii.	Client terminated assistance grant and all arrears owed to the CWA have been satisfied.	

2. Reimbursement owing "Open Cases": in each instance of unresolved "suits and claims" matters, open and unpaid assigned support or unpaid arrearage amounts, retain all records in each case until the question is resolved, then retain accordingly.

	Case Folders	Retention Period
i.	Client terminates assistance.	Three and one-third (3⅓) years after recovery of all arrearage owed to the CWA is satisfied.
ii.	Client is receiving an assistance grant, order for support exists or efforts are continuing to establish an order for support.	

(c) Requests for destruction of case records will be in accordance with N.J.A.C. 10:81–7.13(c).

(d) When disposal is authorized records must be destroyed in accordance with N.J.A.C. 10:81–13(d).

10:81–11.18 Child Support Guidelines (New Jersey Supreme Court Rule 5:6A)

(a) The Child Support Guidelines of the New Jersey Supreme Court Rule 5:6A are incorporated herein by reference. The guidelines shall be applied when an application for support, made pursuant to any section of the New Jersey Supreme Court Rule 5:6A, is considered by the court.

1. The guidelines may be modified or disregarded by the court only where good cause is shown. Good cause shall consist of:

i. The considerations set forth in Considerations in the Use of Child Support Guidelines, or the presence of other relevant factors which may make the guidelines inapplicable or subject to modification; and

ii. The fact that injustice would result from the application of the guidelines.

2. In all cases, the determination of good cause shall be within the sound discretion of the court.

(b) The Child Support Guidelines Worksheet shall be completed by the CWA, using instructions in the Child Support Guidelines Worksheet Instructions, and information in Considerations in the Use of Support Guidelines, Percentages Used in Developing the Child Support Guidelines and Child Support Guidelines Chart.

R.1984 d.243, eff. June 18, 1984 (operative July 1, 1984—contingent on enactment of the States Appropriations Act for fiscal year 1985 authorizing proposed increase in public allowance standards).
See: 16 N.J.R. 828(a), 16 N.J.R. 1605(b).
Amended by R.1985 d.343, effective July 1, 1985.
See: 17 N.J.R. 879(a), 17 N.J.R. 1655(b).
Adjustment amount raised in Table I.
New Rule, R.1987 d.498, effective December 7, 1987.
See: 19 N.J.R. 2178(a), 19 N.J.R. 2282(b).
Old rule Support assessment was repealed.
Amended by R.1988 d.423, effective September 6, 1988.
See: 20 N.J.R. 1058(a), 20 N.J.R. 2292(a).
Deleted (b) and renumbered (c) to (b).

10:81–11.18A Income withholding

(a) In the case of a child support order that is issued or modified after November 1, 1990, the income of an absent parent shall be subject to withholding, regardless of whether support payments by such a parent are in arrears, unless the following conditions exist:

1. Either the absent parent or the custodial parent demonstrates, and the court or administrative authority finds, that there is good cause not to require immediate income withholding. Good cause must be based on both:

i. A written determination why immediate income withholding would not be in the best interests of the child; and

ii. Proof of timely payment of previously ordered support.

2. A written agreement is reached between the absent parent and custodial parent which provides for an alternative agreement. If there is an assignment of support rights to the CWA, the CWA must also be a party to the written agreement.

(b) In cases of income not subject to immediate withholding, the income of the absent parent will be subject to withholding on the date the absent parent fails to make support payments at least equal to the support payable for 14 calendar days.

New Rule, R.1994 d.463, effective September 6, 1994.
See: 26 N.J.R. 896(a), 26 N.J.R. 3729(a).

10:81–11.19 Distribution of arrearage payments on child support orders

(a) Arrearage priorities: Payments on arrearages accrued from past due child support shall be used to satisfy claims as follows:

1. If the obligee is receiving AFDC, any payment must first satisfy arrearages owed to the county welfare agency before any payment to the obligee.

2. If the obligee has never received AFDC, all payments shall go to the obligee.

3. If the obligee once received AFDC:

i. Payments from tax intercepts (Federal and State income tax and Homestead Rebate) first shall satisfy any arrearages owed to the county welfare agency;

ii. All other payments (for example, wage executions and unemployment garnishment) shall satisfy arrearages in the following priority order:

(1) During the five-month period, following the last month of AFDC eligibility, payments collected in excess of the current support for that period, are first used to reimburse the county welfare agencies for arrearages that accrued while the family was receiving AFDC.

(2) Subsequent to the five-month period, arrearages which have accrued to the obligee since leaving AFDC shall go to the obligee.

(3) Arrearages assigned to the county welfare agency up to the amount of assistance granted shall go to the county welfare agency.

(4) Any remaining arrearage balance owed to the obligee before receiving AFDC shall go to the obligee.

New Rule, R.1985 d.585, effective November 18, 1985.
See: 17 N.J.R. 1238(a), 17 N.J.R. 2774(a).

10:81–11.20 Rules concerning application fee for non-AFDC applicants

(a) Non–AFDC individuals, who do not have an active support order and who do not know the location of the obligor, shall file an application with the CWA/CSP unit. (Individuals with an active support order or those without an active support order who know the whereabouts of the obligor shall file the application for IV–D services at the appropriate county probation department.) See N.J.A.C. 10:81–11.9(*l*)1 regarding Form CSP–111, Application for Non–Public Assistance Child Support and Paternity Services.

(b) Each non-AFDC applicant shall pay an application fee in the amount of $6.00.

1. The applicant shall be given a receipt to cover the fee, a copy of which shall be retained in a case record file.

(c) The $6.00 fee shall be deposited in the Administration Account as an offset against CSP administrative costs.

New Rule, R.1986 d.55, effective March 3, 1986.
See: 17 N.J.R. 2845(a), 18 N.J.R. 480(a).
Amended by R.1993 d.282, effective June 7, 1993.
See: 24 N.J.R. 2328(a), 25 N.J.R. 2589(b).
Amended by R.1993 d.634, effective December 20, 1993.
See: 25 N.J.R. 881(a), 25 N.J.R. 5951(a).

10:81–11.21 Review and adjustment of child support orders (AFDC, foster care and Medicaid Only cases)

(a) The CWA/CSP Unit shall review all AFDC, foster care and Medicaid Only cases with a court order at least once every three years, or at the request of either parent subject to the order, for possible adjustment. If a request for review is made before the three year time frame, and the request is determined to be frivolous by the CWA/CSP Unit, the request may be denied.

1. An adjustment is an upward or downward change in the amount of child support based upon an application of State guidelines under New Jersey Court Rule 5:6A for setting and adjusting child support awards and/or provision for the child's health care needs, through health insurance coverage or other means.

2. Review means an objective evaluation by the CWA/CSP Unit of information necessary for application of the New Jersey Child Support Guidelines, New Jersey Court Rule 5:6A, to determine:

i. The appropriate support award amount; and

ii. The need to provide for the child's health care needs, through health insurance coverage or other means.

3. Examples of a frivolous request would be as follows:

i. An obligor's income has not increased or decreased by a minimum of 20 percent.

ii. An obligor is temporarily out of work or temporarily injured and unable to work.

(b) The procedure for the review of cases shall be as follows:

1. An Automated Child Support Enforcement Systems (ACSES) report has been developed to identify appropriate cases for review for possible adjustment. The review date field on the ACSES USM1 and USM2 screens will trigger a report of cases in which the date is equal to or greater than two years and 11 months from the run date of the report.

2. The CWA/CSP shall screen cases on the report to identify those cases that should be adjusted to bring them into compliance with the Child Support Guidelines at New Jersey Court Rule 5:6A.

3. A case can be eliminated from the screening if it is found that:

i. There is a good cause determination that the review of the case is not in the best interest of the child(ren);

ii. The current order is less than three years old or the case has been reviewed in the last three years, unless a review was requested by either parent subject to the order and it has not been determined to be a frivolous request by the CWA/CSP Unit. Examples of a frivolous request would be as outlined in (a)3 above; or

iii. The obligor is institutionalized.

4. The review date filed on the USM1 and USM2 shall be updated indicating the date that a review was completed. If the case was eliminated from the adjustment cycle, the reason should be documented.

i. The CWA/CSP shall determine within 15 calendar days after October 13, 1993, or the date the child support order is 36 months old, whichever is later, whether a review should be conducted.

ii. In handling a request for a review, the CWA/CSP has up to 15 calendar days from the receipt of a request to determine whether a review should be conducted.

iii. Within 180 calendar days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the State must complete the process by adjusting the order or determining the order should not be adjusted and completing the steps outlined at (c) and (d)1 through 4 below.

iv. Interstate cases should also follow the 180 calendar day timeframe for completing the review and adjustment process.

5. When it is determined that a review should be conducted on an interstate case and New Jersey is the initiating state, a request for review shall be sent to the responding state within 20 calendar days of receipt of sufficient information to conduct a review.

i. The information the responding state needs to act on the request must be provided.

ii. If the request for review is the first contact between the initiating and responding states in the case, the initiating state must send the request for review to the interstate central registry in the responding state.

iii. If the initiating state has previously referred the case to a responding state for action, the request for review may be sent directly to the appropriate agency in the responding state for processing.

iv. The initiating state is also responsible for sending to the parent in its state a copy of any notice issued by a responding state in connection with the review and adjustment of an order. This notice must be sent to the parent within five working days of receipt in the initiating state.

6. When acting as the responding state in a case which another state has determined a review is necessary, the laws and procedures for review and adjustment of the responding state apply. This includes the use of the responding state's child support guidelines.

i. Within 15 calendar days of receipt of a request for review from another state, a determination must be made as to whether or not the review will be conducted.

ii. The determination not to conduct a review because it would not be in the best interest of the child cannot be made by the responding state. This determination must be made by the initiating state.

(c) The CWA/CSP shall process cases for review in the following manner:

1. Information on the obligor's current income and employment should be obtained via the USM2 screen and/or on-line access to the Department of Labor's Wage Reporting File through the Honeywell terminals. Information obtained will be verified through a letter generated to the employer. Medical insurance information shall also be verified.

2. The case shall be cross-referenced on ACSES to determine if multiple cases exist (the amount of the obligor's court orders will figure in the use of the guidelines).

3. Verification of the obligor's address shall also be obtained.

4. In cases where there has been no change in the income, however, medical support is not currently ordered, a motion shall be filed to have the order adjusted to include medical support when health insurance is available to the obligor at a reasonable cost. If health insurance is not available to the obligor at a reasonable cost at the time of the modification, this order for support will go into effect when health insurance at a reasonable cost is actually available.

i. Health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism.

(d) Recommendations for adjustment shall be based on the New Jersey Child Support Guidelines, New Jersey Court Rule 5:6A.

1. If the recommended amount of adjustment is a 20 percent or more increase over the current order, a motion shall be filed to have the order modified.

2. If the recommended amount of adjustment is a 20 percent or more decrease, the obligor should be directed to file appropriate application with the court.

3. Each parent subject to a child support order shall be notified of any review of the order at least 30 calendar days before commencement of the review.

i. This notification requirement may be satisfied by filing a notice of motion, provided both parties are notified 30 calendar days prior to the hearing.

ii. If modification is warranted, the notice of motion may serve as a notice to both parties of the review determination. If either party disagrees with the determination, they may challenge the decision to a judge. If no adjustment is warranted based on a review, a notice shall be issued as outlined in (d)4i and ii below.

4. Following any review the CWA/CSP shall notify each parent subject to the child support order of the following:

i. Any adjustment or a determination that there should be no change; and

ii. Each parent's right to initiate proceedings to challenge the adjustment or determination within 30 calendar days after the date of the notice.

(e) The CWA Statistical Report shall be completed each month to reflect the number of cases reviewed and the number of cases adjusted.

(f) The Family Support Act of 1988 (Public Law 100–485), Section 103(c), mandates that between October 13, 1990 and October 13, 1993 the CWA/CSP Unit must target for review and adjustment, if appropriate, the existing IV–D cases in which support is assigned to the county welfare agency and which have not been reviewed or adjusted within 36 months. These cases shall be addressed by reviewing one-third of the caseload per year, over a three year period.

New Rule, R.1993 d.627, effective December 6, 1993.
See: 25 N.J.R. 2818(a), 25 N.J.R. 5567(a).

SUBCHAPTER 12. (RESERVED)

Subchapter Historical Note

Subchapter 12, Newark/Camden Teen Progress Demonstration, repealed by R.1994 d.429, was derived from R.1987 d.410; 19 N.J.R. 1390(a); 19 N.J.R. 1810(a).

SUBCHAPTER 13. AUTOMATED VERIFICATION

10:81–13.1 Systematic Alien Verification for Entitlements (SAVE) Program

(a) Section 121 of the Immigration Reform and Control Act (IRCA) of 1986 (Public Law 99–603) requires the Immigration and Naturalization Service (INS) to implement a system for the verification of immigration status of aliens applying for certain types of benefits including AFDC, AFDC-related Medicaid and food stamps. That system, known as SAVE, is an inter-agency Federal/State information-sharing program designed to prevent the issuance of benefits to illegal aliens or aliens otherwise not entitled to benefits due to immigration status.

(b) CWA staff shall be responsible for explaining SAVE requirements, procedures and forms to clients at time of application and redetermination.

10:81–13.2 Eligibility

(a) The SAVE program requires that each applicant for AFDC, AFDC-related Medicaid and/or food stamp benefits shall, as a condition of eligibility, provide a written statement of citizenship or legal alien status and, if he or she is not a United States citizen, documentation, subject to verification, of satisfactory immigration status.

(b) For AFDC and AFDC-related Medicaid cases a statement and signature for each eligible family member shall be provided to the CWA before benefits can be issued to that individual. An adult eligible family member or applicant for the family in the absence of an adult family member shall sign for members under 18 years of age.

1. If a signature is not provided for all eligible family members by the end of the 30–day application processing standard, then only those individuals for whom there is a signature shall be eligible for benefits provided they meet all other eligibility requirements. Income and resources of ineligible individuals shall be considered in the determination of benefits for the eligible family.

2. If a noncomplying member subsequently provides his or her signature, the agency shall process that addition to the AFDC eligible family as a client-reported change and shall issue an additional payment in accordance with N.J.A.C. 10:90–4.4(a).

Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–13.3 Citizenship/alien status

(a) When an individual applies for AFDC benefits or is scheduled for redetermination of eligibility for continuing benefits, the declaration form shall be completed as a condition of eligibility, within the required time frame for the appropriate program (see N.J.A.C. 10:81–13.2).

(b) Each adult member of the eligible family shall provide a signed statement concerning his or her citizenship/legal alien status. Adult members shall sign a statement for members under 18 years of age and, in the absence of an eligible adult in the family/household (for example, in the case of a non-needy parent-person in AFDC), the applicant shall sign for non-adults. In all cases, information shall be provided on the form for each eligible family member.

(c) If an individual signs with an "X", the signature of a witness is required, other than the income maintenance case worker assigned to the client.

(d) Unless an individual is a United States citizen, documentation shall be submitted to the CWA as proof of his or her legal alien status. That documentation shall be submitted within two months following the month in which assistance is granted and is subject to verification by the INS. Failure or refusal to submit that documentation timely may result in ineligibility of that individual.

(e) AFDC–N segment cases are not subject to the requirements of the SAVE Program unless they are United States citizens or legal aliens eligible for food stamps or AFDC-related Emergency Assistance.

Amended by R.1994 d.612, effective December 19, 1994 (operative January 1, 1995).
See: 26 N.J.R. 3930(a), 26 N.J.R. 5022(a).

10:81–13.4 Documentation requirements

(a) Aliens in the United States requesting assistance shall present original alien registration documents or other material sources that the CWA determines constitutes reasonable evidence of the alien immigration status. The documentation should contain an alien registration or admission number. The alien registration number, commonly referred to as the "A" number may consist of a seven or eight digit number that has been assigned to an alien at the time his or her alien file was created. The alien file refers to the history file which contains data pertaining to each individual alien. All applicants for assistance shall present acceptable documentation or furnish a receipt from the Immigration and Naturalization Service indicating that an application for replacement documentation has been made.

(b) Immigration documentation includes, but is not limited to, the following:

1. Form I–151: Alien Registration Receipt card with photograph for permanent resident aliens. That card was in use prior to 1979 and is still valid.

2. Form I–551: Resident Alien Card for Permanent Resident Aliens. That card may also be issued conditionally to permanent resident aliens and will contain an expiration date.

3. Form AR–3a: Alien Registration Receipt card for permanent resident aliens issued from 1941 through 1949.

4. Form I–94: Arrival–Departure Record containing any of the following annotations:

i. Section 207 or refugee;

ii. Section 208 or asylum;

iii. Section 212(d)(5) or conditional entry;

iv. Section 203(a)(7);

v. Section 243(h); or

vi. Cuban–Haitian Entrant.

5. Form I–688: Temporary Resident Card, Department of Justice, INS; issued pursuant to IRCA; contains an expiration date;

6. Form I–688A: Employment Authorization Card, Department of Justice, INS; issued pursuant to IRCA; contains an expiration date;

7. Form I–689: Fee Receipt Form issued to applicants under the amnesty and special agricultural worker programs (SAW) which contains an expiration date;

8. Form I–181: A Temporary Identification document issued by an INS field office when an alien has been granted permanent resident status. That document contains an annotation of work authorization but no photograph.

9. Form I–327: Re-entry Permit issued to lawful permanent resident aliens before they leave the United States for up to two years. The document contains an expiration date;

10. Form I–571: Refugee Travel Document, which contains an expiration date.

11. Any documentation issued by the Immigration and Naturalization Service supported by other forms of identification describing the individual (for example, height, weight, age) accompanied by a photograph or other information sufficient to identify that individual. A driver's license, marriage certificate or other similar forms of documentation may be useful for processing of secondary verification.

10:81–13.5 Verification

(a) Primary verification of alien status will be accomplished through the "Alien Status Verification Index" (ASVI). The ASVI verifies biographical data pertaining to the alien applicant. Access to the ASVI is gained through a toll free telephone number system and requires the use of an authorization code and the alien registration number.

(b) Secondary verification is normally initiated by the CWA when the ASVI cannot locate a compatible record using the provided Alien Registration number. ASVI is a subset of the larger Central Index System (CIS) which contains extensive Immigration and Naturalization service data. The automated system instructs the user to institute secondary verification when the biographical data submitted to the CWA does not correspond to that maintained in the ASVI. The CWA may, at its discretion, institute secondary verification regardless of the ASVI response if it feels that the documentation submitted has been altered in some fashion. Only photocopies of documents are to be provided to INS by the CWA. The original shall be returned to the alien and one additional photocopy should be retained in the case file of the applicant pending INS reply. Alien documentation provided to the INS that indicates criminal misuse of government documents will not be returned to the CWA.

(c) INS Form G–845, Document Verification Request is used to forward information to the INS for secondary verification of alien status. Instructions for completion of the form are provided in the SAVE Procedural Manual. Requests for verification are to be mailed to:

United States INS District Office
970 Broad Street
Newark, New Jersey 07102
Attention: Verification Unit

(d) A response will be received from the INS within 10 to 21 working days of receipt of Form G–845. If, however, there is a time lag, benefits may not be delayed, denied, reduced or terminated solely because of the delayed response. CWAs shall process the application or redetermination in a timely manner.

10:81–13.6 Confidentiality and fair hearings

(a) In accordance with IRCA and SAVE program requirements, use or disclosure of client information in connection with the SAVE program is restricted to individuals and organizations directly connected with verification of legal alien status and the administration or enforcement of the provisions of the AFDC, AFDC-related Medicaid and Food Stamp Programs.

(b) Information supplied by the INS shall not be used to deny, reduce, suspend, or terminate benefits unless the CWA has provided the client adequate and timely notice and the opportunity for a fair hearing, pursuant to N.J.A.C. 10:81–6 and the Uniform Administrative Rules of Practice at N.J.A.C. 1:1.

(c) If an alien applicant is not in satisfactory immigration status, IRCA and SAVE program requirements dictate that the individual's eligibility be denied or terminated and that the applicable fair hearing process be followed. On a prearranged and pre-approved basis the INS will provide appropriate immigration technical consultation and witness support necessary in providing individuals denied program benefits with a fair hearing or with judicial review or agency action.

SUBCHAPTER 14. REALIZING ECONOMIC ACHIEVEMENT (REACH)

Authority

N.J.S.A. 44:7–6 and 44:10–3; State Appropriations Act for Fiscal Year 1988; 45 CFR 224.20, 238, 239 and 240. The Department is relying upon the authority granted by waivers issued pursuant to Federal demonstration authority, dated October 1, 1987 and upon P.L. 1987 c. (A3809/S1951).

Source and Effective Date

R.1987 d.423, effective October 19, 1987.
See: 19 N.J.R. 1491(a), 19 N.J.R. 1894(a).

10:81–14.1 General provisions

(a) This subchapter is for use by the county welfare agencies (CWAs) in the Realizing Economic Achievement (REACH) program as an integral part of N.J.A.C. 10:81 and N.J.A.C. 10:82, and shall at all times be used and interpreted in conjunction with these documents as appropriate. REACH incorporates the requirements of the Family Support Act of 1988, P.L. 100–485, which established the Job Opportunities and Basic Skills (JOBS) program under Title II of that Act, the Federal work/training program which replaced WIN. The Act also guarantees, through Title III provision, necessary supportive services for participation in work/training components. Therefore, satisfying REACH requirements will ensure compliance for participants with the Federal JOBS work/training mandates for receipt of AFDC benefits.

1. If any regulations herein contradict or conflict with existing regulations or policy established in N.J.A.C. 10:81 or N.J.A.C. 10:82, with the exception of N.J.A.C. 10:86, The Family Development Program Manual, such material is superseded by this subchapter.

2. Nothing in this subchapter is to be construed to be in conflict with the regulations on safeguarding information as stated in N.J.A.C. 10:81–7.32.

3. Nothing in these regulations shall be construed as conferring on AFDC applicants and recipients an entitlement to support, social, training or employment services. If the fiscal or other resources necessary to provide support, social, training or employment services to an applicant or recipient are unavailable, that applicant or recipient shall not be deemed to have a right to such services, but shall be released from all obligations dependent upon such services under these regulations until such services are available.

4. The FDP will be phased into the respective counties of the State on a schedule developed by the Division of Family Development (DFD), Department of Human Services. FDP participation requirements shall apply to AFDC applicants and recipients in accordance with that schedule. Rules in N.J.A.C. 10:86 shall supersede any contradictory or conflicting rules or policies established at N.J.A.C. 10:81 or 10:82.

(b) Principles of the REACH program: REACH is designed to assist participants to gain independence from public assistance through employment and activities leading to employment. At the core of REACH is the principle of mutual obligation under which the agency will make available a variety of employment, training and educational opportunities as well as support services, which will enable the individual to participate in activities that affect his or her own future and which should lead to the individual's attainment of independence from assistance. The emphasis of REACH will be on participation, not penalties, with the program designed to be flexible to support each family's movement to economic self-sufficiency through employment, and to consider the dignity and self-respect of the individual. These principles are to serve as a framework within which the regulations set forth in this subchapter are to be applied.

(c) The purpose of this subchapter is to:

1. Identify individuals eligible for the REACH program;

2. Establish policy for the REACH program;

3. Establish policy for determining eligibility and support services for the REACH program; and

4. Establish procedures for providing and accessing employment-directed educational and training services and support services for participants.

(d) Distribution of subchapter: Copies of this subchapter shall be provided to administrative staff and to other appropriate staff working with applicants and recipients. Those individuals are expected to be thoroughly familiar with its contents in order that policy and procedures may be consistently applied.

(e) The REACH program will be phased into counties on a schedule developed by the Department of Human Services. REACH participation requirements will apply to AFDC applicants and recipients in accordance with that schedule.

Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Revised (a), (a)1 and (b) to update text, set out principles of REACH and conform with P.L. 100–485, the Family Support Act of 1988.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Text on Family Development Program added at (a)4.

10:81–14.2 Definitions

The following definitions shall apply to REACH:

"Basic literacy level" means a literacy level that allows a person to function at the level of an individual who has proficiency at a grade 8.9 level.

"Case manager" means the individual in the county responsible for service coordination and participation by an individual in REACH, in accordance with N.J.A.C. 10:81–14.3.

"County selected entity" means the agency selected by the county to administer a particular REACH employment-directed activity, including but not limited to, a county welfare agency, JTPA agency, or Employment Services.

"Compliance" means participation in REACH evaluation and assessment, and in employment or the REACH employment-directed activity as set forth and scheduled in the REACH Agreement.

"County IV–A agency" means the county board of social services in the respective county.

"EDA" means an employment-directed activity including non-educational employment-directed activities (that is, but not limited to: work supplementation programs, community work experience programs, and on-the-job training) and educational employment-directed activities (that is, but not limited to: English as a Second Language, Adult Basic Education, secondary, technical and post-secondary educational programs).

"Excused participant" means a mandatory REACH participant whose participation is excused for the reasons at N.J.A.C. 10:81–14.3(d).

"Exempt participant" means an individual applying for or receiving AFDC who is not required to participate in REACH for the reasons at N.J.A.C. 10:81–14.3(b).

"Lead child care entity" means the lead child care agency or other agency or administrative entity established in each county to assist the case manager and REACH participant in obtaining child care.

"Limited English proficiency" means the ability to speak, read, write or understand the English language to function in the community.

"Mandatory participant" means an individual applying for or receiving AFDC who is required to participate in REACH, and whose participation is not exempt.

"REACH Agreement" means the agreement between the participant and agency that sets forth the obligations of each party.

"REACH employment-directed activities" means REACH employment-directed activities that are designed to lead to economic self-sufficiency through employment of AFDC recipients, and include:

1. REACH Job Search (see N.J.A.C. 10:81–14.10);

2. REACH Work Supplementation Program (see N.J.A.C. 10:81–14.11);

3. REACH Community Work Experience Program (see N.J.A.C. 10:81–14.12);

4. REACH training programs (see N.J.A.C. 10:81–14.14);

5. REACH educational services (see N.J.A.C. 10:81–14.15); and

6. Vocational assessment and counseling (see N.J.A.C. 10:81–14.13).

"Satisfactory progress in an educational component" means that the participant in any educational activity is meeting, on a periodically measured basis of less than one year, such as a term or quarter, a consistent standard of progress based upon a written policy that was developed by the educational institution or program in which the participant is enrolled, and approved by the appropriate State and/or local education agency and the county IV–A agency.

The standard shall include a qualitative measure of the participant's progress, such as a satisfactory grade point average or performance, and quantitative measure, such as a reasonable time limit by which a student is expected to complete his or her studies. Upon review and approval by the State or local education agency and the county IV–A agency, the standard shall provide that a student who does not meet the institution's or program's progress standard is nonetheless making satisfactory progress during a probationary period, or shall be deemed to be making satisfactory progress because of mitigating circumstances. Such circumstances include the death of a relative, injury or illness of the REACH participant or other special circumstance.

"Satisfactory progress in a training component" (that is, on-the-job (OJT), Community Work Experience (CWEP) and skills training) means that the participant in a training activity is meeting, on a periodically measured basis of less than one year, such as quarterly, a consistent standard of progress based upon a written policy that was developed by the training provider, and approved by the county IV–A agency. The standard shall include both a qualitative measure of the participant's progress, such as competency gains or proficiency level, and a quantitative measure, such as a reasonable time limit for completion of the training program. Upon review and approval by the county IV–A agency, the standard may provide that a student who does not meet the training program's progress standard is nonetheless making satisfactory progress during a probationary period, or shall be deemed to be making satisfactory progress because of mitigating circumstance. Such circumstances include the death of a relative, injury or illness of the REACH participant or other special circumstance.

"Voluntary participant" means an individual applying for or receiving AFDC who is not required to participate, but who chooses to participate on a voluntary basis.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Added definition "lead child care entity".
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Deleted "deferred payment" definition. Added: "Basic literary level," "County IV–A Agency," "EDA," "Limited English proficiency," and definitions relating to "Satisfactory progress."

10:81–14.3 REACH participation

(a) Participation: All individuals shall, except as otherwise provided in this subchapter, participate in REACH as a condition of eligibility for AFDC. Individuals in immediate need shall be entitled to a presumptive eligibility determination in accordance with N.J.A.C. 10:81–3.3 prior to REACH participation. Referral for REACH participation will be made after a final determination of AFDC eligibility is made. However, individuals determined presumptively eligible for AFDC may participate in REACH on a voluntary basis before that final eligibility determination.

1. AFDC–C: All individuals, including a stepparent included in the eligible unit as a person whose presence in the home is essential to the well-being of the spouse, are required to participate in REACH, except as otherwise provided in this subchapter. Failure or refusal to participate may result in the imposition of the sanctions specified at N.J.A.C. 10:81–14.8.

2. AFDC–F: All individuals are required to participate in REACH, except as otherwise provided in this subchapter. Criteria identified at N.J.A.C. 10:81–3.18 shall be used to identify the principal earner in the household. Failure or refusal to participate may result in the imposition of the sanctions specified at N.J.A.C. 10:81–14.8.

3. AFDC–N: All Individuals are required to participate in REACH, except as otherwise provided in this subchapter. Failure or refusal to participate may result in the imposition of the sanctions specified at N.J.A.C. 10:81–14.8.

(b) Exemption from REACH participation: Individuals classified as exempt, as delineated at N.J.A.C. 10:81–14.3A, are not required to participate in employment or REACH employment-directed activities. However, they may participate on a voluntary basis (see N.J.A.C. 10:81–3.19(f) and 14.3(s) for "volunteers in REACH"). An individual may claim at any time that he or she is entitled to an exemption. Any exemption which does not have a stated reevaluation period shall be reviewed at such time as the condition is expected to terminate, but no less frequently than at each redetermination of AFDC eligibility. During the periodic review, if there is a change in exemption status or the individual decides to volunteer for participation, the IM worker shall take appropriate action on the change in status and update FAMIS accordingly. The IM worker shall promptly notify the recipient of any change in the recipient's exemption status.

1. IM shall notify case management of a change in exemption status. Likewise, if during case management contact with the participant it is discovered that circumstances render a change in the exemption status, the case manager shall notify the IM worker concerning the change in circumstances so that appropriate action can be taken and FAMIS updated.

2. Providers of REACH activities shall be advised of a change in recipient's exemption status by the case manager.

(c) Full-time employment: Individuals who are working not less than 30 hours per week in unsubsidized employment expected to last a minimum of 30 days are exempt from participation in other REACH activities, even if there is a temporary break which is expected to last no longer than 10 working days.

1. The agency will endeavor to provide such supportive services as are available under these rules if they are needed to help the participant continue employment. However, to receive supportive services, the individual shall be referred by IM to case management and shall cooperate with applicable REACH requirements to be determined eligible for receipt of any supportive services of the REACH program.

2. The participant may voluntarily participate in other REACH training or education agreed upon by the agency.

(d) Homelessness: The homeless are ordinarily mandatory participants in REACH if they do not satisfy any exemption criteria in N.J.A.C. 10:81–14.3A. Such individuals shall be considered for appropriate REACH activities as determined by the case manager based on the family's circumstances. Such families may be eligible for emergency assistance benefits (see N.J.A.C. 10:82–5.10) regardless of REACH participation because Title IV–A emergency assistance eligibility does not require compliance with AFDC work/training requirements (REACH participation). Other emergency assistance programs may require REACH participation (for example, Rent Subsidy Program). However, based on the circumstances of the family, homelessness may be considered "good cause" for not participating in REACH (see N.J.A.C. 10:81–14.8) as determined by the case manager on a case-by-case basis.

(e) Excused participation: REACH participants shall be temporarily excused from participation if the component (including social services) for which they are scheduled as set forth in the REACH Agreement is not currently available or if a support service set forth in the REACH Agreement is not available. Excused participation is reviewed once every week up to once every month, depending on the circumstances surrounding the excuse.

1. During the excused period, the participant and the agency will be expected to comply with the other Agreement terms.

2. Another REACH activity which is suitable for the participant and for which necessary support services are available may be substituted as an alternative form of participation.

(f) Approved absence: Absence from a particular day or session of employment or any REACH employment-directed activity shall be excused, and therefore approved by the case manager, because of:

1. Illness of the participant, a child of the participant, or any other member of the participant's household or immediate family who is or becomes by reason of the illness dependent upon the participant;

2. Death of a spouse, parent, child, sibling, or grandparent within the preceding three working days; or

3. Other circumstances requiring the participant's immediate and personal attention, including but not limited to jury duty, a court appearance, school conferences concerning a child of the participant, medical diagnosis or testing, and other similarly important matters.

(g) REACH participation requirements:

1. An individual who is not exempt, temporarily deferred or excused from REACH shall participate in REACH activities as follows:

i. Attendance at initial assessment of employability (individual evaluation, assessment), counselling and diagnostic sessions necessary for placement in employment and employment-directed activities;

ii. Participation in good faith at all sessions necessary to develop the REACH Agreement; and

iii. Compliance in good faith with all provisions of the REACH Agreement, including attendance at all sessions and maintaining employment.

2. Failure to meet the participation requirements will be addressed through procedures set forth at N.J.A.C. 10:81–14.8.

3. "Limited" participation of no more than 20 hours per week in REACH/JOBS activities by the parent or caretaker relative who personally provides care for a child if the child is at least three years of age but under age six, is allowable unless the custodial parent is under age 20 and has not completed a high school education or its equivalent (see (m)1 and 2 below). Only one parent or other relative in a family is allowed this limited participation level (20 hours) in an activity. Child care shall be guaranteed in accordance with N.J.A.C. 10:81–14.18 to enable the 20–hour participation in REACH/JOBS.

(h) Any individual who is required to participate in more than one of the REACH activities may not be denied AFDC on the grounds of "failure to participate" in one such program if there is a conflict in the implementation or scheduling of activities between programs, and the individual is satisfactorily participating in the other program.

(i) Client-selected activity: Individuals classified as mandatory participants who are scheduled to begin REACH participation but who are enrolled in a client-selected education or training program or activity shall be treated as follows:

1. The individual will complete an initial assessment of employability and develop an employability plan to determine the appropriateness of the client-selected activity to the individual's employment goal. The case manager shall determine if an eligible individual has a reasonable and feasible plan for full-time (as defined by the educational/training institution) vocational/educational training, other than the normal secondary school curricu-

lum, which will lead to gainful employment and which meets the following criteria:

i. The individual has a specific vocational objective and there is a reasonable expectation that employment will be available in the area of the objective in the local job market;

ii. The individual has not left gainful employment solely for the purpose of additional training unless such training is designed to increase his or her earning capacity;

iii. A new applicant who has been self-sustaining has not ceased his or her employment within the past three months for the purpose of going to school and applying for assistance.

2. If the case manager determines that the client-selected activity meets the criteria in (i)1 above and the individual can demonstrate that he or she is enrolled (in good standing) and making satisfactory progress in the school or course sufficient to receive credit for the program, then participation in the activity shall be considered participation in REACH. The activity shall be included in the final REACH Agreement.

i. The case manager in making the decision to approve the client-selected activity for REACH participation shall also consider the length of time for completion of the program, within a reasonable time, as defined by the county agency based on average completion time-frames for REACH participants in the county.

ii. The case manager shall inform the individual at the time the approval of the client-selected activity is granted, that the approval is subject to periodic review at the end of each term and at such other times as the agency deems necessary; and that, if necessary, a change could be made in the approval status. The case manager shall periodically review with the participant, his or her employability plan; revisions to the plan based on changed circumstances (for example, improved job market) may alter the approval status of the client-selected activity. In that instance the individual may be required to accept unsubsidized employment (other than OJT or WSP) with the potential of leading to self-sufficiency.

iii. The agency shall not permit other REACH activities to interfere with participation in the approved client-selected activity.

iv. The client-selected activity may be approved as REACH participation, however, if REACH funds are not available to pay the tuition for the client-selected activity, the individual assumes responsibility for all tuition costs. If REACH funds are available, the agency may pay for costs incurred from the date of approval. Under no circumstances shall REACH pay for costs incurred by the individual for participation in the activity prior to the date of approval.

v. Participants in approved client-selected activities may be eligible for child care and other supportive services as set forth in N.J.A.C. 10:81–14.17, 14.18 and 14.19. Participants in unapproved client-selected activities are ineligible for REACH supportive services.

3. If the case manager determines that the client-selected activity is not in accordance with (i)1 and 2 above, participation in the activity shall not be considered participation in REACH and the activity shall not be included in the final REACH Agreement. The individual shall be required to participate in other REACH activities unless he or she satisfies the exemption criteria in N.J.A.C. 10:81–14.3A.

4. An individual who disagrees with the denial of his or her selected activity may appeal this determination through the process set forth at N.J.A.C. 10:81–14.7 and 10:81–6.

(j) REACH target group populations: As required by the Federal Family Support Act, the REACH program targets services to certain populations for participation in the program.

1. Those target groups are:

i. Long term recipients: Long term recipients include those individuals receiving AFDC for any 36 of the preceding 60 months;

ii. Long term applicants: Individuals who make application or reapplication for AFDC, and have received AFDC for any 36 of the preceding 60 months immediately preceding the most recent month for which application has been made;

iii. Custodial parents under age 24 needing high school: Individuals who are custodial parents under the age of 24 and who have not completed a high school education, are not enrolled in high school nor in a high school equivalency course of instruction (GED);

iv. Custodial parents under age 24 with no work history: Individuals who are custodial parents under age 24 and who have little or no work experience in the preceding year; and

v. Potentially ineligible families: Families whose youngest child is age 16; that is the youngest child is within two years of being ineligible for AFDC because of age (thereby rendering the entire family ineligible for AFDC).

2. Target group status is established no later than the initial assessment of employability. IM determination of target group status during orientation is permissible. If the individual is identified as belonging to one of the above five target groups, that individual shall remain in the target group for the duration of REACH participation, including the 12–month post-AFDC period.

i. Counties have an ongoing responsibility to assign target group status to new AFDC/REACH cases and to correct an inappropriately assigned target group status. Counties shall ensure coordination between IM and case management so that a participant's target group status is accurate.

ii. If an individual is not assigned to one of the above five target groups at the time of initial assessment of employability (that is, the individual was assigned to the FAMIS target group "O", no target group identified) but during REACH participation can be later categorized into one of the above groups, then the individual shall be assigned to the appropriate target group and will remain in that group for the balance of REACH participation through the 12–month post-AFDC period.

(k) Federal participation requirements: Title II of the Family Support Act, the JOB Opportunities and Basic Skills Training (JOBS) program, requires that individuals with certain educational needs or certain family circumstances participate in prescribed employment-directed activities (EDAs) or participate subject to Federal limitations. These requirements are set forth in (*l*) through (r) below and include:

1. Activities for dependent children age 16 to 18 not attending school;

2. Educational requirements for custodial parents under age 20, including different requirements for parents under age 18 and parents age 18 or 19;

3. Educational requirements for individuals age 20 and older;

4. Participation requirements for AFDC–F segment principal earner;

5. Limited participation for a caretaker of a child age three and older but under age six;

6. Remedial educational activities for individuals without a high school diploma who have not achieved a basic literacy level; and

7. Limited English proficiency education if necessary to achieve the employment goal.

(*l*) Dependent children age 16 to 18 not attending school: Dependent children between 16 and 18 years of age, who are not parents and who are not attending high school, are mandatory REACH participants. Such individuals should be encouraged and helped to remain in school or to participate in other educational or training activities.

(m) Custodial parents under age 20—educational requirements: Custodial parents under age 20, regardless of the age of the youngest child, who have not completed a high school education or its equivalent (for example, GED), and who are not exempt from participation in REACH, must participate in REACH preparatory educational activities (see N.J.A.C. 10:81–14.15), subject to the provisions below:

1. A custodial parent under age 18 with no high school diploma, regardless of the age of the youngest child, is required to complete a high school education or its equivalent and shall have the choice to return to high school or to enroll in a high school equivalency program as set forth at N.J.A.C. 10:81–14.15. The agency shall not excuse anyone from high school who is subject to the State's compulsory attendance requirement.

i. Attendance must be full-time (as defined by the educational provider) even though the youngest child may be under six years of age, unless good cause is demonstrated or child care is not available to support full-time attendance. Until child care becomes available, participation may be on a part-time basis or the individual may be temporarily excused.

ii. In exceptional circumstances the custodial parent may be excused from the high school attendance requirement provided he or she participates in another REACH preparatory activity (see N.J.A.C. 10:81–14.15(b)) or in skills training combined with education (for example, Job Corps) and:

(1) The individual is beyond New Jersey's compulsory attendance requirement of age 16; and

(2) The determination of participation in the other preparatory activity is not based solely on grade completion but rather is based upon the results of an assessment and the participant's employment goal which indicate education is inappropriate for the individual; or

(3) The participant's local school district legally refuses to admit or readmit the participant and no alternate, appropriate educational components are available; or

(4) The participant has been determined developmentally disabled or in need of special educational programs for the learning disabled.

2. A custodial parent age 18 or 19 with no high school diploma regardless of the age of the youngest child is required to participate in preparatory educational activities and shall attend the program full-time (as defined by the educational provider) even though the youngest child may be under six years of age, unless good cause is shown or child care is unavailable to support full-time attendance. Until child care becomes available, participation may be on a part-time basis or the individual may be temporarily excused.

i. The custodial parent who is age 18 or 19 may be required to participate in training or work activities (subject to the 20–hour limit addressed at N.J.A.C. 10:81–14.3(g) unless the individual volunteers to participate for more than the 20 hours limited participation) instead of educational activities if one of the following conditions is met:

(1) After placement in the educational activity, the custodial parent failed to make good progress in successfully completing educational activities; or

(2) Prior to the assignment of the individual to such educational activities it is determined, based on an educational assessment and the employment goal in the individual's Employability Plan, that participation in educational activities is inappropriate for such parent. The participant must strongly indicate that he or she is not interested in participating in the educational component and one of the following conditions is met:

(A) The participant has a documented history of repeatedly failing to make progress in educational components (indicated by, for example, expulsion from high school, violent or disruptive behavior, threats, excessive absenteeism, failure to complete an alternate education component); or

(B) The initial assessment of employability indicates that: the participant's current literacy level is sufficient to achieve the employment goal in the REACH Employability Plan; the participant has the basic literacy level; or the employment goal in the REACH Employability Plan does not require a high school diploma or its equivalent.

(n) Individuals age 20 and over—educational requirements: A mandatory REACH participant who has attained the age of 20 years and has not earned a high school diploma (or its equivalent) is required to participate in preparatory educational activities consistent with his or her employment goals as a component of the individual's REACH Employability Plan. Any other REACH services or activities may not be permitted to interfere with participation in preparatory educational activities.

1. Participation in preparatory educational activities is not required if:

i. The individual demonstrates a basic literacy level needed for his or her employment goal; or

ii. The individual's employment goal, as identified on his or her REACH Employability Plan, does not require a high school diploma (or its equivalent).

(*o*) Participation requirements for AFDC–F segment principal earner: The principal earner in an AFDC–F segment case shall participate for a total of at least 16 hours per week in a REACH work supplementation program (WSP), in a community work experience program (CWEP), or in an on-the-job training (OJT) program (see N.J.A.C. 10:81–14.11, 14.12, and 14.14(b)).

1. If the principal earner is under 25 years of age and has not completed high school (or its equivalent), he or she may participate in preparatory educational services (see N.J.A.C. 10:81–14.15) in lieu of participation in WSP, CWEP or OJT.

i. The individual shall be considered to be meeting the above participation requirement if he or she is making satisfactory progress.

2. The principal earner participating in CWEP shall be considered to have met the 16 hours per week minimum participation requirement if he or she participates for the maximum number of hours of that program (see N.J.A.C. 10:81–14.12).

(p) Caretaker of child age three and older and under six—limited participation: A parent in an AFDC–C segment case and only one parent in an AFDC–F segment case with a child under six years of age cannot be required to participate for more than 20 hours per week in an employment-directed activity, even if child care is provided. However, the individual may volunteer to participate for greater than 20 hours.

1. Exception: The 20 hour rule does not apply to custodial parents under 20 years of age who must participate in educational programs because they do not have a high school diploma (or equivalent) as addressed in (m) above.

(q) Remedial educational activities for individuals without a high school diploma: Basic and remedial educational activities are mandatory REACH activities to help certain individuals achieve a basic literacy level when those individuals do not have a high school diploma or its equivalent and the participant's long-term employment goal does not require a high school education.

1. Basic literacy level means a literacy level in English that allows a person to function at the level of an individual who has proficiency at a grade 8.9 level.

(r) Limited English proficiency education: A mandatory educational component of an individual's participation in REACH shall be limited English proficiency education if such instruction in English as a second language (ESL) is necessary for the participant to achieve his or her long-term employment goal.

1. Limited English proficiency education means instruction which provides the individual with the ability to speak, read, write or understand the English language to function in his or her community.

(s) "Volunteers" in REACH: "volunteers in REACH" are defined as those individuals who meet the REACH exemption criteria at N.J.A.C. 10:81–14.3A and decide to participate in REACH, regardless of the exemption. The IM worker shall inform all exempt AFDC–C, –F, and –N applicants and recipients of their right to voluntarily participate in REACH and of their right to stop participation at any time without loss of assistance payments. During county phase-in to the REACH program, that individual who voluntarily agrees to participate in REACH and who is not a member of a required county phase-in group shall be treated as REACH mandatory, unless the individual satisfies REACH exemption criteria. If that individual is found to be exempt from REACH and decides to participate, then the individual is a "volunteer in REACH".

1. If an exempt individual "volunteers" to participate in REACH, he or she is not subject to sanctioning due to nonparticipation (see N.J.A.C. 10:81–14.8).

i. In determining the priority of participation within the REACH target populations (see N.J.A.C. 10:81–14.3(j)), the agency shall give first consideration to applicants for or recipients of AFDC who are exempt but "volunteer" to participate.

ii. When a "volunteer for REACH" stops participation in REACH without good cause, that individual shall not be given priority to participate again so long as other individuals are actively seeking to participate, unless the individual loses exemption status and becomes REACH mandatory.

(t) Participant (for purposes of determining a State's participation rate for Federal Financial Participation): An AFDC recipient who is assigned to a REACH program component (including educational activities, job skills training, job readiness activities, job search, OJT, WSP, CWEP and post-secondary education) for at least the minimum activity level, is a participant. Minimum activity levels include making satisfactory progress in all educational activities, and participating at least 20 hours per week in the other components noted; except for OJT and WSP, the minimum level is the number of hours defined by the employer as full-time work for that position. For participants in CWEP, the minimum level is the lower of either 20 hours per week or the maximum CWEP hours calculated as allowable for that individual. An individual's hours of participation for the week can be a combination of the hours of participation in more than one activity.

1. An individual active only in assessment, employability development planning or case management is not considered a participant for these purposes.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Restructured rule throughout text. In (b): deleted old 1–4 and replaced with new text at (b)1–2. Revised (c), added new (d) and recodified (d) as new (e). Recodified (e)-(g) as (f)-(h). Added new (i)1–4. Added new (j)-(t).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

Case Notes

REACH participant could not pursue four-year college degree. A.D. v. Morris County Board of Social Services, 92 N.J.A.R.2d (DEA) 25.

10:81–14.3A REACH/JOBS exemptions

(a) Individuals classified as exempt are not required to participate in employment or in REACH/JOBS employment-directed activities (see N.J.A.C. 10:81–14.3(b)). The following categories of individuals are exempt from participation in REACH/JOBS.

1. Children and students: Children under age 16; or between 16 and 18, enrolled or accepted for enrollment as full-time students for the next school term in an elementary, secondary, or vocational or technical school; or under age 19 and attending full-time, a secondary school or the equivalent level of a vocational or technical school, and expected to complete the program of the school before reaching age 19;

2. Persons who are 60 years of age or older;

3. Persons who are incapacitated: When verified that a physical or mental impairment, as determined by a physician or licensed or certified psychologist or by the Disability Review Section, Division of Medical Assistance and Health Services, either by itself or in conjunction with age, prevents the individual from engaging in employment and/or training, and such incapacity is expected to exist for a continuing period of at least three months (see N.J.A.C. 10:81–3.16(g)). Alcohol or drug addiction shall be considered physical impairments if they prevent an individual from engaging in employment or training. Incapacity may include a period of recuperation after childbirth if prescribed by the woman's physician.

i. Uncomplicated pregnancy of itself shall not be considered incapacitating; however, any claim to complications shall be verified in writing by a physician or licensed or certified psychologist by use of Form DRS–1, Examining Physician's Report, for an appropriate period of recuperation prescribed by her physician/psychologist.

ii. If the individual could be served or employed if reasonable accommodation(s) for his or her condition were made, then the possibility of participation in REACH shall be encouraged, rather than exemption of the individual.

iii. When an individual claims exemption under incapacity or illness but further verification is necessary (for example, a medical or psychological examination), the individual's needs may be included in the AFDC–C payment, or the needs of the entire eligible family included in the AFDC–F payment, while the exemption is being verified. Verification of the exemption shall be made as expeditiously as possible, but may not take longer than 30 days. If such verification is not provided within 30 days, the individual shall be required to participate unless there is a legitimate delay in obtaining a medical appointment. In such instance, the 30 day limit may be extended to 45 days;

4. Persons who are ill or injured: When determined on the basis of medical evidence or on some other sound basis that the illness or injury is serious enough to temporarily prevent participation in employment or training. Reasons for exemption on a temporary basis include observation of a cast on a broken limb, or information of scheduled surgery, recuperation from surgery, or other instances where the condition will be of limited duration.

This exemption normally will not exceed 90 days. As part of the income maintenance function, the case shall be reviewed every 30 days to determine changes in circumstances that may render the individual able to participate in REACH. Minor ailments and injuries (for example, colds, broken fingers, rashes, and so forth) do not normally exempt the individual under this criterion.

i. Where an individual evidences symptoms of alcohol or substance abuse or behavioral problems, referral for social services will be made. If such referral is not accepted or the individual stops participating in the treatment program, participation in other REACH activities will be required, as provided in N.J.A.C. 10:81–14.16(b)1;

5. Persons who are required in the home: When verification is obtained that a physical or medical impairment, as determined by a physician or licensed or certified psychologist, of another member of the household requires the individual's presence in the home on a substantially continuous basis, and no other appropriate member of the household is available;

6. Pregnancy: With medical verification of the expected date of delivery, a woman is exempt after the first trimester of pregnancy, that is, months four through childbirth;

7. Caretaker of young child: The parent or other caretaker relative of a child under three years of age who personally provides care for the child, subject to the following:

i. Exception: Custodial parents under age 20 must participate in REACH (see participation requirements at N.J.A.C. 10:81–14.3(m)) regardless of the age of the youngest child if the individual does not satisfy any of the other exemption criteria and the individual has not finished high school (or its equivalent) and child care is otherwise available.

ii. Only one parent or other relative in the family may be exempt from REACH participation for the reason of personally providing care to a child under two years of age.

(1) Limited participation of 20 hours in any REACH/JOBS activity is required for one caretaker relative whose child is three years of age or greater, but less than age six (see N.J.A.C. 10:81–14.3(g)3).

8. Remoteness: Despite the provision of support services, when commuting time between home and the site of the employment-directed activity by available public or private transportation is not reasonable. Commuting time of one hour each way, exclusive of the time necessary to transport children to and from a child care facility, is considered reasonable. However, if normal round trip commuting time in the area is more than two hours, then the round trip commuting time considered reasonable shall be the generally accepted community standards for commuting as determined at the county level.

i. The principal earner in an AFDC–F or –N segment family, if exempt from participation in REACH due to remoteness, shall register with the State Employment Service;

9. Another adult relative participates: An exemption may be granted to the parent or other caretaker of a child who is deprived of parental support or care by reasons of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative in the home is a mandatory REACH participant and has not refused to participate in the REACH program or to accept employment without good cause;

10. Another parent is not exempt (AFDC–F): An exemption may be granted to a parent (who is not the principal earner) in the AFDC–F segment of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner) is not exempt under one of the other paragraphs of this section;

11. The parent who is not the principal earner in the AFDC–N segment;

12. If the individual is a full-time volunteer serving under the Volunteers in Service to America (VISTA) program pursuant to Title I of the Domestic Volunteer Service Act of 1973, he or she shall be exempt from REACH participation; and

13. A person who is working 30 or more hours a week shall be exempt from REACH participation (see N.J.A.C. 10:81–14.3(c) above).

New Rule, R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–14.4 REACH case management

(a) General: Case management is a structured approach to the delivery of multiple and interrelated services to assure that the goals and objectives of REACH are met. It is essential to maintain an ongoing and accurate exchange of information between case management and income maintenance to ensure that timely and correct action is taken for each participant so that necessary services are provided and participation requirements fulfilled. Case management functions will ensure that the principles of REACH set forth at N.J.A.C. 10:81–14.1 are applied in the development of the REACH Employability Plan, the REACH Agreement, in evaluation and monitoring, and during an individual's participation in REACH. Staff included in the case management function are the REACH case manager, supervisory staff, clerical staff, and other support staff. Case management functions include but are not limited to:

1. Reviewing basic concepts of the REACH program: concept of mutual obligation; participation requirements; commitment to removing barriers to employment; emphasis on self-sufficiency; options available for training, education, and employment opportunities; client's rights;

2. Identifying barriers to self-sufficiency, including education and training, health, child support, social, housing, transportation, child care;

3. Referring the participant to appropriate potential service providers (for example, health, social, education and training, housing, child care) for further assessment and evaluation;

4. Consulting with the participant and potential service providers to develop a plan of service for each REACH participant;

5. Developing with the participant a REACH Employability Plan and REACH Agreement which will outline steps toward self-sufficiency;

6. Maintaining an assigned caseload of participants and coordinating their program participation with all participating agencies and educational institutions and programs to facilitate movement through REACH;

7. Monitoring a participant's progress and re-evaluating needs and services as necessary;

8. Correcting possible discontinuities in service delivery and determining excused participation status;

9. Maintaining records of an individual's participation;

10. Taking necessary action in cases involving sanctioning, including timely referral to the income maintenance worker for client notification and change in eligibility and grant amount;

11. Reevaluating a participant's post-AFDC needs; and

12. Monitoring continued eligibility and provision of services to post-AFDC participants who receive REACH services of child care and/or Medicaid.

(b) Case manager: A REACH case manager will be assigned to coordinate the activities of the REACH program participants. For a participant, the case manager is the integral link among the different service subsystems of income maintenance, employment, training, child support enforcement and support services. Case managers or interpreters fluent in a participant's primary language will be provided when a participant is not fluent in English.

1. Responsibilities of case manager: The case manager is responsible for contact with the participant. Specific responsibilities of the case manager include:

i. Conducting the individual evaluation with the participant;

ii. Making appropriate referrals (for example, social services, lead child care entity);

iii. Developing and signing the REACH Employability Plan and REACH Agreement;

iv. Approval of eligibility of payments for child care, transportation and training-related expenses;

v. Notifying income maintenance that a sanction should be imposed for noncompliance with REACH participation requirements;

(1) The case manager shall also notify income maintenance not to impose a sanction when an individual complies with REACH participation requirements before the sanction period begins.

vi. Maintaining responsibility for the case record during sanction. After a participant is referred for the imposition of a sanction as set forth in N.J.A.C. 10:81–14.8, the case manager shall retain the original REACH case file and shall have responsibility for making decisions about exemption, excused participation, placements and modifications to the REACH Agreement, communications with the participant (other than those directly involved with the imposition of the sanction), and overall handling of the REACH case;

vii. Maintaining an assigned caseload of participants and coordinating services and activities to ensure a participant's progress, and reevaluating needs and services necessary for continued participation; and

viii. Arranging and monitoring procedures necessary to ensure payment of post-AFDC child care fees.

(c) Other support staff: Case management functions other than those in (b) above may be provided by case management staff and other support staff.

(d) Case management support functions: Certain administrative functions are essential to support REACH case management but need not be performed as part of the case management function. These case management support functions include but are not limited to: processing of payments for support services, training, outreach to potential participants, providing information about REACH to community groups, and data entry of participant information into non-REACH automated management information systems. The case management agency and county may designate the appropriate entities or agency units to perform these functions.

(e) Participant rights: In addition to the rights set forth in this chapter (including the right to confidentiality, notice and hearings), the participant has the right to inform the case manager when services as set forth in the REACH Agreement are not being provided to ensure that the agency fulfills its part of the mutual obligation. The case manager shall explain to the participant that communicating such information as quickly as possible is in the best interest of

the family, and that it will enable the case manager to remedy the situation so that continued participation will be ensured.

(f) Case management functions within REACH program client flow: Upon application or redetermination of AFDC eligibility, AFDC clients will proceed through the REACH program client flow. The REACH program client flow begins with an orientation to REACH by the income maintenance worker and proceeds through case management as set forth below.

1. AFDC eligibility determination: The income maintenance worker at intake or in the active case unit will determine eligibility/continued eligibility for AFDC. The worker will also provide an orientation to the REACH program and determine whether the individuals are exempt from participation, in accordance with N.J.A.C. 10:81–14.3A.

i. Individuals exempt from participation will be given the opportunity to volunteer for the REACH program.

ii. All volunteers and individuals who are not exempt will be referred for REACH evaluation. This referral will initiate assignment of the individual to REACH case management.

2. Initial assessment of employability: As part of REACH participation, all potential REACH participants shall receive an initial assessment of employability.

i. The initial assessment of employability is based on:

(1) The individual's educational, child care, and other supportive service needs;

(2) The individual's proficiencies, skills deficiencies, and prior work experience;

(3) A review of the family circumstances, which may include the need of any child of the individual; and

(4) Other factors relevant in developing the employability plan set forth in N.J.A.C. 10:81–14.5.

ii. The initial assessment of employability shall consist of the following:

(1) An individual evaluation by the REACH case manager;

(2) A determination of the participant's literacy level if the participant has not completed high school or equivalent; and, as appropriate,

(3) An assessment by a county-selected assessment entity.

3. Individual evaluation: Individual evaluation involves an initial assessment of a REACH participant's existing employment-related skill levels, education level, and similar characteristics related to employability and the job market, and of support service needs. The case manager will meet individually with each participant and conduct an initial evaluation of barriers to job readiness and of the need for social services, such as mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

i. If the participant has not completed high school or its equivalent, the case manager shall determine the participant's literacy level based on information provided by the client and, when necessary through further assessment testing by the appropriate county entity.

(1) If the participant's literacy level cannot be determined at this time, the case manager shall refer the participant to the entity chosen by the county to assess, by use of standardized test, the participant's educational aptitudes.

ii. REACH Agreement: As part of the individual evaluation, the case manager and participant will jointly develop the initial REACH Agreement. The initial REACH Agreement will indicate whether the participant has been referred to social services, REACH job search, or assessment. The initial Agreement will also contain the support services necessary to enable the individual to participate in social services, job search or assessment.

(1) If the individual has been referred to REACH job search, the initial Agreement will be the final REACH Agreement. Individuals referred for social services will have signed only an initial Agreement.

(2) The case manager and participant will also develop the REACH Employability Plan.

(3) If the individual has been referred for assessment, the initial Agreement will be followed by the REACH Employability Plan and final REACH Agreement after assessment (see (f)5 below).

4. Assessment: Participants will be referred to the entity chosen by the county to assess the participant's educational and vocational aptitudes (including literacy level as necessary) and interests, or for social services assessment not done by the case manager. The entity will recommend to the case manager whether participants are job ready, in need of preparatory educational services, post-secondary educational services, job skills training, CWEP, or similar services, and will identify potential deliverers of these services where possible.

5. REACH Employability Plan and REACH Agreement: The case manager and participant will review the assessments and the initial REACH Agreement and jointly develop the REACH Employability Plan and final REACH Agreement (see N.J.A.C. 10:81–14.5).

6. Participation in employment and employment-directed activities: The participant will pursue activities as scheduled in the REACH Agreement. Participation will be monitored as part of the case management function.

(g) (Reserved)

(h) Referral for social services: The case manager may recommend specific social services for participants who may be in need of such services, for example, where there is evidence of substance abuse or behavioral problems (see N.J.A.C. 10:81–14.16). Although acceptance of these services is optional, the case manager has the responsibility to explain the consequences of not participating in social services: that the individual will be required to participate in another employment-directed activity, that participation requirements for that activity will be set forth in the REACH Agreement, and that nonparticipation in that activity without good cause will result in application of sanctioning procedures.

(i) Unavailability of support services: The case manager shall take all steps reasonably necessary and feasible to ensure that services are provided to support an individual's participation in the REACH program, as set forth in the REACH Agreement. When any service required for participation in REACH is not available or when it is reasonably apparent that available services will not enable the individual to fully comply with the REACH Agreement, the case manager will recommend that the individual's participation in REACH be excused. This recommendation shall be reviewed by the supervisor, and the participant counselled on the ability to participate in the absence of such services. If the supervisor and case manager determine that the individual will be unable to participate, the individual will be temporarily excused from participation.

1. The case manager will record on the REACH Agreement or in the case record the circumstances surrounding the excused participation, the date of excuse, reason, and dates of expected resumption of service and participation.

2. The case manager will immediately make all reasonable efforts to arrange for the necessary support service(s) so that the individual can participate in REACH as quickly as possible.

(j) Child care during preliminary sessions: A participant will be provided necessary child care, in a manner agreeable to the participant, for all sessions involving evaluation, counselling, assessment, testing, social services and development of the REACH Employability Plan and REACH Agreement.

(k) Type of placement and employment: REACH is designed to allow each participant to maximize his or her individual abilities. Every effort will be made to place participants in jobs which offer the greatest range of responsibility, opportunity for advancement, and rate of pay, given the participant's abilities and experience. If a job which maximizes the participant's abilities and experience is not available, the participant may be encouraged to take another job. Where such a participant's assessment(s) indicate the ability to hold a job requiring more advanced skills, but the participant is impeded from securing such a position because of lack of experience, education or training, reasonable efforts will be made through REACH to place the participant in employment-directed activities which would provide the necessary experience, education or training, whether or not the participant is contemporaneously working at another less skilled position.

(*l*) Waiver for the reassignment of case management functions: It is recognized that the phase-in of AFDC families into REACH may result in a high workload for the case management agency, with the possibility that REACH participants may not be served timely. To alleviate this temporary workload and to ensure that all participants receive REACH services timely, the case management agency may request that certain case management functions set forth in the REACH program client flow in (f) above, be temporarily reassigned to another work unit in that agency. To request a waiver of reassignment of case management functions, the case management agency must write to the Director, Division of Economic Assistance, including the following:

1. The specific case management function(s) to be waived;

2. The agency unit to which they will be reassigned;

3. The duration of this reassignment;

4. Assurances that the unit will perform the function and provide the same information and service that the case manager would; and

5. A description of the REACH client flow with the reassigned function, affirming that monitoring and case review will be conducted with the same adequacy as by case management, and will interface with the REACH automated management information system.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Text restructured throughout.
Added new language in (a) regarding case management. Added new (b)1v(1) and (b)1vi-viii. Revised text at (f)2. In (f)3i(1) added text. Added new (f)3ii(2), recodifying (2) as (3).

10:81–14.5 REACH Employability Plan and REACH Agreement

(a) REACH Employability Plan: On the basis of the initial assessment of employability, the case manager shall develop a REACH Employability Plan (Form R–14) in consultation with the participant, including a participant in a client-selected activity. The Employability Plan shall take

into account available REACH program resources; the participant's supportive services needs, skills level and aptitudes; local employment opportunities; and, to the maximum extent possible, the preferences of the participant.

1. A REACH Employability Plan shall be completed for each REACH participant. The Employability Plan shall be signed by the case manager and the participant and a copy retained in the participant's case record. The participant shall also receive a copy of the Plan.

2. The REACH Employability Plan is an outline of the REACH activities and services needed by the participant to achieve an employment goal. The REACH Employability Plan shall not be considered a contract.

3. The REACH Employability Plan shall be used in conjunction with the REACH Agreement which provides detailed information concerning the specific REACH activities and support services to be undertaken to achieve the employment goal.

4. Contents of the REACH Employability Plan: The REACH Employability Plan shall contain the following:

i. General case information;

ii. An employment goal for the participant developed in consultation with the client which should reflect availability of jobs in the local and/or relevant market;

iii. A list of the REACH activities that will be undertaken by the participant to achieve the employment goal; the specific details of the REACH activity, such as dates and hours of participation, shall be identified in the REACH Agreement;

iv. The supportive services to be provided to enable REACH participation such as child care, transportation and other supportive services; the specific details concerning services to be provided, such as the name of the provider, dates, time, and so forth, shall be identified in the REACH Agreement;

v. Any other needs of the family, identified during assessment, that might be met by REACH, such as participation by a child in drug education or life skills planning;

vi. The participant's literacy level, including date assessed, and the name of the specific test used to assess the literacy level; and

vii. The participant's education level, that is, highest grade completed.

5. Final approval of the REACH Employability Plan rests with the REACH case manager.

6. Changes to the REACH Employability Plan: The case manager shall make changes to the REACH Employability Plan as follows:

i. Update the literacy level when the participant completes a preparatory educational employment-directed activity, such as GED, ABE or ESL, as appropriate;

ii. Record satisfactory progress in a noneducational employment-directed activity at the time of completion of the activity or every three months, whichever occurs first;

iii. Record satisfactory progress in an educational component on a periodic basis of less than one year, such as a term or quarter, which is consistent with the progress report policies set by the educational institution, program, or the training provider; and

iv. Complete a new REACH Employability Plan when there is a change in the participant's employment goal or to reflect new activities.

(b) Purpose and scope: The REACH Agreement will set forth provisions for both the REACH participant and the agency to comply with under the principle of mutual obligation. Each REACH participant will sign an initial REACH Agreement with the case manager affirming participation, provision of support services (such as child care and transportation) and commitment to self-sufficiency. The final REACH Agreement places the participant in employment or an employment-directed activity, and will be adapted to each participant's skills and necessary employment activities. A Spanish language version of the REACH Agreement is available for any participant whose primary language is Spanish.

1. All mandatory REACH participants will be required to complete and sign a REACH Agreement as a condition of continued eligibility for the AFDC program.

2. Voluntary REACH participants should complete a REACH Agreement affirming participation in REACH and provision of necessary support services. Completion of the REACH Agreement by voluntary REACH participants is not a condition of AFDC eligibility.

3. Post–AFDC REACH participants: All REACH participants no longer receiving AFDC will be required to complete and sign a REACH Agreement as a condition of receiving post-AFDC child care. All REACH participants receiving post-AFDC Medicaid (see N.J.A.C. 10:81–14.20) should complete and sign a REACH Agreement. If the participant would be penalized by the employer for taking time off from work, the REACH Agreement may be mailed to the participant with the approval of the case management supervisor. Absence of a REACH Agreement will not relieve the participant of complying with eligibility requirements for extended Medicaid benefits (see N.J.A.C. 10:81–14.20).

(c) Contents of REACH Agreement: The REACH Agreement will set forth:

1. Participation required by the REACH participant in employment and REACH employment-directed activities, including the weekly hours of participation in the activity (see N.J.A.C. 10:81–14.3(t)).

2. Recommended participation in social service programs (but such participation is not required unless the participant so agrees);

3. Support services to be provided or arranged by the agency or participant, including child care, transportation training-related expenses, and post-assistance Medicaid coverage;

4. Objectives, starting dates, completion dates, measures of accomplishments, deliverers of employment-directed and support services;

5. Participant responsibility to advise of changes in circumstances and the right to report discontinuities in support services;

6. Sanctions for failure or refusal of the participant to comply with employment and the REACH employment-directed activities set forth in the REACH Agreement;

7. That participation will be excused when support services set forth in the REACH Agreement are not available; and

8. Effective date, duration and expiration date of the REACH Agreement.

(d) Signing of the REACH Agreement: Both the participant and the case manager will be required to sign the REACH Agreement.

1. Failure or refusal of the participant to sign the Agreement without justification will result in sanctions set forth in N.J.A.C. 10:81–14.8. Justification shall include good faith disagreements about the particular employment or employment-directed activity proposed by the case manager or about the specific support services that will be required. If the case manager can demonstrate with available and pertinent information that there is no reasonable basis for the participant's position, then the disagreement will be deemed to be without justification.

2. Inadvertent failure of the agency representative to sign the REACH Agreement will not relieve the participant or the CWA of compliance with the terms of the Agreement and sanctions for noncompliance. However, where it is determined that the case manager failed to sign the Agreement, the case manager shall sign the Agreement immediately after such a determination.

3. Prior to being asked to sign the Agreement, each participant shall be advised that legal responsibilities are involved and that the participant has three business days to have the Agreement reviewed by an attorney or other adviser.

4. Conciliation and Agreement terms: If, after evaluation and assessment, the participant is not satisfied with the terms of the Agreement, including the results of the assessment, the scheduled employment-directed activities or support services set forth in the Agreement, and if, after the three days in 3 above, the case manager cannot resolve the disagreement, then the following conciliation procedures shall be applied.

i. The participant shall be offered the opportunity to immediately voice his or her dissatisfaction to the supervisor of the case manager. The supervisor will review the assessment and proposed REACH Agreement, listen to the concerns of the participant and, within one working day, make a decision.

ii. If the participant is not satisfied with that decision, the Administrative Supervisor will review the issue with the participant and case manager, and, within one working day, make a decision which shall be considered the final position of the agency. If the participant still has disagreement about the Agreement terms the participant shall be advised orally and in writing that he or she has a 10–day period to request a fair hearing as to whether the participant's position is without reasonable basis.

(1) If a hearing is not requested and sanctions later arise from noncompliance with the Agreement, the reasonableness of the terms of the Agreement may be challenged at the later fair hearing on the sanction.

(2) If a hearing is held and the agency is upheld, that is, the participant's position is determined to be without reasonable basis, this determination shall be accepted by the Administrative Law Judge at any subsequent hearing arising from sanction and the issue of reasonableness not reopened.

iii. In instances in which sanctions arise from noncompliance with the resulting Agreement, and a fair hearing is requested, agency records of all conciliation efforts surrounding the Agreement will be made available to the Administrative Law Judge.

(e) Specifications: The REACH Agreement shall conform to the following specifications:

1. Effective date: The REACH Agreement and amendments to the REACH Agreement shall be effective upon signing by the participant and the case manager, subject to (d)2 above.

2. Duration and expiration date: The REACH Agreement is continuous and has no automatic or periodic expiration date. Once signed, it remains in force until any of the following occurs: the individual becomes ineligible for AFDC for a reason other than employment or receipt of unemployment insurance benefits or temporary disability insurance, a sanction is imposed, the individual moves to another county, or the participant completes the last scheduled activity with no subsequent activity scheduled. In absence of a change in AFDC eligibility, the

Agreement will expire on the ending date of the last activity unless the case manager and participant amend the Agreement with a new activity. To ensure continuous participation in REACH, the case manager shall review the individual's progress in REACH, schedule an appointment with the participant, and jointly update the Agreement with the participant within two weeks of the ending date of the last REACH activity set forth in the Agreement.

i. Example: On January 2, a participant and case manager signed the REACH Agreement for the following activities: training from January 3 through February 28, group job search from March 1 through March 15, and individual job search from March 16 through May 15. The time period covered by the REACH Agreement is January 2 through May 15. The case manager and participant should update the Agreement by May 30 with an additional REACH activity to ensure continuous REACH participation.

(f) Amendments: The REACH Agreement may be amended or updated at any time. Amendments may reflect changes in skills, education levels of the participant and changes in assignment to employment-directed activities, as well as any other agreed change in terms. Whenever the Agreement is amended or updated the case manager shall review the support services to ensure that they will continue to support REACH participation. Amendments shall be effective in accordance with (e) above.

(g) REACH Agreement review: A review of the REACH Agreement shall be completed at time of the redetermination of AFDC eligibility. At a minimum, the case manager and the participant shall review compliance with the existing Agreement, discuss changes that may be needed, and make the necessary amendments. The effective date and duration of the amendments to the REACH Agreement shall conform to (e) above.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1989 d.353, effective July 3, 1989.
See: 21 N.J.R. 1086(b), 21 N.J.R. 1908(b).
"Post-employment" changed to "post-AFDC".
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Added new (a), recodifying (a) as (b). Recodified (b)-(f) as new (c)-(g). Technical changes made to restructured sections.

10:81–14.6 Income maintenance functions

(a) General: The functions and tasks of income maintenance (IM) staff concerning the REACH program are set forth in this section. It is essential to maintain an open and accurate exchange of information between income maintenance and case management to ensure that timely and appropriate action is taken for each participant so that necessary services are provided and participation requirements fulfilled. The functions include but are not limited to:

1. Determination of eligibility for AFDC, computation of the AFDC grant amount, and determination of net loss of cash income at the time of an offer of employment, when necessary;

2. Providing an orientation of the REACH program to all AFDC applicants and recipients (see (b) below);

3. Determining exempt or mandatory status for REACH participation and identifying participant target group (see N.J.A.C. 10:81–14.3);

4. Referral of AFDC applicants and recipients who do not meet the criteria for exempt participation at N.J.A.C. 10:81–14.3(b) for REACH orientation;

5. Explaining voluntary participation in REACH and referral of interested individuals to case management for families determined presumptively eligible for AFDC;

6. Referral of potential REACH participants to the county welfare agency IV–D Child Support Unit, for prioritization and evaluation of the need for upward modification of a child support orders and for income withholding;

7. Applying the sanction to the individual's AFDC eligibility and grant after notification from the case manager of sanctions for failure or refusal to comply with REACH participation requirements;

8. Issuing notices of adverse action (Form PA–15);

9. Informing the case manager of a determination of ineligibility for the AFDC program for reasons other than a sanction; and

10. Informing exempt REACH participants of their right to voluntarily participate in the REACH program.

(b) REACH orientation: The county welfare agency (CWA) shall, at time of application or redetermination, provide an orientation to REACH. That is, IM shall inform all AFDC applicants and recipients, in writing or orally as appropriate, of the availability of REACH program activities, the supportive services for which they are eligible, the participation requirements under the principle of mutual obligation, the REACH Employability Plan and the REACH Agreement.

1. The content of information provided in orientation shall include, but not be limited to, the following:

i. Educational, employment and training opportunities available in REACH;

ii. Supportive services, including but not limited to child care, post-AFDC child care, Medicaid Extension, payments for transportation, work-related expenses, car maintenance;

iii. Agency obligations, including provision of program and support services;

iv. Rights, responsibilities, and obligations of participants, including grounds for exemption, consequences of failing or refusing to participate, mandatory and voluntary participation;

v. Information about child care services are as follows:

(1) Availability: Types and locations of child care services reasonably accessible to REACH participants;

(2) Selection: Type of assistance available to help participants select appropriate child care services; and

(3) Obtaining child care: Type of assistance available, on request, to help participants obtain child care services; and

vi. Child support: Responsibility of participant to cooperate in establishing paternity and enforcing child support; responsibility of the CWA to assist individuals in obtaining paternity establishment and child support services for which they may be eligible.

2. Orientation may be conducted in a group setting or at an individual interview, based on county operational procedures.

3. During the orientation process, voluntary participants may decide whether to continue in REACH. All mandatory participants and voluntary participants continuing in REACH will be referred for case management.

4. REACH Orientation for post-AFDC participants: AFDC recipients who have not participated in REACH but who become ineligible for AFDC due to excess income from employment are eligible for post-AFDC REACH benefits. For these individuals, the IM worker should attach to Form R–10, REACH Benefit Letter, a written description of the REACH program that includes at a minimum all items at (b)1 above. For these individuals, Form R–10 and attached written orientation will serve as REACH orientation. If the participant subsequently contacts the case manager for extended child care benefits, an individual evaluation interview must be held at which time the participant may receive a more in-depth orientation.

5. The date of orientation shall be as follows:

i. Applicants and reapplicants: The date of application or reapplication will be the date of REACH orientation.

ii. Redeterminations: The date of redetermination of AFDC eligibility will be the date of orientation.

iii. Post–AFDC participants: The date of Form R–10 will be considered the date of orientation.

6. REACH Addendum: To ensure that Quality Control errors are not incurred, every AFDC applicant and every AFDC recipient at time of redetermination must sign the REACH Addendum to Form PA–1J, indicating enrollment in the REACH program.

(c) Operating procedures: The REACH program will be operated in a county under standard procedures approved by the Department of Human Services. County procedures must ensure coordination of the income maintenance and case management functions and ensure that the AFDC eligibility and AFDC grant amount of REACH participants will not be adversely affected by lack of coordination between or among agencies involved in the REACH program.

(d) Voluntary participation: The income maintenance worker shall inform all exempt AFDC–C, –F, and –N segment applicants and recipients who could benefit from REACH program services of their right to voluntarily participate in REACH and of their right to withdraw such participation at any time without loss of assistance payments.

(e) Individuals who have been determined to be exempt from REACH on the basis of incapacity shall be referred to the Division of Vocational Rehabilitation Services. Form PA–14, Referral for Services, shall be used for this purpose. Acceptance of referral for such services is optional with the individual and shall not affect a recipient's entitlement to benefits.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a): added text regarding case management functions, added new (a)3. Recodified 3.–9. as 4.–10.
Added new (b) and recodified (b) as new (c).

10:81–14.7 Hearings and notices

(a) Hearings: The provisions governing fair hearings at N.J.A.C. 10:81–6 shall apply to the REACH program. The hearing process is maintained by the Office of Administrative Law and is applicable to all REACH participants concerning REACH program requirements which are unrelated to wage and hour statutes. These decisions must be reviewed for final decision by the Director, DEA. It is the right of every REACH participant adversely affected by the agency to request a fair hearing if the individual is dissatisfied with components of REACH participation including, but not limited to:

1. The determination of the individual's participation requirements (for example, computation of hours of CWEP and WSP participation);

2. The determination of the individual's exempt or excused participation status;

3. The supportive services being offered the individual;

4. The sanction or adverse actions being imposed upon the individual; and

5. The determination of all issues concerning the reasonableness of the elements of the REACH Agreement and the participant's cooperation and noncooperation with the Agreement in accordance with N.J.A.C. 10:81–14.8.

(b) Notices: Adverse actions taken by the agency are subject to timely and adequate notice provisions. Notices of action taken by the CWA concerning REACH participants are subject to the provisions of N.J.A.C. 10:81–7.1 and N.J.A.C. 10:90–2.5, as appropriate, and shall be provided in a Spanish language version for any participant whose primary language is Spanish.

1. Changes in the manner of payment of supportive services do not require timely notice unless they result in a discontinuation, suspension, reduction or termination of supportive service benefits or they force a change in child care arrangements.

(c) Provisions concerning continuation of REACH child care and supportive service benefits (see N.J.A.C. 10:81–14.18 and 19), pending a hearing, are as follows:

1. If the individual had been receiving REACH child care or transportation benefits and is awaiting a hearing because such benefits were reduced, he or she is not entitled to receive REACH child care or transportation benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing.

2. If the individual had not been receiving any child care benefit or a specific REACH supportive service benefit, as delineated at N.J.A.C. 10:81–14.19, for which he or she believes he or she is eligible and is awaiting a hearing due to non-receipt of those benefits, he or she is not entitled to receive that child care benefit or the specific REACH supportive service benefit pending the hearing.

3. If the individual had been receiving REACH child care benefits or transportation benefits and is awaiting a hearing because such benefits were discontinued or terminated, he or she is not entitled to receive those REACH benefits pending the hearing.

4. If the individual is contesting the amount of the REACH child care benefits received and is awaiting a hearing, he or she shall continue to receive REACH child care benefits in the amount previously established by the agency, pending the hearing. Likewise, if the individual is contesting the amount of specific REACH supportive service benefit received, the amount of the benefit shall remain in the amount previously established by the agency, pending the hearing.

(d) Violations of New Jersey wage and hour statutes are appealed through the New Jersey Department of Labor's Division of Workers' Compensation and Workplace Standards. Employees' complaints concerning issues such as work assignments, working conditions, and wage rates of individuals who are employed are handled by those Divisions through existing procedures. (The term "employees" as used in this context refers to OJT/WSP participants as well as other workers hired by the employer (not under REACH contract)).

Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Added new (a)1–5, (b)1; (c)-(d), expanding and clarifying text regarding hearings and notices.

10:81–14.8 Noncompliance; good cause; conciliation; sanctions

(a) The REACH principles of self-sufficiency through employment, mutual agency/participant obligation, dignity and self-respect of the individual, and flexible program design, are all directed to encourage participation by the individual. However, it is recognized that situations may occur in which the individual may not comply with the REACH participation requirements. In instances where noncompliance by a mandatory participant is indicated, the case manager may begin a series of procedures called the conciliation process (see (f) below), to resolve disputes involving an individual's participation in REACH. Conciliation is designed to assist the participant in complying with the requirements of REACH and the REACH Agreement in most instances, before a decision is made to impose a sanction for noncompliance. Either the recipient or the case manager can request that the conciliation process be initiated.

1. Voluntary participants: If an individual classified as a voluntary participant (see N.J.A.C. 10:81–14.3(s)) discontinues participation in the REACH program, the individual and the individual's family are not subject to the procedures and sanctions set forth in this section. However, under the principles of the REACH program, the case manager may wish to discuss with the individual the circumstances surrounding the decision not to participate and the benefit of participation.

(b) Situations not considered noncompliance: The following situations are not considered to be noncompliance with REACH program requirements:

1. Supportive services set forth in the REACH Agreement are guaranteed to those in need of such services; however, if resources necessary to provide supportive services to a participant are unavailable to meet that individual's needs, then the individual is temporarily excused from participation in REACH (see N.J.A.C. 10:81–14.3(f)).

2. Volunteers as defined at N.J.A.C. 10:81–3.19(f) and 14.3(s) are not subject to sanctioning due to nonparticipation or noncompliance.

3. If the individual is scheduled to participate in more than one REACH activity and a "conflict in scheduling" of those activities results in the participant not being able to participate in the activity, then, noncompliance does not exist in that circumstance. The individual shall be excused from participation in the other activity or an alternative activity shall be considered in its place for the individual.

(c) Noncompliance: A participant is deemed to be in noncompliance when he or she refuses a specific referral for initial assessment of employability; a definite offer of training, education or employment; or ceases participation in an assigned REACH activity without good cause. Indications of noncompliance may be reported to the case manager or may become apparent to the case manager during client participation. Indications of noncompliance with REACH program requirements include, but are not limited to, situations in which the participant:

1. Did not attend a REACH evaluation session after one notice has been mailed to the participant and the participant failed to respond without good cause;

2. Did not attend a REACH assessment session after one notice has been mailed to the participant and the participant failed to respond without good cause;

3. Did not cooperate in the development of the REACH Agreement or Employability Plan;

4. Did not sign the REACH Agreement, for circumstances other than those in N.J.A.C. 10:81–14.5(d);

5. Did not make a bona fide application for employment;

6. Did not accept the type of employment agreed upon and specified in the REACH Agreement without good cause;

7. Terminated employment or reduced earnings without good cause;

8. Was discharged from employment for cause; for example, gross misconduct connected with such employment, or failing to meet reasonable job requirements;

9. Did not participate or ceased participation without good cause, in any REACH employment-directed activities;

10. Refused necessary and appropriate supportive services, without good cause, as determined by the agency, which permit participation in REACH activities or employment, without providing alternative arrangements or showing that such refusal will not prevent or interfere with participation;

11. Disrupted a REACH activity or behaved in a manner that constituted a threat or hazard to agency staff or fellow participants; or

12. Failed to appear for a scheduled conciliation conference without good cause, after non-cooperation for any of the above reasons.

(d) Notification to participant for indicated noncompliance: When participant noncompliance for evaluation, assessment or other REACH requirements is indicated, the case manager shall proceed as in (d)1 and 2 below to notify the participant of the indicated noncompliance, the beginning of the conciliation process, and attempt to schedule a conciliation conference in accordance with (f)2.

1. Initial evaluation/assessment of employability: After failure to appear at a scheduled appointment for any step in the initial assessment of employability, the case manager will send Form R–8A, Conference Letter, (Form R–8 or Form R–8s, the OMEGA generated Second Referral Notice in those counties receiving such notice) notifying the participant of noncompliance and of the penalty for refusal to comply with the requirements of REACH and the REACH Agreement, and asking the participant to come to the agency for a conciliation conference. In addition, the case manager shall attempt to contact the participant by telephone. If the participant does not contact the case manager within 10 days of the date of the Conference Letter concerning the conciliation conference, then the case manager shall refer the individual for sanctioning.

2. REACH activities beyond initial evaluation assessment: In instances of noncompliance set forth in (c)1 through 11 above, the case manager will send Form R–8A, Conference Letter, notifying the participant of noncompliance and of the penalty for refusal to comply with the requirements of REACH and the REACH Agreement, and asking the participant to come to the agency for a conciliation conference. In addition, the case manager shall attempt to contact the participant by telephone. If the participant does not contact the agency within 10 days of the date of this letter, the case manager will send a second Conference Letter (R–8A). In addition, the case manager shall attempt to contact the participant by telephone. If after the above attempts to notify the individual for noncompliance, no response is received within 10 days of the date of the second Conference Letter concerning the conciliation conference, then the case manager shall refer the individual for sanctioning.

(e) Good cause for noncompliance: If in any single instance a participant is unable to comply, but good cause exists, he or she shall not be deemed to be willfully refusing to comply with the requirements of REACH or of the REACH Agreement. The participant is responsible for providing the necessary information so that a good cause determination can be made. The case manager shall indicate in writing in the case record the good cause reason for

nonparticipation in REACH by the individual. Good cause for failure to participate in the REACH program, or refusal to accept employment, shall be found if:

1. The individual is the parent or other relative personally providing care for a child under age six and the employment would require such individual to work more than 20 hours per week;

2. The acceptance of the job would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income, less necessary actual work-related expenses, is less than the AFDC cash benefit the family would receive at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income and the AFDC cash benefit as determined in the calculation process delineated at N.J.A.C. 10:81–14.21(e). If payment for the family's child care costs is met by direct payments through REACH to the provider of care, or if child care costs are met through the child care disregard procedure and the agency supplements the cost of care over the disregard limits, then good cause does not exist;

3. The mandatory participant is physically or mentally unable to engage in such education, training or employment;

4. The mandatory participant is unable to get to and from the particular educational facility, training or employment by available transportation;

5. The conditions of education, training or employment are a risk to the individual's health and safety;

6. Conditions violate the rights of the participant or applicable law;

7. Homelessness of the individual's family; or

8. The totality of circumstances surrounding the participant's ability and willingness to comply with the participation requirements prevent or seriously impair participation. Such circumstances beyond the participant's control are often short-term situations such as, but not limited to, inclement weather, breakdown of transportation and/or child care arrangements, short-term illness requiring a doctor's care, a family emergency, temporary loss of driver's license or insurance only when no other transportation is available. These circumstances shall be reviewed on a case by case basis.

(f) Conciliation: In most circumstances, before a decision is made to impose a sanction for noncompliance, a series of remedial procedures, the conciliation process (see N.J.A.C. 10:81–14.5(d)4 for REACH Agreement conciliation) shall be initiated to resolve misunderstandings or disagreements concerning noncompliance situations delineated at (c)1 through 11 above. The purpose of this process is to assist the participant in complying with the requirements of REACH and the REACH Agreement before any decision is made to impose a sanction for noncompliance. The conciliation process is time-limited (not to exceed 30 days to allow for receipt of and response to Conference Letter(s) as delineated above) and may be initiated by the participant or in most circumstances by the case manager. Usually, the conciliation process begins with the case manager notifying the participant by telephone and by mailing the Conference Letter (Form R–8A or R–8) as described above, identifying the noncompliance and explaining to the individual the consequences of continued failure to participate. If the individual does not respond to the Conference Letter(s) within the time-frames specified in the notification procedures above, then the case manager shall refer the individual to income maintenance for sanctioning. Otherwise, the case manager, once contacted by the individual, proceeds with the conciliation process.

1. Noncompliance is not by itself sufficient reason to impose sanctions but is sufficient for the case manager to initiate the conciliation procedures set forth below:

i. Notifying the participant of the details of the indicated noncompliance in writing (Conference Letter—Form R–8 and Form R–8A) and attempting to contact him or her by telephone (see (d) above);

ii. Conducting one or more face-to-face conferences between the individual and the case manager (see (f)2 below);

iii. Reviewing with the individual his or her rights and responsibilities under REACH and informing him or her of the consequences of continued failure to participate;

iv. Deciding whether the participation requirements in the REACH Agreement should be amended, whether a change in the participant's status is warranted, and/or whether changes in support services or participant referral should be made;

v. Making a determination of whether "good cause" for noncompliance exists;

vi. Determining, based upon all available information, whether the individual has "willfully refused" to comply with REACH requirements without good cause, or is likely to do so in the future. The case manager may infer willful refusal and a likelihood that the willful refusal will be repeated in the future from the participant's past conduct and the other facts and circumstances of a case, provided that there is substantial and reasonable basis for such an inference; and

vii. Documenting conciliation efforts in the individual's case record, including copies of all notices.

2. Conciliation conference: Prior to initiating a sanction, the case manager shall attempt to conduct a conference with the REACH participant to discuss the participation requirements and circumstances surrounding nonparticipation. Conferences are scheduled as stated in the Conference Letter (R–8, R–8s or R–8A). The individual shall contact the case manager if the scheduled date in the notice is not convenient. If the individual, who has agreed to a conciliation conference after noncooperation for any of the reasons set forth at (c)1 through 11 above, fails to appear for the scheduled conference without good cause, then the individual shall have 10 calendar days beyond that previously scheduled date to meet with the case manager or the case manager shall refer the individual for sanctioning.

i. During the conference, the case manager shall make an assessment of the circumstances surrounding the individual's noncompliance, including possible personal problems. Where personal problems, such as substance abuse or behavioral problems are indicated, the case manager shall refer the individual for social services (see N.J.A.C. 10:81–14.4(h) and 14.16).

ii. The case manager shall be alert to possible discontinuities in support services that have led to noncompliance, and shall attempt to remedy the situation and arrange for the needed services. If a needed support service is not available and the participant otherwise indicates willingness to participate, the case manager may excuse the individual from participation in REACH (see N.J.A.C. 10:81–14.3(e)).

iii. The case manager shall review the REACH Agreement and participation requirements with the individual to clarify and reinforce REACH program expectations. The participant shall be given a final opportunity to comply. Compliance is defined as participation in employment or the REACH employment-directed activity as set forth and scheduled in the REACH Agreement, or alternatively, participation in another employment-directed activity specified by the case manager or with other REACH participation requirements (for example, participating in evaluation or assessment).

(g) Decision whether to impose sanction: No participant shall be subjected to a sanction if it appears, through the conciliation process, that he or she is willing to comply with participation requirements. However, if the case manager receives no response to Conference Letter(s) mailed, or telephone attempts made to contact the individual within the time requirements specified above, then the case manager shall take action to have the sanction imposed; but, it is important to note that the reason for the sanction in such cases is not based merely on the failure of the individual to respond, but rather, on the indicated noncompliance (for example, did not attend REACH assessment session). Sanctions shall be imposed only in cases where the case manager finds that there has been an inference of willful refusal without good cause to comply with REACH program requirements or the REACH Agreement.

1. Inference of willful refusal: The case manager may infer willful refusal from the participant's past conduct and the other facts and circumstances of a case, provided that there is substantial and reasonable basis for such an inference.

2. Inability to comply: If in any single instance a participant is unable to comply but good cause exists, he or she shall not be deemed to be willfully refusing to comply with the requirements of REACH or the REACH Agreement.

(h) Imposition of the sanction: Sanctions will be imposed if a mandatory REACH participant has willfully refused to comply with the requirements of REACH or the REACH Agreement. The case manager shall advise the participant at the time of referral for imposition of a sanction, orally if possible, and in writing, as delineated in (d) above that the participant can voluntarily remove the sanction by coming into compliance with requirements of the REACH program and Agreement before the sanction period begins. If a mandatory participant complies with REACH program or Agreement requirements before the sanction period begins (see (h)2i below), any sanction proceedings which had been initiated shall cease.

1. If, after reasonable efforts by the case manager to notify the participant of noncompliance and request for conciliation conference (see (d) above), the individual still does not comply with REACH participation requirements, or if the participant has not contacted the agency within 10 calendar days of the date of the last Conference Letter (R–8, R–8s, R–8A), and the individual has not been reached by telephone, the case manager may infer this action as willful refusal to comply and shall end the conciliation process. The case manager shall notify the income maintenance worker of noncompliance via Form R–3, REACH Referral to IM, or an alternative agency form to initiate sanctioning proceedings. The income maintenance worker shall take immediate action regarding AFDC eligibility and grant amount, subject to timely and adequate notice, and shall inform the case manager of the actions taken on manual Form R–3, REACH Referral Form. The IM worker shall include the reason for action indicated on the FAMIS 105 document and the effective date of the sanction in the comments section of the Form R–3.

2. Effective date of sanctions: The sanction periods in (k) below shall become effective on the first day of the first payment month after the month the decision is made to impose the sanction, subject to timely and adequate notice.

i. If a mandatory participant complies with REACH program or Agreement requirements before the sanction period begins, the case manager shall notify the income maintenance unit supervisor via Form R–3A, REACH Referral to IM, or an alternative agency form, that the individual shall not be sanctioned. IM shall take appropriate action and ensure restoration of correct grant amount, if necessary.

3. Appeals: Any appeals resulting from sanctioning for noncompliance with REACH program requirements will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81–6). Eligibility for continued AFDC benefits at an unreduced level shall be determined in accordance with N.J.A.C. 10:81–6.9. Provisions at N.J.A.C. 10:81–14.5(d) and 14.7(a) will also apply. Agency records of all conciliation efforts (including Form R–7, Record of Application of Sanction Procedures), shall be made available to the Administrative Law Judge should a fair hearing be requested by the participant.

4. A participant who has been sanctioned has the right to review personally, or through a representative, his or her entire file at any time during regular business hours.

(i) Sanctions: The following sanctions shall apply for failure or refusal to comply with REACH/JOBS requirements (see (k) below for duration of sanction periods):

1. AFDC–C: If the mandatory participant is a caretaker relative receiving AFDC benefits, including a stepparent designated as an essential person, his or her needs shall not be taken into account in determining the family's eligibility or amount of assistance. The AFDC grant shall be provided in the form of protective or vendor payments (see N.J.A.C. 10:81–4.5), except that, if after making all reasonable efforts, the CWA is unable to locate an appropriate individual to whom protective payments can be made, the CWA may continue to make payments on behalf of the remaining members of the eligible family to the sanctioned caretaker relative.

i. Sanction for voluntary cessation of a job or nonacceptance of a bona fide offer of employment, AFDC–C: If the parent or other caretaker relative who is required to participate in REACH (both applicants and recipients alike) and who is not otherwise exempt, has work experience, a high school diploma, or equivalent, and is determined in the course of the REACH evaluation assessment to be "job ready" and capable of self-support, but fails without good cause to seek employment, accept a bona fide offer of employment or terminates employment or reduces earnings without good cause, then the needs of the parent or caretaker relative shall be deleted in the determination of eligibility and in the calculation of the AFDC assistance payment in accordance with the work/training sanction periods below. The penalty for failure or refusal without good cause shall continue until such time as the individual demonstrates willingness to cooperate as described below.

2. AFDC–F: If the mandatory participant is the principal earner (see N.J.A.C. 10:81–3.18(a)), that individual's needs shall not be taken into account in determining the family's eligibility for AFDC and the amount of the assistance payment. The needs of the second parent also shall not be taken into account in determining the family's eligibility for AFDC and the amount of the assistance payment, whether or not he or she would otherwise be exempt, unless that second parent is participating or agrees to participate in REACH. This penalty reflects the mutual obligation of both parents to support their dependent children; therefore, if one parent is not participating, the other is obliged to do so. The penalty is not imposed on the dependent children.

i. Employment Criteria for AFDC–F: The principal earner must satisfy the employment criteria set forth at N.J.A.C. 10:81–3.18(b) to qualify for AFDC–F eligibility and shall also cooperate with REACH requirements in actively seeking employment and shall be required to accept a bona fide offer of employment or retain employment if determined "job ready" and capable of self-support in the evaluation/assessment process. If the principal earner fails without good cause to accept employment or terminates employment or reduces earnings without good cause, then the needs of the principal earner (and possibly the needs of the second parent as well, if he or she is not participating in REACH) shall be deleted in the determination of eligibility and in the calculation of the AFDC–F assistance payment in accordance with the work/training sanction periods below. The penalty for failure or refusal without good cause shall continue until such time as the individual demonstrates willingness to cooperate (that is, the failure to comply ceases) as described below.

3. AFDC–N: Noncompliance with the mandatory participation requirements of REACH by the principal earner will result in both parents being deleted from the eligible family.

4. If the mandatory participant is the only dependent child in the AFDC–C or–F segment, only the needs of the dependent child are removed in the determination of the family's eligibility for AFDC and the amount of the assistance payment; the caretaker relative(s) may continue to receive AFDC–C or–F benefits if otherwise eligible. If the mandatory participant is the only dependent child in the AFDC–N segment, the family becomes ineligible for assistance.

5. If the mandatory participant is one of several dependent children in the AFDC–C,–F, or–N segment, that child's needs shall not be taken into account in determining the AFDC grant of the eligible family.

6. If a sanctioned individual reapplies for AFDC but the sanction period has not expired, the individual will remain ineligible for AFDC for the entire sanction period or until the failure to comply ceases, whichever is longer. In determining entitlement of the remaining eligible family members to assistance, (i)1 through 5 above shall apply.

i. Example: A mandatory participant is sanctioned for six payment months, effective January 1 through June 30. Effective February 1, the remaining AFDC family members become ineligible for assistance due to excess resources. The family spends the excess resources and on April 1 reapplies for AFDC. The sanctioned individual will remain ineligible for AFDC through at least June 30. AFDC entitlement of the remaining family members for April 1 will be determined in accordance with (i)1 through 5 above.

7. If a sanctioned individual satisfies exemption criteria after the sanction period has begun, the individual shall remain in sanction status for the full length of the imposed sanction period. Eligibility for assistance may be reestablished at the end of the sanction period based on the individual's circumstances and willingness to participate with REACH program requirements.

8. Eligibility of sanctioned individuals for Medicaid: Any adult individual, or child 16 to 18 years old (or up to 19 years if attending school), sanctioned for noncompliance with REACH/JOBS work or training requirements, remains eligible for Medicaid so long as other Medicaid eligibility criteria are met (all segments).

(j) Sanctions for voluntary cessation of employment, AFDC–N: The following additional sanctions shall apply in AFDC–N segment cases. If financial eligibility is the result of voluntary cessation of employment within 90 days prior to the date of application or at any time during receipt of assistance, the following shall apply:

1. Applicants: If financial eligibility is the result of voluntary cessation of employment (including cessation of employment due to inappropriate work habits) by either of the applicant parents, regardless of reason, within 90 days prior to the date of application, neither of the parents shall be included in the eligible family. This penalty shall extend for a period of 90 days beginning with the date of the termination of employment. However, eligibility shall be considered for the children.

i. At the end of the penalty period, the parents may be granted assistance so long as eligibility continues to exist.

2. Recipients: If an employed principal wage earner voluntarily ceases employment for whatever reason without good cause, both parents' needs shall be deleted in the determination of eligibility and in the calculation of the assistance payment under AFDC–N. Refusal of an unemployed principal wage earner to accept a job or training, without good cause, will likewise result in both parents being deleted from the eligible family in accordance with the work/training sanction periods at (k) below.

3. The parent, determined to be the principal wage earner for the family as delineated in N.J.A.C. 10:81–3.18(a), shall be promptly referred to the State Employment Service, New Jersey Department of Labor.

(k) Sanction periods: The following sanction periods shall apply for noncompliance with the REACH program requirements or the REACH Agreement (or TEEN PROGRESS, if applicable) without good cause:

1. For the first instance of willful refusal to comply with REACH program requirements, the sanction period shall continue for one payment month or until the failure to comply ceases, whichever is longer.

2. For the second instance of willful refusal to comply with REACH program requirements, the sanction period shall continue for three payment months or until the failure to comply ceases, whichever is longer.

3. For the third and subsequent instances of willful refusal to comply with REACH program requirements, the sanction period shall continue for six payment months or until the failure to comply ceases, whichever is longer.

4. Continued noncompliance with REACH program requirements or the REACH Agreement after expiration of the sanction period will result in continued sanction.

(*l*) Renewed participation after the sanction period: Individuals who are sanctioned may again participate in REACH/JOBS after the expiration of the sanction period, upon application and indication to the REACH/JOBS case manager of willingness to participate.

1. For the first occurrence, such individuals may again participate after one payment month has elapsed since the effective date of the sanction.

2. For the second occurrence, such individuals may again participate after three payment months have elapsed since the effective date of the sanction.

3. For the third and subsequent occurrences, such individuals shall be reaccepted into the REACH program when satisfactory evidence of willingness to participate is given, and six payment months have elapsed since the effective date of the latest sanction.

(m) Determining when failure to comply ceases: The individual may again participate after completion of the respective sanction period in accordance with (1) above. The case manager shall determine the date that failure to comply ceases, based on a demonstrated willingness by the individual to participate in the REACH program after the applicable sanction period has ended. The date that failure to comply ceases is determined as follows:

1. The individual shall agree to comply with either the activity in which he or she previously was engaged or another activity which is determined appropriate for the individual. In order to demonstrate willingness to comply, the individual shall participate for a period of up to two weeks as determined by the case manager, based on the particular requirement to be satisfied and individual case circumstances.

i. If the individual successfully participates in the activity for the period of time required to satisfy the REACH requirement, the sanction shall cease as of the day the individual agrees to participate.

(1) Example: If a sanctioned individual whose sanction was scheduled to end on January 31, agrees on February 3 to participate by attending a scheduled REACH evaluation session and successfully completes the activity by attending that session, the individual's sanction will end as of February 3, the date the individual agrees to participate, and therefore the date the noncompliance ceased.

(2) Example: A sanctioned individual whose sanction was scheduled to end on March 31, agrees on April 6 to participate by attending group job search. During that week and the following week, the individual attends the group on the required days of participation. Since the participant demonstrates a willingness to comply, the sanction shall end as of April 6, the date the individual agrees to participate and therefore the date the noncompliance ceased.

ii. If no activity is available for the individual, the sanction shall cease on the day he or she agrees to participate.

iii. If the individual fails to participate during the trial period, the sanction will continue until such time as he or she successfully demonstrates a willingness to participate with REACH requirements and ceases the noncompliance.

2. At such time that the case manager determines that the failure to comply ceases, case management shall notify income maintenance via Form R–3A to lift the sanction and to calculate the assistance payment for the individual for the month of reinstatement back to the date the individual agrees to participate and therefore the date the noncompliance ceased based on the procedures set forth at N.J.A.C. 10:82–2.2(a)1. Income maintenance shall likewise inform the case manager via Form R–3 that the individual was reinstated.

3. During the trial period of participation, the individual shall be eligible for child care and supportive services which the case manager determines are necessary for participation.

(n) The agency will remind, in writing, any individual whose failure or refusal to participate in REACH has continued for three months of the individual's option to end the sanction. Form R–15 REACH Sanction Reminder Notice, shall be used to inform the individual when he or she has been in sanction for at least three months. The reason for and time period of the sanction indicated on the R–15 are the same as those recorded on the PA–15, Notice of Adverse Action, at the time the individual was sanctioned for noncompliance with REACH requirements. For those individuals in a six-month sanction period, the date to be entered on Form R–15 shall be the first day of the month following the last day of the sanction period. For example, if the sanction period time frame is June 1 through November 30, then the date entered on Form R–15 is December 1. Income maintenance shall inform case management of the action by sending Form R–3 with a copy of the notice attached (Form R–15).

1. Any individual wishing to end the sanction must contact the case manager (indicated on the R–15). At such time that the case manager determines that the failure to comply ceases, case management shall notify income maintenance to lift the sanction and to calculate the assistance payment for the month of reinstatement back to the date the individual agrees to participate (date the noncompliance ceased).

2. The three-month notice requirement is applicable to the three respective sanction periods, one month, three months and six months. In situations where individuals in the one-month or three-month sanction periods neglect to contact the agency concerning their eligibility reinstatement for AFDC benefits at the end of the sanction period, and the sanction has continued for at least three months, those individuals shall be notified via Form R–15.

3. The R–15 advises that:

i. The individual may immediately terminate the first or second sanction by participating in the program or accepting employment; and

ii. The individual may terminate any subsequent sanction after six months have elapsed by participating in the program or accepting employment.

(*o*) The IM worker shall advise the IV–D unit when a REACH sanction is imposed or lifted to avoid communicating the wrong case status information to the family, to ensure that no conflict exists with a possible concurrent IV–D sanction concerning family members. Likewise, case management shall be advised by IM of action taken to impose sanctions (both IV–A, and IV–D) on individuals in REACH.

1. If a family member is sanctioned for IV–A or IV–D related reasons, then that individual cannot participate in REACH activities for the duration of the sanction period.

Repeal and New Rule, R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was "Noncompliance; good cause, sanctions." Prior rulemaking activity is as follows:
Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1992 d.36, effective January 21, 1992.
See: 23 N.J.R. 2988(a), 24 N.J.R. 287(b).
In (i)8, added child 16 to 18 years or up to 19 years if attending school.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–14.9 Employment

(a) General: The goal of the REACH program and employment-directed activities is unsubsidized employment. Unsubsidized employment, employment-directed activities, and the services that support an individual's employment, are intended to lead to self-support of the family and independence from public assistance.

(b) Subject to the provisions of N.J.A.C. 10:81–14.4(k), all mandatory REACH participants will be required to accept a reasonable offer of employment unless good cause exists.

10:81–14.10 REACH job search component

(a) Purpose and scope: The purpose of REACH job search component is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized full-time employment of not less than 30 hours per week. The REACH job search component may include different job search activities or impose different participation requirements based on an individual's characteristics and local job availability conditions.

1. The Department of Human Services, Division of Economic Assistance, the agency designated in the State Plan for Title IV–A to supervise the AFDC program, shall supervise the REACH job search program.

2. Job search is an employment-directed activity (EDA) in which mandatory and voluntary participants engage in activities with the immediate goal of obtaining full-time employment. It is geared to the individual participant's needs and local job market conditions and may serve participants in either group or individual job-seeking activities, or in a combination of both methods. Group job search shall be used as much as possible over individual job-seeking/job search activities.

3. Job search activities include referrals to potential employers, the provision of employment counseling, information dissemination and moral support. Group job search is a group setting where participants are taught job-seeking skills, and which may include a phone bank from which participants contact potential employers.

(b) Eligibility: All REACH participants may participate in REACH job search. Participation in REACH job search may be postponed while an individual is participating in another REACH employment-directed activity, including a social service component (see N.J.A.C. 10:81–14.4) or educational component of REACH.

1. Job search is an appropriate activity for job ready individuals who have basic workplace skills and experience applicable to the labor market. Job search for those who are skills deficient shall be coupled with other educational and training activities based on the needs of the individual.

(c) Job search participation: Participation in the job search component is subject to the following requirements and limitations:

1. Job search requires that an individual participate for an equivalent of at least 20 hours per week for Federal participation purposes.

2. The individual may participate in job search for Federal participation purposes as a component of REACH for participation purposes, for a period of eight weeks in any period of 12 consecutive months.

3. Participation in job search beyond the eight week participation period is permissible. However, participation in job search beyond this compulsory eight-week timeframe is an unmatchable REACH activity for FFP purposes. In order to claim FFP, the individual must participate in another REACH component (such as education or training) and the job search activity becomes part of that other REACH component. FFP is available for administrative and supportive service costs of the job search-related portion of the other approved REACH component. Participation in the Job Search component beyond the Federal eight-week limit, as a REACH activity component, is State funded only.

4. Should an individual leave AFDC, upon filing a new application (re-opened case), he or she becomes eligible for a new eight week job search participation period.

(d) Assignment to job search activities and the duration of the activities will be based on individual employability potential and geographic location. The minimum requirement for participation in REACH job search is at least 20 hours per week.

(e) Additional job search requirements: The following additional requirements apply to participation in REACH job search activities.

1. Job contacts: A job contact is defined as a contact with a prospective employer. The county selected entity may assist the participant by providing a list of employers. The following apply to job contacts:

i. Referral: A referral to an employer shall be considered a job contact provided the participant presents himself or herself to the employer as available for employment.

ii. Initiated by participant: To be considered a job contact initiated by the participant, the participant must present himself or herself to the employer as available for work and the employer must ordinarily employ persons in the areas of work that the participant is reasonably qualified for by means of experience, training or ability.

iii. Depending upon the position sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the county selected entity to be a generally accepted practice, including telephone contacts where the job offer or advertisement lists a telephone number.

iv. The participant cannot count the contact of the same employer more than once in a four-week period unless the employer indicated that vacancies in addi-

tional positions may soon exist, or a subsequent advertisement is made by the employer.

v. Reporting job contacts: The participant will be required to report the result of all job contacts to the county selected entity at a prescheduled time. The time may vary with the job search participation requirements set forth in the REACH Agreement.

(1) Job contacts shall be reported in writing in a manner prescribed by the county selected entity at the time the REACH Agreement is signed. This writing requirement shall be reasonable given the participant's language abilities. While such reporting will not require the employer's written confirmation of the job contact, the participant shall be required to sign written documentation to attest to its validity. The written report shall be submitted to the county selected entity at the participant's follow-up interview. The participant shall be responsible for providing the county selected entity with any additional information concerning job contacts.

vi. County selected entity review of job contacts: The county selected entity shall review the participant's job contacts and determine if the participant has completed the assigned number of job contacts, as set forth in the REACH Agreement.

vii. It is a goal of REACH to help and ensure that all participants are prepared to apply for and secure employment. Therefore, before a participant is placed and required to participate in job search activities, the case manager shall take such steps, including referrals, as are necessary, including employment counselling, to ensure that the participant can read and complete a job application, and is otherwise able to present himself or herself properly for employment.

2. Group job search activities: REACH group job search activities may include the classroom group job search training and supervised job clubs.

3. Review of job search: The county selected entity shall review the individual's participation in job search, and determine if participation in job search should continue or if assignment to another REACH employment-directed activity is appropriate. If reassignment is appropriate, the county selected entity must notify the case manager so that the REACH Agreement may be updated.

(f) Child care and transportation: Federal financial participation is available as reimbursement or direct payment for expenditures for child care, transportation, and other costs reasonably incurred by participants in meeting the requirements of REACH job search.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substituted "selected" for "designated"; added text to (a)4 "If reassignment is . . .".
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Restructured text of rule extensively to expand job search components of REACH.
Added new (a)2–3, deleting old (a)1 and recodifying (a)2 as new (a)1.
Added new (b)1. Replaced (c)1–3 with (c)1–4.
In (e): deleted old (e)1 and recodified (e)2–4 as (e)1–3, with textual revisions deleting "once every four weeks" requirements.

10:81–14.11 REACH Work Supplementation Program

(a) Purpose and scope: Under the REACH Work Supplementation Program (WSP), AFDC funds are used to develop and subsidize employment for REACH participants as an alternative to aid provided to AFDC recipients.

1. Under WSP, REACH participants may choose, on a voluntary basis, to accept an offer of work to the extent such jobs are made available through the REACH program.

(b) Administration: The REACH WSP program shall be administered through the Department of Human Services, Division of Economic Assistance, the agency designated to supervise the administration of the AFDC program in New Jersey.

(c) Eligibility: Mandatory and voluntary REACH participants are eligible to participate in the WSP if they are eligible for AFDC. Placement in WSP is defined as the date on which the agency and the employer agree on the terms of the placement and on the specific individual to participate.

1. There is no specific limit on the number of times an individual may participate in WSP, but participation in WSP shall not exceed a cumulative total of nine months for each individual.

(d) Types of jobs: Any appropriate job may be provided or subsidized under the WSP, but acceptance of any such position by a REACH participant shall be voluntary. The job position which may be provided for AFDC recipients must be of the following general types:

1. A job position provided to an eligible individual by the Department of Human Services, Division of Economic Assistance, CWAs, the Department of Labor or JTPA; or

2. A job position provided to an eligible individual by any other employer for which all or part of the wages are paid by the entity selected to administer the WSP wage pool.

(e) Providing or subsidizing jobs: The county selected entity may use whatever means are appropriate to provide or subsidize jobs for participants in WSP. The county selected entity may make whatever arrangements it deems appropriate with regard to the type of work provided, the length of time the position is to be provided or subsidized, the amount of wages to be paid to the recipient receiving the work supplemented job, the amount of subsidy to be provided and the conditions of participation.

(f) Conditions of employment: The following provisions apply to conditions of employment under REACH WSP:

1. The Department of Human Services or Division of Economic Assistance is not required to provide employee status to any eligible individual to whom it provides a job position under the WSP, or with respect to whom it provides all or part of the wages paid to such individual by another entity under this program.

2. The county selected entity is not required to ensure that eligible individuals filling job positions provided by other entities under WSP be granted employee status by such entity during the first 13 weeks during which they fill such position. Employee status confers on the individual the benefits available to regular employees of that employer (for example, insurance coverage and vacation leave).

3. Wages: Participants in the REACH WSP will be paid wages which shall be counted as earned income and are subject to the monthly reporting requirements set forth at N.J.A.C. 10:90–2.3.

4. No WSP participant can be assigned to fill any established, unfilled position vacancies at the site of employment.

(g) Application of AFDC earned income disregards under WSP: The application of earned income disregards as set forth at N.J.A.C. 10:82–4.4 pertains to WSP participants. (See N.J.A.C. 10:81–14.21(d) for calculation of AFDC grant under WSP.) A WSP case with earned income is computed the same as any other AFDC case with earnings.

1. The $90.00 work expense disregard shall apply to earned income of WSP participants.

2. The $30.00 and one-third disregard shall be extended for the entire period of an individual's participation in WSP, up to a maximum of nine months. The participant is eligible for the $30.00 and one-third disregard under WSP regardless of the prior application of that disregard to non-WSP earned income while receiving AFDC.

i. Example: A REACH participant has received AFDC benefits for three years. During the first year of public assistance, the REACH participant was employed for a period of six months; the participant received four months of the $30.00 and one-third disregard and two months of the $30.00 disregard during that time. The participant has remained continuously on assistance. Under WSP participation, this individual is entitled to the $30.00 and one-third disregard for each month of participation in WSP up to a maximum of nine months.

ii. Example: A WSP participant completed four months of WSP participation in January and subsequently continued to receive AFDC benefits. Participation in WSP resumed on June 1 and continued through October 31, completing a total of nine months in WSP. The participant is eligible for the $30.00 and one-third disregard for the entire nine months of WSP participation even though entitlement to that disregard had been exhausted under previous non-WSP employment.

3. The WSP participant who has never had the benefit of the $30.00 and one-third disregard is entitled to the $30.00 and one-third disregard for each month of WSP participation and may, at the end of this WSP participation period, be eligible for any of the remaining months of the $30.00 and one-third disregard or the $30.00 disregard regularly applied to earned income as set forth at N.J.A.C. 10:82–4.4.

i. Example: An individual who has had no previous employment participates in WSP from January 1 through September 30 (the nine month maximum time permitted for WSP participation) and receives the $30.00 and one-third disregard during the entire nine month period. The individual then enters unsubsidized employment on October 1 and is eligible for the $30.00 disregard for three months (through December 31).

ii. Example: An individual who has had no previous employment participates in WSP from January 1 through March 31 and receives the $30.00 and one-third disregard for those three months. The individual then enters unsubsidized employment on April 1 and is eligible for the $30.00 and one-third disregard for one additional month (through April 30) and for the $30.00 disregard for another eight months (through December 31).

4. The child care disregard is not applied to WSP earned income. Payment for child care will be made directly to the provider as a vendor payment as set forth at N.J.A.C. 10:81–14.18.

(h) Explanation of WSP: Individuals may remain in REACH WSP for up to a lifetime participation limit of nine cumulative months. While in WSP status, the participant is in a subsidized job as an alternative to AFDC. During WSP participation the calculated grant received by the individual, if any, is termed a residual grant. The residual grant is determined at the time of placement in the supplemented job. The residual grant ((AFDC) grant monies for the family size minus earnings and other countable income) is recalculated on a monthly basis based on information supplied by the individual on the monthly status report.

1. If the individual becomes otherwise ineligible for AFDC benefits (such as youngest dependent child reaching the AFDC age limits), the individual shall continue in the WSP job until the WSP contract expires. All monies from the AFDC grant for those individuals are diverted to the WSP wage pool. Because of contractual arrangements with the employer, changes which render an individual ineligible for AFDC, such as a change in family composition, do not render them ineligible to continue in WSP.

2. If more than one individual in the family unit is participating in WSP, the amount of the Federal reimbursement to the State will not exceed the AFDC standard allowance for that family (see N.J.A.C. 10:82–1).

3. A REACH participant shall not simultaneously participate in WSP and in OJT. No one is allowed to be in both components at the same time.

4. A WSP participant is eligible for supportive services as a participant in REACH. Since the participant is working, he or she is treated as any AFDC individual who finds employment. The individual may be eligible for the JOB and CAR allowances as set forth at N.J.A.C. 10:81–14.19. Transportation costs are covered through the $90.00 work expense disregard. Child care payments for necessary child care services will be made directly to the child care provider as set forth at N.J.A.C. 10:81–14.18.

5. Medicaid coverage is provided for the duration of the WSP contract to the participant and family members so long as the family remains eligible for AFDC. If the family loses eligibility for AFDC, the family may be eligible for extended Medicaid benefits as set forth at N.J.A.C. 10:81–14.20.

6. If the family loses AFDC eligibility during the WSP contract, the individual would continue participating in REACH; however, child care payments after loss of AFDC eligibility shall be treated as post-AFDC child care benefits if the individual meets those requirements set forth in N.J.A.C. 10:81–14.18. After fulfilling the WSP contract, the individual shall be eligible for post-AFDC child care benefits for the number of months remaining in the 12–month post-AFDC period.

(i) Diversion of calculated earned income (CEI) to WSP wage pool: The WSP wage pool is used to provide wage subsidies to employers who hire WSP participants.

1. After application of WSP earned income disregards, the resulting CEI monies are diverted to the WSP wage pool. The WSP participant will receive a residual grant equal to the difference between the CEI and the maximum AFDC assistance payment for the family unit.

2. If the resulting CEI monies are greater than or equal to the maximum AFDC assistance payment for the family unit, then the entire assistance payment is diverted to the WSP wage pool and the participant will receive no residual grant; however, extended Medicaid benefits may be continued as set forth at N.J.A.C. 10:81–14.20.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Added (c)1, deleted old (g) and added new (g)-(h).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (c): added sentence: "Placement in WSP ... to participate."
In (f)2: added sentence: "Employee status ... and vacation leave)."
Added new (f)4.
In (g): added (g)2 and recodified 3 and 4 as 2 and 3, with new (g)4.
Added new (h) and recodified old (h) as new (i).

10:81–14.12 REACH Community Work Experience Program

(a) Purpose and scope: The purpose of the REACH Community Work Experience Program (CWEP) is to provide work experience for AFDC recipients when and to the extent that such experience is necessary to enable them to adjust to and learn how to function in an employment setting. A participant shall not be placed in a CWEP position simply to give him or her employment when the participant is fully qualified and able to engage in unsubsidized employment but is unable to do so because of the absence of available jobs. The REACH CWEP will operate community work experience programs which serve a useful public purpose.

1. REACH CWEP must meet appropriate standards for health and safety and may not displace persons currently employed nor fill established unfilled vacancies.

2. Subject to the conditions at N.J.A.C. 10:81–14.17 through 14.18 the county designated entity must provide necessary transportation, child care and other related services or reimburse REACH CWEP participants for costs directly related to participation in the program.

3. Allowable costs to operate REACH CWEP, are matched by the Federal government.

(b) The following categories of AFDC recipients may not be required to participate in REACH CWEP, in accordance with Section 409(b) of the Social Security Act:

1. An individual who is exempt from participation in REACH in accordance with N.J.A.C. 10:81–14.3;

2. An individual who is both currently employed for at least 80 hours per month and earning not less than the legally established or defined minimum wage for such employment (for jobs which do not have an established minimum wage, recipients currently employed 80 hours must be exempted from REACH CWEP regardless of wage level);

3. An individual who was denied AFDC solely because the amount of his or her AFDC grant would have been less than $10.00 per month;

4. An individual who would have been a mandatory participant due to care of a child at least two years old, but appropriate child care cannot be secured to enable participation in the Work Experience project; or

5. An applicant for AFDC.

(c) Participation services and reimbursement: The services of child care and transportation that are necessary to CWEP participation will be provided as part of the REACH Agreement. In cases where the county selected entity is unable to provide these necessary services, the county selected entity must provide reimbursement for necessary transportation and child care costs that are incurred by the recipient and directly related to participation in CWEP.

1. Transportation costs: Participants shall be reimbursed for transportation costs directly related to their participation by mutual agreement between the CWEP participant and the REACH case manager based on the availability of transportation in that locality.

2. Child care costs: Participants shall be reimbursed for child care costs in such amounts as are determined by the CWA to be reasonable, necessary, and cost-effective, or by direct payment to the child care provider. Child care payments shall be made in accordance with N.J.A.C. 10:81–14.18 and N.J.A.C. 10:82–5.3.

3. Additional $10.00 CWEP reimbursement: The CWA must provide reimbursement for costs other than transportation and child care that the CWA determines are necessary and directly related to participation in CWEP incurred by the participant. Such costs include clothing and personal care items, materials and supplies and similar expenses related to applying for or accepting employment. For purposes of Federal Financial Participation, this amount shall not exceed $10.00 per month per participant.

4. Participant's AFDC grant, income and resources: Participants may not be required to use their AFDC grant or their income or resources to pay CWEP participation costs which are within the limits specified as allowable in (c)1 through 3 above.

(d) Participant protection: Workers' compensation or other comparable protection shall be provided for CWEP participants. Workers' compensation shall be provided to those participants performing work for Federal offices or agencies to the same extent as is provided to other CWEP participants in the State. The cost of this protection shall be considered an administrative expense and matched accordingly.

(e) Participation requirements: The following additional participation requirements shall apply to CWEP:

1. Part-time participation: Part-time participation in CWEP combined with other REACH employment-directed activities may be required and negotiated in the REACH Agreement. Part-time CWEP participation is defined as less than 30 hours per week.

2. Maximum monthly participation: No eligible family may be required to participate in CWEP (as employment or training or both) more than the number of hours which would result from dividing the family's monthly grant amount by the Federal minimum wage. The child support collection assigned to the CWA minus the $50.00 pass-through, which represents a portion of the recipient's assistance payment, is deducted from the standard allowance (see N.J.A.C. 10:82–1) before computation of the maximum number of hours that the individual is required to participate in CWEP.

3. Coordination of CWEP with other activities: The county must have procedures under which there is coordination among CWEP, the job search program and other REACH employment-directed activities, to ensure that job placement will have top priority over participation in CWEP, and that individuals eligible to participate in more than one program under REACH are not denied AFDC on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another.

4. Nothing in this section shall be construed as authorizing the payment of AFDC as compensation for work performed nor shall a participant be entitled to a salary or to any work or training expenses provided under any other provision of law by reason of the individual's participation in a CWEP program.

5. CWEP participants who perform work in the public interest for a Federal office or agency shall not be considered for any purpose as Federal employees.

6. CWEP participants who claim "good cause" for refusing or failing to participate in CWEP must meet the criteria set forth at N.J.A.C. 10:81–14.8(b).

7. Reevaluation of CWEP participation: Participation in CWEP shall be reevaluated at least once every three months and at the conclusion of each CWEP assignment by the case manager to determine if CWEP and the specific worksite are still appropriate for that individual. The agency shall provide a reassessment and revision, as appropriate, of the individual's employability plan.

(f) Sponsor requirements: The agency will designate a sponsor to operate each project or, at the agency's option, more than one project. Only public agencies, which include, but are not limited to, Federal offices or agencies, and nonprofit organizations may be sponsors. For purposes of this provision Federal offices or agencies include agencies of the Executive branches of the Federal government, Congressional offices, and Federal courts.

(g) Project requirements: REACH CWEP projects must satisfy all of the following requirements:

1. Serve a useful public purpose in fields such as health and social services, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety and day care;

2. Do not result in the displacement of persons currently employed or the filling of established, unfilled position vacancies. This means that CWEP participants may not perform tasks which would have been undertaken by employees or which have the effect of reducing the work of employees. However, CWEP participants may perform the same type of tasks as performed by employees;

3. Are not in any way related to political, electoral or partisan activities;

4. Are not in violation of applicable Federal, State or local health and safety standards, and provide reasonable work conditions; and

5. Have not been developed in response to, or in any way associated with, the existence of a strike, lockout or other bona fide labor dispute, or violate any existing agreement between employees and employers.

(h) Project assignment criteria: Assignment of participants to REACH CWEP projects must conform to the following:

1. Assignments to REACH CWEP projects will take into consideration to the extent possible the prior training, proficiency, experience and skills of a participant;

2. Participants will not be assigned without their consent to projects which require that they travel unreasonable distances from their homes or remain away from their homes overnight; and

3. After an individual has been assigned to a CWEP position for a total of nine months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than the family's grant divided by the Federal minimum wage, or the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site, whichever is higher.

i. The portion of a recipient's aid for which the State is reimbursed by child support collection (minus the $50.00 pass-through) shall be excluded in determining the number of hours that such individual may be required to work.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (c)2: added N.J.A.C. 10:82–4.4 reference.
Added text at (e)2, 3, 4, and 7; (g)1 and added new (h)3 and 3i.
Amended by R.1991 d.555, effective November 4, 1991.
See: 23 N.J.R. 2214(a), 23 N.J.R. 3365(a).
Revised text at (c)2 to clarify how payments for child care are made during participation in a REACH/JOBS CWEP component.

10:81–14.13 Vocational assessment and counselling

(a) Purpose: Vocational assessment and counselling is intended to assist individuals in exploring their employment options.

1. Vocational assessment and counselling services must be provided in the county's REACH plan.

2. Vocational assessment and counselling is available to all REACH participants. It will primarily be provided to REACH participants who do not have a recent work history or marketable job skills.

(b) Parent with a child under age three: A special vocational assessment and counselling component may be required for any parent who is exempt from participation in REACH/JOBS due to care of his or her child under age three. The REACH/JOBS orientation may be used to satisfy this requirement.

1. Exempt REACH participants will be encouraged to participate in employment and/or employment-directed activities and to develop individual plans for economic self-sufficiency. REACH Agreements developed under this component will conform to N.J.A.C. 10:81–14.4.

2. Services available will include:

i. Basic instruction and counselling in parenting skills and caring for a child's physical and emotional well-being;

ii. Provision of information on the availability of community resources for protection and development of children; and

iii. The identification of future educational, training and employment goals of the parent.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Added text to (b), "The REACH orientation . . ."
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (b)1: revised text to "Exempt REACH participants" from "Temporarily deferred."
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–14.14 REACH employment and training services

(a) Purpose and scope: REACH employment and training services are designed to provide job training and other preparatory services for REACH participants. Such services include, but are not limited to, instructional skills training, on-the-job training, work experience and retraining. Education or training should be utilized wherever there is potential for upgrading a participant's skills and employment prospects.

1. Training and employment programs allowable under P.L. 97–300 Job Training Partnership Act sections 204, 205, 251 and 303 are permissible programs for REACH participation.

2. All occupational training programs funded through REACH will be in accordance with guidelines established by the private industry councils established under the Job Training Partnership Act.

3. REACH funded employment and training programs are intended to supplement, not supplant, existing programs and resources available to the REACH participant.

4. REACH employment and training services will be provided as set forth in the REACH Agreement.

(b) On-the-job training: REACH on-the-job training (OJT) is an employment opportunity which includes training. Under this component, a REACH participant is hired by a private or public employer and provided training which is subsidized under agreement between the employer and the county-designated provider agency. At the end of the OJT as established in contracts between the IV–A agency and the employer, the participant shall be retained by the employer as a regular employee if the individual has made satisfactory progress during the OJT contract period.

1. Employers will provide increased supervision and training through agreements with the provider agency, pursuant to which the provider agency will reimburse the employer for the extraordinary costs of such training and supervision. The agency shall monitor the satisfactory progress of the individual in the OJT assignment for an increase in a participant's skills and competencies.

i. Payments to an employer for on-the-job training shall not exceed 50 percent of the wages paid by the employer to the participant during the period of such training.

2. For purposes of AFDC benefits, REACH OJT participants are considered to be employed. However, REACH OJT participants shall be required to complete the OJT agreement period and are considered mandatory REACH participants during the agreement period.

3. A participant in OJT shall be compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable law but in no event less than the Federal minimum wage.

4. Wages paid to participants in OJT are considered to be earned income for purposes of these provisions.

5. If a participant in OJT becomes ineligible for AFDC pursuant to the rules applicable to earned income or pursuant to the 100–hour rule in the case of a principal earner in an AFDC–F case, he or she shall remain a REACH participant for the duration of the OJT contract.

i. If the family loses AFDC eligibility, they may be eligible for appropriate supportive services available to individuals with earned income (including the JOB and CAR allowances). Transportation costs shall be paid from the $90.00 work expense disregard.

ii. Child care benefits may continue to the end of the OJT contract period. If the family loses AFDC eligibility while participating in OJT; the individual would continue participating in the OJT, however, child care payments after loss of AFDC eligibility shall be treated as post-AFDC child care benefits if the individual meets those requirements set forth in N.J.A.C. 10:81–14.18. After fulfilling the OJT contract, the family shall be eligible for post-AFDC child care benefits for the number of months remaining in the 12–month post-AFDC child care period.

iii. When the family loses eligibility for AFDC, they may be eligible for extended Medicaid. Post–AFDC Medicaid coverage shall begin with the first month subsequent to the loss of AFDC eligibility subject to timely and adequate notice requirements. Individuals participating in OJT are eligible for Medicaid so long as the individual remains eligible for AFDC.

6. Eligibility for REACH OJT is dependent on the participant's previous knowledge and/or experience in the specific job position under consideration.

(c) Vocational training: Vocational training is a component involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (b): added text regarding the employer's retaining the OJT participant at the end of the OJT. Added text at (b)1 and new (b)1i. Added new (b)3–5iii.

10:81–14.15 REACH educational services

(a) Purpose and scope: REACH offers certain educational services directly. Other educational programs, although not offered directly through REACH, may nevertheless be a component of the REACH Agreement, and as such may satisfy REACH participation requirements. The need for educational services will be determined during assessment.

(b) The following educational services are available through the REACH program:

1. Preparatory educational services: Preparatory educational services are those designed to remedy educational deficiencies and to provide a REACH participant with the basic skills for entry to the labor market. A high school diploma, ability to speak and understand the English language, literacy, and minimum competency in basic mathematics and writing skills are desirable for increasing employability potential. Preparatory educational services include the following:

i. Programs for completion of a high school education or the equivalent, such as a General Educational Development (G.E.D.) certificate, available to individuals who lack a high school education;

ii. English as a Second Language (ESL) programs for participants who are non-English speaking or who have limited competency in the English language and such competency is needed for the participant to obtain employment; and

iii. Adult Basic Education (ABE) programs for individuals who lack basic competency in reading, writing and mathematics necessary for achieving the basic literacy level or obtaining employment.

(c) Postsecondary education: Postsecondary educational opportunities are those programs at colleges, mostly community colleges, that lead to recognized careers for which there is or will be a demand in the job market. Such programs may be of longer duration than six months, including up to one year or longer in certain circumstances, and will often lead to a recognized college credential, such as a certificate or an associate degree.

1. Financial aid for postsecondary educational services will not be provided by REACH. However, any scholarships, grants or similar financial aid obtained by the participant in conjunction with REACH postsecondary educational services shall be treated in accordance with N.J.A.C. 10:82–1.7 through 1.9 in determining AFDC eligibility and grant amount.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Deleted the word "directly" from (b).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (b)1iii: added phrase "... achieving the basic literacy level or ..." to ABE text.

Case Notes

REACH participant could not pursue four-year college degree. A.D. v. Morris County Board of Social Services, 92 N.J.A.R.2d (DEA) 25.

10:81–14.16 Social services

(a) Social services as related to REACH participation are intended to address problems such as substance abuse (including alcohol and narcotic abuse) or behavioral problems that may prevent or seriously impair an individual's ability to participate in the REACH program. Examples include mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

(b) Participation: Acceptance of social services is optional. For the period the individual is receiving these services or participating in treatment programs, he or she will be deemed to be complying with REACH program requirements.

1. If an individual does not accept these services or stops participating in a treatment program, the individual will not be subject to sanctions at N.J.A.C. 10:81–14.8. In such instances, the individual will be required to participate in the next activity set forth in the REACH Agreement.

10:81–14.17 REACH support services; general provisions

(a) Purpose and scope: The agency shall pay for or reimburse the costs of transportation and other work/training-related supportive services through REACH, if the case manager determines that such services are not provided through existing resources and those services are necessary for an individual to participate in REACH. REACH supportive services are intended to supplement, not supplant, existing programs and resources available to the REACH participant. The services set forth at N.J.A.C. 10:81–14.18 through 14.20 are available to support REACH participation in employment and employment-directed activities (including the initial assessment of employability) under the principle of mutual obligation.

(b) Need for services: In determining need for the services, the participant will be encouraged to use all sources already available to him or her. The case manager will determine the projected need for support services based on the participation requirements in employment and employment-directed activities set forth in the REACH Agreement. The services available through the participant's sources will be compared to the projected service needs. Services will be available for child care, transportation and related expenses, and post-assistance medical coverage where the participant's resources do not provide the support needed for participation in REACH.

(c) Payment for services: In determining source of payment for the support services, the principle of REACH as payor of last resort will apply.

(d) Unavailability of support service: If a support service needed for participation in REACH is not available, the case manager shall proceed according to N.J.A.C. 10:81–14.4(i).

Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (a): revised REACH purpose and scope for supportive services.

10:81–14.18 REACH/JOBS support services: child care

(a) General provisions: The general provisions in this subsection apply to all child care benefits available through the REACH/JOBS program, including post-AFDC child care benefits.

1. Availability of REACH child care benefits and post-AFDC child care benefits: To the extent that such child care is necessary to permit an AFDC eligible family member to accept employment, to remain employed, to participate in a REACH employment-directed activity (including job search by an AFDC applicant) or to complete the initial assessment of employability, REACH child care is available, based on the individual needs of each family.

i. REACH child care benefits and post-AFDC child care benefits are guaranteed for the following children:

(1) A child who is under age 13; or is physically or mentally incapable of caring for himself or herself, based on a determination by a physician or a licensed or certified psychologist, as verified by the county or county welfare agency based on a determination by a physician or a licensed or certified psychologist; and who would be a dependent child, if needy;

(2) A child age 13 or older, as determined on a case by case basis, due to extenuating circumstances (for example, environmental conditions or maturity level of child), which shall be documented in the case record, through State funds only;

(3) A child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under Title XVI or foster care under Title IV–E; and

(4) A child who meets the requirements of (a)1i(1), (2) or (3) above but who is excluded from the eligible unit for cash assistance purposes in accordance with N.J.A.C. 10:81–3.8(c) and who would otherwise be a dependent child.

ii. Payments through the REACH program for child care shall not be made for care provided by the child's own parents, legal guardians, or members of the participant's AFDC family unit (including essential persons) whose needs are met through AFDC benefits on the basis of their responsibility of caring for the child(ren).

2. Child care arrangements: The case manager, the participant, and the lead child care entity will mutually arrange for child care for the REACH participant's child(ren) while the individual is employed or participating in an employment-directed activity, as set forth in the REACH Agreement. Additional responsibilities of the case manager and lead child care entity are set forth in (h) and (i) below.

i. Child care arrangements shall be in the best interests of the child and shall consider the individual needs of the child, including the reasonable accessibility of the care to the child's home and school, and the appropriateness of the care to the age and special needs of the child.

ii. Child care arrangements shall be agreeable to the participant and located within reasonable commuting distance from the participant's home, place of employment or site of employment-directed activity. The hours provided or claimed for reimbursement are reasonably related to the hours of participation or employment and shall be sufficient to accommodate the hours required by the employer or employment-directed activity.

iii. The entity providing child care shall allow parental access.

iv. Child care arrangements shall meet applicable standards of State and local law.

3. County responsibilities: Each county, as delegated to the case manager or lead child care entity, shall:

i. Inform families requesting REACH child care benefits of their rights and responsibilities;

ii. Respond to a request for REACH child care benefits within a reasonable period of time; and

iii. Assist the caretaker relative to explore all types of child care arrangements authorized for payment through the REACH program (that is, licensed child care centers, registered family day care homes, in-home care, school-age child care programs, and summer camps) and provide the caretaker relative the opportunity to choose his or her child care arrangement from those available options, including those other programs for which the caretaker relative or child may be eligible under (a)4 below.

4. Required coordination: Each county shall coordinate REACH/JOBS child care activities and post-AFDC child care with existing child care resource and referral agencies; with early childhood education programs in the county, including Head Start programs, preschool programs funded under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (P.L. 97–35), school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for disabled children); and with Federal and/or State demonstration programs, such as the Good Starts program, the REACH Capital Expansion Program and the Mini Child Care Center program.

5. Hearings and notices: AFDC applicants and recipients are entitled to hearings and notices under the provisions at N.J.A.C. 10:81–6, 10:81–7, 10:81–14.7 and 10:90–2.5 on issues concerning the appropriateness of, denial of, prompt issuance of, or intended actions to discontinue, terminate, suspend or reduce REACH child care benefits.

i. Changes in the manner of payment are not subject to timely notice requirements unless they result in a discontinuation, suspension, reduction or termination of benefits, or they force a change in child care arrangements.

ii. The provisions of N.J.A.C. 10:81–6.9 regarding aid paid pending a hearing do not apply. Therefore, if the individual had been receiving REACH child care benefits and is awaiting a hearing concerning those benefits because such benefits were reduced, he or she is not entitled to receive REACH child care benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing. If the individual had not been receiving any child care benefits and is awaiting a hearing due to nonreceipt of child care benefits, he or she is not entitled to receive any REACH child care benefits pending the hearing.

6. Refusal of REACH child care and post AFDC child care benefits: A mandatory REACH participant may refuse available appropriate REACH child care or post-AFDC child care benefits, if the participant can arrange other child care or can show that such refusal will not prevent or interfere with participation in REACH or employment.

i. Inference of refusal of REACH child care benefits: Refusal of REACH child care benefits may be inferred if the participant does not select a child care provider within one month of the date the participant and the case manager or lead child care entity, as appropriate, evaluate the participant's child care needs and preference of providers and made referral(s) to appropriate child care provider(s).

ii. Inference of refusal of post-AFDC child care: Refusal of post-AFDC child care may be inferred if the participant does not request post-AFDC child care benefits, that is, fails to respond to Form R–10, REACH Benefit Letter; does not provide the information necessary for determining eligibility and fee amount, including verification of earnings; does not sign a REACH Agreement for the period of post-AFDC child care; or, does not report participation in post-AFDC REACH activities.

iii. Documentation: Refusal of REACH child care benefits and post-AFDC child care benefits shall be documented in the case record.

iv. In instances where refusal of child care is disputed, it is the responsibility of the lead child care entity or case manager, as appropriate, to show that referrals for appropriate care were made, and it is the responsibility of the participant to show that he or she complied with the referrals timely and in good faith (see N.J.A.C. 10:81–14.18A and 18B).

7. The county shall take reasonable precautions to guard against fraud and abuse in the funding and provision of REACH child care benefits, including following the provisions of N.J.A.C. 10:81–7.40.

(b) Payment for the cost of child care to support participation is available through the REACH program at rates established by the Department of Human Services.

1. When child care that is in the best interests of the child has been arranged, the case manager has the responsibility to determine eligibility and authorize payment for the child care that will obtain the maximum Federal financial participation for the particular employment-directed activity. In determining payment of the cost of child care, the following sequence will be applied:

i. The participant's own sources of child care involving no REACH child care payment;

ii. Federally-matched child care costs while an individual is participating in REACH job search, work supplementation, and community work experience programs;

iii. Federally-matched child care costs while an individual is participating in training for employment or in a program of vocational rehabilitation;

iv. The participant's funds for the amount of the required post-AFDC child care co-payment (see (e) below); and

v. State REACH funds.

2. Payment for child care using State REACH funds may be made when the participant's own source or Federally matched child care are not available or not sufficient to pay for the cost of child care. The priority of funding sources in (b)1ii through v above will be automatically incorporated into every REACH child care payment through fiscal procedures and reporting from the CWA to DEA, unless otherwise specified.

3. Effective date: In all counties, REACH child care payments will be available as each begins the operation of the REACH program, as defined by the Department of Human Services. Payment of the required post-AFDC child care co-payment will be effective for participants becoming ineligible for AFDC on or after April 1, 1990 in accordance with criteria at (e)3i below.

(c) Types of care and payments: REACH/JOBS child care payments are available for care in an infant, toddler, preschool child, school-age child or child with special needs in various types of arrangements, including full and part-time day care and care before and after school. The Statewide rates for REACH/JOBS child care payments are set forth at N.J.A.C. 10:82–5.3(g) and are also available from the Department of Human Services, CN 700, Trenton, NJ 08625, or the local Division of Youth and Family Services District Office or the county welfare agency.

1. "Special needs" is defined as serious physical, emotional, mental or cognitive conditions for which day care is recommended as part of a treatment plan.

i. Records of children referred because of special needs situations shall contain documentation of the result of a standardized developmental or psychological test given by a certified individual, written verification by a physician identifying and delineating the special needs of the child, or documentation by the case manager, approved by the case management supervisor, attesting to a child's special social or emotional needs.

2. Care during summers and school vacations: Payment for care of school-aged children, which is normally limited to part-time or after school care during the school year, shall be made at the full-day rates during summer vacations and recognized vacations and holidays during the school year, for example, Christmas, spring vacation, and so forth.

3. Costs of transportation: Payment in addition to the REACH/JOBS training-related expenses allotment may be made for the cost of transportation of a child to and from a day care center in accordance with N.J.A.C. 10:82–5.3(c)3.

(d) Duration of payment: REACH/JOBS child care benefits are routinely available to participants for participation in a REACH/JOBS employment-directed activity for a limited time to bridge the period between participation in REACH/JOBS employment-directed activities or between a REACH employment-directed activity and employment; for the post-employment period after commencement of employment that does not result in ineligibility for AFDC, that is, while a participant is employed and receiving AFDC, as a direct payment or to supplement as necessary, child care paid by the participant as required by the Social Security Act (see (g)4 below); and, after the commencement of employment that results in ineligibility for AFDC, one year post-AFDC child care, subject to payment of a post-AFDC child care co-payment.

1. Post-employment child care: The post-employment period shall start with the first week in which a participant is employed and receiving AFDC and shall expire when the participant is either ineligible for AFDC for reason other than sanction or penalty or is no longer employed. State REACH funds shall be used for child care costs of REACH/JOBS employed individuals. Such payments may be made as direct payment of child care costs or, as supplemental payments for families using the disregard process if the costs of child care exceed the Federal child care disregard limits set forth at N.J.A.C. 10:82–2.8(a). Payment is made only when the care is provided through a REACH/JOBS authorized child care arrangement (see (f) below).

i. If an employed participant becomes ineligible for AFDC for a reason other than a sanction or similar penalty for noncompliance with AFDC program requirements, the participant shall be eligible for payment of child care through the REACH program for the one year post-AFDC period while the participant is employed, subject to (e)3 below.

2. Post–AFDC child care: Duration of post-AFDC child care benefits is set forth in (e)4 below.

3. Bridge child care payments: For a participant who is waiting to enter a REACH employment-directed activity or to start employment, REACH child care benefits are available to bridge the period between REACH activities:

i. For a period not to exceed two weeks; or

ii. For a period not to exceed one month (defined as five weeks to accommodate calendar months of up to 31 days for operational purposes) where child care arrangements would otherwise be lost and the subsequent activity is scheduled to begin within that period.

4. Transitional support services for working families: Payment for child care after the one year post-AFDC period may be available from the REACH program, as transitional support services for working families, subject to availability of State funds. Duration of payment and eligibility for transitional support services shall be based on criteria established by the Department of Human Services, and may include mandatory verification of income, size of household or family, shelter costs and similar factors.

(e) Post–AFDC child care pertains to child care available to families whose eligibility for AFDC has ceased due to increased earnings, increased hours of employment (including new employment) which result in increased earnings, or as a result of the loss of earned income disregards due to the expiration of time limits at N.J.A.C. 10:82–4.

1. Availability of post-AFDC child care: Post–AFDC child care is available to the extent that post-AFDC child care is necessary to permit a member of an AFDC family to accept or retain employment.

i. Post–AFDC child care is guaranteed for the following:

(1) A child who is under age 13; or is physically or mentally incapable of caring for himself or herself, as verified by the county or county welfare agency, based on a determination by a physician or a licensed or certified psychologist; or under court supervision, and who would be a dependent child, if needy; and

(2) A child who would be a dependent child, except for the receipt of benefits under Supplemental Security Income under Title XVI or foster care under Title IV–E.

ii. Post–AFDC child care is available for a child age 13 or older, determined on a case by case basis.

iii. Post–AFDC child care is available for a child who meets the requirements of (e)1i or ii above but who is excluded from the eligible unit for cash assistance purposes in accordance with N.J.A.C. 10:81–3.8(c) and who would otherwise be a dependent child.

2. Notice of potential eligibility for post-AFDC child care: The county welfare agency must notify orally, as appropriate, and in writing all families whose AFDC eligibility has been or will be terminated due to the reasons in (e)3i below, of their potential eligibility for post-AFDC child care benefits by Form R–10, REACH Benefit Letter. Form R–10 advises a family who loses or may lose AFDC eligibility due to income from employment, of potential eligibility for post-AFDC child care and extended Medicaid benefits (see N.J.A.C. 10:81–14.20), and asks the family to request such benefits by contacting the REACH case manager whose name and telephone number are included in the letter. Form R–10 includes the steps the family must take to establish eligibility for post-AFDC child care benefits and their rights and responsibilities with regard to those benefits.

3. Eligibility for post-AFDC child care: A family is eligible for post-AFDC child care, provided the following conditions are met:

i. The family must have ceased to be eligible for AFDC as a result of increased hours of, or increased income from employment, including earnings from new employment, or the loss of earned income disregards, due to the time limitations at N.J.A.C. 10:82–4;

ii. The family must have received AFDC in the month preceding the first month of ineligibility (although Federal financial participation for post-AFDC child care payments is available only if the family received AFDC in at least three of the six months preceding the first month of ineligibility);

iii. The family requests post-AFDC child care benefits and provides the information necessary, including verification of earnings, for determining eligibility and fees;

iv. The participant signs a REACH Agreement covering the period during which the child care is to be provided;

v. The participant cooperates in post-AFDC activities set forth in the Agreement;

vi. The family pays the required co-payment, if the family ceased to be eligible for AFDC on or after April 1, 1990; and

vii. The family complies with REACH program requirements to report participation in post-AFDC activities.

4. Period of eligibility for post-AFDC child care: Notwithstanding when the family requests post-AFDC child care, eligibility for post-AFDC child care begins with the first month for which the family is ineligible for AFDC for the reasons at (e)3i above, and continues for a period of 12 consecutive months computed according to (e)4i below. The 12–month post-AFDC period shall consist of 52 consecutive weeks, if the participant remains employed and does not receive AFDC during that period of time. Families may begin to receive post-AFDC child care in any month during the 12–month eligibility period.

i. The 12–month post-AFDC eligibility period shall begin with the month AFDC is terminated due to income from employment, but no later than the payment month corresponding to the budget month in which the family becomes ineligible due to earnings from employment. If the family fails to report the earnings causing ineligibility, the 12–month eligibility period shall begin with the first month in which the family became ineligible for AFDC.

(1) Example: A participant starts employment and first receives earnings in the January budget month and reports the earnings timely in the February processing month. The earnings render the family ineligible for AFDC; assistance is terminated effective for the March payment month. The eligibility period for post-AFDC child care benefits will start on March 1, the effective date of AFDC case closing.

(2) Example: In January a participant starts working and receives earnings that cause ineligibility for AFDC. However, the family does not report the earnings until April. Assistance is terminated effective May 1. The eligibility period for post-AFDC child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

(3) Example: In January a participant starts working and receives earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June, effective June 1. The eligibility period for post-AFDC child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

(4) Example: In February an AFDC recipient voluntarily requests that the AFDC case be closed. The agency processes the request and terminates assistance for March, effective March 1. It is later determined that the recipient has been and is currently employed, and the earnings would have rendered the family ineligible for AFDC starting in January. If the individual applies for post-AFDC child care benefits, the eligibility period for post-AFDC child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

ii. Only weeks during which the participant is employed and not receiving AFDC shall be counted toward the 12–month post-AFDC period. Employment shall be presumed unless the participant reports otherwise.

5. Ineligibility for post-AFDC child care: The family is not eligible for post-AFDC child care for any remaining portion of the 12–month period if the caretaker relative:

i. Terminates employment without good cause, as defined at N.J.A.C. 10:81–14.8(b);

ii. Fails to cooperate with the county welfare agency in establishing payments and enforcing child support obligations; or

iii. Fails to pay required co-payment (see (e)7iii below).

6. Reestablishing eligibility for post-AFDC child care: If the caretaker relative loses a job with good cause, and then finds another job, the family can qualify for the remaining portion of the 12–month post-AFDC child care eligibility period.

i. If the family reestablishes AFDC eligibility during this period, it may qualify for a new 12–month period of post-AFDC child care. To be eligible for a new 12–month period, the family must have received AFDC in at least three of the six months preceding the first month of ineligibility for AFDC, and must satisfy all other conditions of eligibility at (e)3 above.

7. Co-payment requirement for post-AFDC child care: Each family receiving post-AFDC child care is required to contribute a co-payment toward the cost of such care.

i. Co-payment scale: A co-payment scale established by the Department of Human Services will provide for some level of contribution by all recipients of post-AFDC child care. The co-payment scale shall consider: family income, family size, number of children, and number of children in care. The co-payment scale is set forth in N.J.A.C. 10:81–14.18A.

ii. Collection of co-payments: Pursuant to requirements established by the Department of Human Services, each county must establish methods and procedures for the collection of co-payments, and may vary the period of collection for different fee levels. The requirements for co-payments collection are set forth in N.J.A.C. 10:81–14.18B.

iii. Failure to pay the required co-payments: Individuals who fail to cooperate in paying the required co-payments will, subject to appropriate notice and hearing requirements, lose eligibility for post-AFDC child care benefits for so long as back co-payments are owed, unless satisfactory arrangements are made to make full payment.

8. Refusal of post-AFDC child care: A mandatory REACH participant may refuse available appropriate post-AFDC child care if the participant can arrange other child care or can show that such refusal will not prevent or interfere with employment.

i. Inference of refusal: Refusal of post-AFDC child care may be inferred if the participant does not request post-AFDC child care benefits, that is, fails to respond to Form R–10 by the end of the first month of AFDC ineligibility; does not provide the information necessary for determining eligibility and fee amount, including verification of earnings; does not sign a REACH Agreement for the period of post-AFDC child care; or, does not report participation in post-AFDC REACH activities.

9. Notice and hearings for post-AFDC child care: Provision of post-AFDC child care benefits is subject to timely and adequate notice and hearing requirements at N.J.A.C. 10:81–6, 10:81–7, and 10:90–2.5 (also see N.J.A.C. 10:81–14.7).

i. Timely and adequate notice must be given if post-AFDC child care benefits are reduced, discontinued or suspended due to nonpayment of the co-payment; or if a change in the manner of payment results in a discontinuance, suspension, reduction or termination of benefits; or forces a change in child care arrangements.

ii. Timely and adequate notice is not required for a change in the manner of payment that does not result in an action in (e)9i above.

(f) Provider requirements: REACH/JOBS payments to providers of child care are available according to the following conditions:

1. Child care centers: To qualify for REACH child care payments, a child care center or program shall meet one of the following:

i. Centers providing care for pre-school children shall be licensed by DYFS, Bureau of Licensing or shall have a letter of exemption from DYFS, Bureau of Licensing; or shall be operated under the auspices of the public school system;

ii. Child care programs for school-age children shall meet local occupancy building and fire codes and shall have satisfactorily completed an inspection using the DHS' "Check List of Standards for School Age Child Care Programs"; or shall be operated under the auspices of the public school system; or

iii. Summer camps shall be approved by the New Jersey Department of Health. (See N.J.A.C. 8:25).

2. Family day care providers—registered homes: All family day care providers who serve three or more nonsibling children must be registered pursuant to the Family Day Care Provider Registration Act (see N.J.A.C. 10:126) in order to qualify for payment through the REACH program for child care provided to children of REACH participants.

i. Family day care providers of one or two children may choose to register under the Family Day Care Provider Registration Act or to provide family day care as an approved home.

ii. Payment shall be made to the provider who has secured a temporary registration certificate, as defined by rules promulgated under the Family Day Care Provider Registration Act.

3. Family day care providers—approved homes: Providers of family day care who are not living in the home of the REACH/JOBS participant and who are not registered under (f)2 above shall be approved by the Department of Human Services in order to qualify for payment through the REACH/JOBS program. Unregistered relatives, friends or neighbors are eligible for approved home status.

i. The minimum requirements for approval of the home are an inspection of the home using the "Self–Arranged Care Inspection and Interview Checklist" (see Appendix A, incorporated herein by reference), and standard interview procedure with the provider and family members.

ii. As an approved home, providers may receive payment for a maximum of two nonsibling children or of all the sibling children of one family.

4. Providers of in-home care: Providers of in-home care, that is, care of a REACH/JOBS participant's children in the participant's own home, shall be evaluated using the "Self–Arranged Care Inspection and Interview Checklist", in order to qualify for payment through the REACH/JOBS program.

5. Providers of child care not in the categories (f)1 through 4 above are not entitled to payment through the REACH/JOBS program for child care provided to children of REACH/JOBS participants.

(g) Payment procedures: REACH/JOBS funds are expended for child care as direct vendor payments to providers or as direct payments to participants.

1. Vendor payments: Vendor payments to providers are the primary method for issuing child care payments in REACH/JOBS. Under this method, a voucher is issued to the child care provider. The provider completes the voucher, indicates appropriate attendance code for the child and payment required, and returns it to the agency responsible for issuing payment. Upon verification of the voucher information, the agency issues a REACH/JOBS child care payment to the provider. The agency shall only issue payment to a child care provider for vouchers which have been received no later than 60 days from the end of the designated service period or from the date of issuance, whichever is later. Failure to submit completed voucher forms for receipt by the county agency within the established timeframe shall result in loss of payment to the child care provider for services claimed on the voucher.

2. Direct payment to participant: In exceptional or emergency situations, payment for child care provided may be made directly to the participant. As with the child care voucher, payment is issued upon verification of the child's attendance and care provided.

3. Special payments for child care: Payments for child care at other than the standard payment rates may be made for special circumstances such as, emergency needs, drop-in care and approved interim care, as deemed appropriate by the case manager.

4. Employed REACH/JOBS participants receiving AFDC–C or -F: The preferred method of payment of REACH/JOBS child care benefits for employed AFDC–C or -F REACH/JOBS participants shall be by direct vendor payment to authorized providers of service that meet those requirements set forth in (f) above.

i. When the REACH/JOBS participant reports the start of employment, the income maintenance worker shall determine eligibility for AFDC prospectively by deducting the work expense disregard and the applicable $30.00 and one-third disregard as set forth at N.J.A.C. 10:82–2.8 and 4.4. Additionally, actual expenditures made by the REACH/JOBS family for care of an incapacitated adult living in the AFDC–C or -F household shall be disregarded in the eligibility determination and benefit calculation up to a maximum of $175.00 per month per incapacitated adult during full-time employment of the REACH/JOBS participant, or up to $135.00 per month for part-time employment (see N.J.A.C. 10:82–2.8). Cost of care of the incapacitated adult remains the responsibility of the REACH/JOBS family; no supplemental monies for incapacitated adult care are provided through REACH/JOBS in excess of the disregard limits. Such adult care costs if incurred by the family shall always be disregarded regardless of the method of payment of REACH/JOBS child care costs. No disregard shall be applied in the prospective eligibility determination for REACH/JOBS child care purposes (except as delineated in (g)5 below) as those costs are made by direct vendor payment by the agency.

ii. If the employed REACH/JOBS family remains prospectively eligible for AFDC, the costs of REACH/JOBS child care shall not be disregarded in the computation of the family's AFDC assistance benefit except in situations as delineated in (g)5 below. The income maintenance worker shall explain to the participant that actual REACH/JOBS child care costs shall be paid directly to the child care provider.

iii. For participants in Work Supplementation, the child care disregard and payment of child care shall be handled in accordance with N.J.A.C. 10:81–14.11(g) and 14.21(d).

iv. The income maintenance worker shall inform the case manager verbally and in writing via Form R–3 REACH Referral Form, or a similar agency developed form, of the participant's eligibility status. The worker shall file a copy of the R–3 (or agency form) in the AFDC case record and forward two copies to REACH case management for filing in the REACH case record and distribution to the lead child care entity. The income maintenance worker, case manager, and lead child care entity must work together to ensure timely receipt by the provider, of the REACH post-employment child care payment.

v. If the family is prospectively ineligible for AFDC due to the earnings from employment, the AFDC case will be closed and the participant referred for post-AFDC child care benefits in accordance with (e) above.

(1) The period of eligibility for post-AFDC child care is set forth in (e)4, 5 and 6 above.

(2) The income maintenance worker shall notify orally, as appropriate, and in writing, all families whose AFDC eligibility has been or will be terminated for the above reason, of their potential eligibility for post-AFDC child care benefits via Form R–10, REACH Benefit Letter, or a similar locally-developed letter (subject to DEA approval). A copy of the R–10 or similar letter shall be sent to case management as verification that the potential participant has been notified of the post-AFDC benefits and for the possible initiation of the post-AFDC REACH benefits (see (e)2 above for procedures to be followed in such instances).

(3) The IM worker shall code FAMIS with the correct reason code for case closing due to earnings.

(4) Voluntary case closings at the request of the participant shall be explored by the IM worker for the true reason of closing to determine if employment is a possible reason for the voluntary termination of assistance benefits. The IM worker shall contact the participant by phone (if possible) and by sending Form R–10 or a similar locally-developed letter. A copy of the letter shall be sent to case management for possible initiation of the post-AFDC REACH benefits.

(5) As soon as case management receives the Form R–10, the case manager shall contact the participant to advise of available post-AFDC REACH benefits and to ascertain whether the participant needs child care. The case manager shall advise the participant of the need to sign a REACH agreement and provide verification of earnings for extended child care benefits.

vi. If an employed participant receiving AFDC pays for child care not approved by the REACH program, the actual expenditures for unauthorized child care shall not exceed the child care disregard limits set forth at N.J.A.C. 10:82–4.4 in the determination of eligibility and in the calculation of benefits. In such circumstances, no supplemental payments for child care are provided through REACH in excess of the disregards.

5. Exceptions to direct payment of REACH/JOBS child care for employed REACH/JOBS AFDC–C and -F participants: The earned income disregard procedure for expenditures made for care of a child (see N.J.A.C. 10:82–2.8 for disregard limits) shall remain available to eligible families participating in REACH/JOBS in the situations delineated in (g)5i through iv below:

i. The REACH/JOBS child care payment is made to a child care provider selected by the AFDC–C or -F family participating in REACH/JOBS and that provider does not meet the criteria set forth in (f) above as an authorized child care arrangement for direct payment through REACH/JOBS funds. In addition, no supplemental monies over the disregard limits are provided through REACH/JOBS for such unauthorized arrangements.

ii. Any AFDC–C or -F REACH/JOBS family who has an employed family member who has been participating in REACH/JOBS prior to April 1, 1991 and who has been utilizing the disregard method on or before April 1, 1991, for payment of child care costs (see (g)5iii(1), (2) and (3) below for applicable procedures).

iii. Any employed AFDC–C or -F family who has been continuously eligible for and was receiving AFDC–C or -F benefits on October 13, 1988 and had earnings on that date whereby the child care disregard was the method of payment for child care costs, and who would be financially disadvantaged due to the loss of AFDC eligibility as a result of the direct payment of child care costs rather than the use of the disregard when employed and participating in REACH/JOBS.

(1) The employed REACH/JOBS AFDC–C or -F participant shall pay actual child care costs up to the Federal disregard limits directly to the provider of care. The child care disregard shall be applied to that first budget month in which the REACH/JOBS employed participant begins payment for child care costs. Cost of care in excess of the Federal disregard limits may be supplemented by the REACH/JOBS program as a REACH/JOBS post-employment child care payment up to the maximum rates authorized by DHS (see N.J.A.C. 10:82–5.3(g)). Supplemental REACH/JOBS payments are issued as vendor payments to the child care provider when the child(ren) is in an authorized child care arrangement (see (f) above). Such REACH/JOBS supplemental payments shall not be counted as income or resources in any month received.

(2) Direct vendor payment by the agency is available as a bridge payment (see (d)3 above) for families using the disregard payment procedure, to assist the REACH/JOBS family in transition to work. That bridge payment through REACH/JOBS may be paid by the agency as a direct payment to the provider for care in authorized arrangements up to the receipt of the first pay check or for a period not to exceed one month. Child care costs paid through a bridge payment shall not be disregarded in the calculation of the REACH/JOBS family's assistance payment.

(3) REACH/JOBS families may voluntarily request direct payment of child care costs rather than the use of the disregard process. Upon request, a prospective AFDC eligibility determination shall be made to determine if continued eligibility exists if the child care disregard is not applied. The participant shall be informed of the result of the determination and of the consequences. If eligibility continues to exist and the client decides to have direct payment rather than the disregard, the case record shall be documented as to the request and appropriate action taken.

iv. Any AFDC–C or -F applicant family which has an employed family member who is defined as a REACH/JOBS mandatory participant (that is, not exempt from REACH/JOBS participation) shall utilize the disregard procedure for costs of child care due to employment during the interim time period covering referral of that mandatory individual to REACH/JOBS case management; and, until such time (subject to timely and adequate notice provisions at N.J.A.C. 10:81–7.1 and 14.7) that income maintenance is subsequently advised by case management of the direct payment of child care costs through REACH/JOBS.

6. Payments for employed participants receiving AFDC–N: Payments of REACH child care benefits for AFDC–N participants shall be by vendor payment to the provider of service from State REACH funds for actual costs of care up to the maximum rates established by DHS.

(h) Case manager responsibilities: The case manager shall be responsible for assessing and determining the need for child care and referral to the Lead Child Care Agency

(LCCA) and authorizing issuance of REACH child care payments.

1. Before the period of post-AFDC child care expires, the case manager shall advise the participant, the provider and the lead child care entity of the expiration date of REACH child care payments and that the participant shall be responsible for payment of the entire cost of child care. The case manager, with the assistance of the lead child care entity, will work with the participant to ease the transition to payment of child care not subsidized by REACH.

(i) Lead child care entity responsibilities: The lead child care entity will assist the case manager and participant in obtaining appropriate child care based on the parent's and child's needs; will assist in identifying child care resources available for a participant during orientation, assessment, participation in employment-directed activities and employment; and shall verify and document that the child care arrangements meet the criteria as specified in (f) and (g) above.

(j) If the total amount of the REACH child care payment for a given period is insufficient to secure appropriate and agreed upon child care necessary to support participation in REACH, then the participant shall be under no obligation to participate in REACH for the time period that such child care is unavailable.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1989 d.353, effective July 3, 1989.
See: 21 N.J.R. 1086(b), 21 N.J.R. 1908(b).
Post–AFDC and post-employment child care provisions specified at (d). Maximum limits for child care disregards increased to $175.00 per month for a child over age two and $200.00 per month for a child under age two, at (d) and (f).
Amended by R.1990 d.206, effective April 2, 1990.
See: 22 N.J.R. 136(a), 22 N.J.R. 1140(b).
In (b)1, added new iv. regarding participant's Funds and recodified iv. as new v. In (b)3, added sentence with April 1, 1990 deadline. In (d), added language, "one-year post-AFDC ... child care fee." In (d)3, deleted text regarding the one-year post-AFDC period and added reference to new (e)4.
Added new (e) with post-AFDC child care provisions, and recodified (e) through (i) as (f) through (j) with stylistic changes.
Amended by R.1990 d.340, effective July 2, 1990.
See: 22 N.J.R. 1054(a), 22 N.J.R. 2010(a).
In (e), clarified applicable criteria regarding loss of AFDC eligibility; added new (e)7 and renumbered existing (e)7 and 8 as 8 and 9.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Revised extensively subsection (a) and reformatted text throughout rule to explain REACH child care benefits and FSA amendments. Repealed and replaced with new text at (a) and (a)1, adding (a)2 through (a)7.
In (d): deleted (d)1 and recodified (d)2 and 3 as 1. and 2. Deleted (d)5. Deleted (g)1; adding "... In exceptional emergency situations ..." to direct payment text. Added new (g)4–5.
Amended by R.1991 d.555, effective November 4, 1991.
See: 23 N.J.R. 2214(a), 23 N.J.R. 3365(a).
Revised subsections (d) and (g) to be consistent with FSA provisions to set forth preferred option of direct vendor payments. Added citations to subsection (c) and (c)3.
Added new (g)4i and ii and recodified ii-v as iii-vi. Added new text as (g)5, and recodified existing (g)5 as new (g)6.
Amended by R.1991 d.601, effective December 16, 1991.
See: 23 N.J.R. 2981(a), 23 N.J.R. 3791(a).
Co-payment (was sliding scale) fees schedule standardized throughout Human Services.
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Elimination of automatic entitlement upon birth of child.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).
Amended by R.1995 d.448, effective August 21, 1995.
See: 27 N.J.R. 1929(b), 27 N.J.R. 3231(a).
Established mandatory voucher submittal time and forfeiture provisions for untimely submittals.

10:81–14.18A REACH post-AFDC co-payment scale

(a) By the adoption of a Statewide co-payment fee scale for REACH post-AFDC child care benefits provided to families ineligible for AFDC as a result of increased earnings, increased hours of work or the loss of time-limited earned income disregards on or after April 1, 1990, the REACH Program seeks to:

1. Enable an AFDC family to accept and maintain employment;

2. Ensure that the parent has freedom of choice in selecting child care arrangements and is provided with flexibility to choose the location and type of provider that best meets their child care needs; and

3. Require that all recipients of REACH post-AFDC child care benefits pay a portion of the cost of care based on ability to pay, as required by the Federal Family Support Act of 1988.

(b) The REACH post-AFDC child care co-payment scales, based on the family size and gross income of the AFDC eligible unit at case closing, are used to determine the co-payment. Once assessed, the co-payment is deducted from the amount to be paid to the provider by the REACH Program up to the maximum REACH rates. This assessed co-payment for child care services is then paid directly by the parent to the provider of care. Any balance remaining (up to the maximum REACH rates) is paid by the REACH Program for the total cost of care. The REACH post-AFDC child care co-payment policy and procedures are applicable for all types of care arrangements available through the REACH Program and approved by the appropriate child care evaluating agency, as follows:

1. Licensed child care centers;

2. Registered family day care homes;

3. Self-arranged care (including in-home care);

4. Summer camps which are approved by the Department of Health (see N.J.A.C. 8:25); and

5. School-age child care programs as set forth at N.J.A.C. 10:81–14.18(e)1.

(c) All AFDC families who become ineligible for AFDC on or after April 1, 1990 due to (increased) income from employment shall pay a co-payment toward the cost of REACH Post–AFDC child care services.

(d) The co-payment scales are as follows:

1. The amount of the required co-payment is based on the family's income level, family size, number of children, and number of children in care. There are two co-payment scales:

i. Co-payment Scale Table I—Full–Time Care; and

ii. Co-payment Scale Table II—Part–Time Care.

2. Assessed co-payments are apportioned weekly and are due for the entire 52–week period that subsidized child care assistance is received. Holidays, emergency closings, and absences do not exclude or reduce the required fee co-payment.

Table I
CHILD CARE CO–PAYMENT SCHEDULE
FULL TIME CARE *

Weekly Full Time Co–Payment		Monthly Full Time Co–Payment**		Percent of State 1989 Median Family	Family Size and Annual Income****				
First Child	Second Child***	First Child	Second Child***	Income	1 or 2	3	4	5	6
$0	$0	$0	$0	0%	0	0	0	0	0
$1.10	$0.55	$4.76	$2.38	1%– 5%	1– 1,768	1– 2,184	1– 2,600	1– 3,016	1– 3,432
$4.40	$2.20	$19.05	$9.53	6%–10%	1,769– 3,536	2,185– 4,368	2,601– 5,200	3,017– 6,031	3,433– 6,863
$6.60	$3.30	$28.58	$14.29	11%–15%	3,537– 5,304	4,369– 6,552	5,201– 7,799	6,032– 9,047	6,864–10,295
$9.90	$4.95	$42.87	$21.43	16%–20%	5,305– 7,071	6,553– 8,735	7,800–10,399	9,048–12,063	10,296–13,727
$12.10	$6.05	$52.39	$26.20	21%–25%	7,072– 8,839	8,736–10,919	10,400–12,999	12,064–15,079	13,728–17,159
$15.40	$7.70	$66.68	$33.34	26%–30%	8,840–10,607	10,920–13,103	13,000–15,599	15,080–18,094	17,160–20,590
$19.80	$9.90	$85.73	$42.87	31%–35%	10,608–12,375	13,104–15,287	15,600–18,198	18,095–21,110	20,591–24,022
$24.20	$12.10	$104.79	$52.39	36%–40%	12,376–14,143	15,288–17,471	18,199–20,798	21,111–24,126	24,023–27,454
$29.70	$14.85	$128.60	$64.30	41%–45%	14,144–15,911	17,472–19,655	20,799–23,398	24,127–27,141	27,455–30,885
$35.20	$17.60	$152.42	$76.21	46%–50%	15,912–17.679	19,656–21,839	23,399–25,998	27,142–30,157	30,886–34,317
$40.70	$20.35	$176.23	$88.12	51%–55%	17,680–19,446	21,840–24,022	25,999–28,597	30,158–33,173	34,318–37,749
$47.30	$23.65	$204.81	$102.40	56%–60%	19,447–21,214	24,023–26,206	28,598–31,197	33,174–36,188	37,750–41,180
$55.00	$27.50	$238.15	$119.08	61%–65%	21,215–22,982	26,207–28,390	31,198–33,797	36,189–39,204	41,181–44,612
$62.70	$31.35	$271.49	$135.75	66%–70%	22,983–24,750	28,391–30,574	33,798–36,397	39,205–42,220	44,613–48,044
$67.10	$33.55	$290.54	$145.27	71%–75%	24,751–26,518	30,575–32,758	36,398–38,996	42,221–45,236	48,045–51,476

Weekly Full Time Co–Payment		Monthly Full Time Co–Payment**		Percent of State 1989 Median Family	Family Size and Annual Income****					
First Child	Second Child***	First Child	Second Child***	Income	7	8	9	10	11	12
$0	$0	$0	$0	0%	0	0	0	0	0	0
$1.10	$0.55	$4.76	$2.38	1%– 5%	1– 3,510	1– 3,588	1– 3,666	1– 3,744	1– 3,822	1– 3,900
$4.40	$2.20	$19.05	$9.53	6%–10%	3,511– 7,019	3,589– 7,176	3,667– 7,332	3,745– 7,488	3,823– 7,644	3,901– 7,800
$6.60	$3.30	$28.58	$14.29	11%–15%	7,020–10,529	7,177–10,763	7,333–10,997	7,489–11,231	7,645–11,465	7,801–11,699
$9.90	$4.95	$42.87	$21.43	16%–20%	10,530–14,039	10,764–14,351	10,998–14,663	11,232–14,975	11,466–15,287	11,700–15,599
$12.10	$6.05	$52.39	$26.20	21%–25%	14,040–17,548	14,352–17,939	14,664–18,329	14,976–18,719	15,288–19,109	15,600–19,499
$15.40	$7.70	$66.68	$33.34	26%–30%	17,549–21,058	17,940–21,527	18,330–21,995	18,720–22,463	19,110–22,931	19,500–23,399
$19.80	$9.90	$85.73	$42.87	31%–35%	21,059–24,568	21,528–25,114	21,996–25,660	22,464–26,206	22,932–26,752	23,400–27,298
$24.20	$12.10	$104.79	$52.39	36%–40%	24,569–28,077	25,115–28,702	25,661–29,326	26,207–29,950	26,753–30,574	27,299–31,198
$29.70	$14.85	$128.60	$64.30	41%–45%	28,078–31,587	28,703–32,290	29,327–32,992	29,951–33,694	30,575–34,396	31,199–35,098
$35.20	$17.60	$152.42	$76.21	46%–50%	31,588–35,097	32,291–35,878	32,993–36,658	33,695–37,438	34,397–38,218	35,099–38,998
$40.70	$20.35	$176.23	$88.12	51%–55%	35,098–38,606	35,879–39,465	36,659–40,323	37,439–41,181	38,219–42,039	38,999–42,897
$47.30	$23.65	$204.81	$102.40	56%–60%	38,607–42,116	39,466–43,053	40,324–43,989	41,182–44,925	42,040–45,861	42,898–46,797
$55.00	$27.50	$238.15	$119.08	61%–65%	42,117–45,625	43,054–46,641	43,990–47,655	44,926–48,669	45,862–49,683	46,798–50,697
$62.70	$31.35	$271.49	$135.75	66%–70%	45,626–49,135	46,642–50,229	47,656–51,321	48,670–52,413	49,684–53,505	50,698–54,597
$67.10	$33.55	$290.54	$145.27	71%–75%	49,136–52,645	50,230–53,816	51,322–54,986	52,414–56,156	53,506–57,326	54,598–58,496

* Full time care is defined as six (6) or more hours of care per day.

** The monthly co-payment is calculated by multiplying the weekly co-payment by 4.33.

*** The co-payments listed are for the first and second child of the family receiving care. The co-payment for the second child receiving care is calculated at one-half of the full co-payment for that child. No additional co-payment is charged for the third or subsequent child(ren) in the family receiving care.

**** Families with a maximum gross income for their family size in excess of their scale will be assessed an additional weekly fee of $1.00 ($2.00 for a Bi-weekly fee) for each $1,000 of gross income above their scale.

Table II
CHILD CARE CO–PAYMENT SCHEDULE
PART–TIME CARE *

Weekly Part–Time Co–Payment		Monthly Part–Time Co–Payment**		Percent of State 1989 Median Family	Family Size and Annual Income****				
First Child	Second Child ***	First Child	Second Child ***	Income	1 or 2	3	4	5	6
$0	$0	$0	$0	0%	0	0	0	0	0
$0.00	$0.00	$0.00	$0.00	1%– 5%	1– 1,768	1– 2,184	1– 2,600	1– 3,016	1– 3,432
$2.20	$1.10	$9.53	$4.76	6%–10%	1,769– 3,536	2,185– 4,368	2,601– 5,200	3,017– 6,031	3,433– 6,863
$3.30	$1.65	$14.29	$7.14	11%–15%	3,537– 5,304	4,369– 6,552	5,201– 7,799	6,032– 9,047	6,864–10,295
$4.40	$2.20	$19.05	$9.53	16%–20%	5,305– 7,071	6,553– 8,735	7,800–10,399	9,048–12,063	10,296–13,727
$5.50	$2.75	$23.82	$11.91	21%–25%	7,072– 8,839	8,736–10,919	10,400–12,999	12,064–15,079	13,728–17,159
$7.70	$3.85	$33.34	$16.67	26%–30%	8,840–10,607	10,920–13,103	13,000–15,599	15,080–18,094	17,160–20,590
$9.90	$4.95	$42.87	$21.43	31%–35%	10,608–12,375	13,104–15,287	15,600–18,198	18,095–21,110	20,591–24,022
$12.10	$6.05	$52.39	$26.20	36%–40%	12,376–14,143	15,288–17,471	18,199–20,798	21,111–24,126	24,023–27,454
$14.30	$7.15	$61.92	$30.96	41%–45%	14,144–15,911	17,472–19,655	20,799–23,398	24,127–27,141	27,455–30,885

Weekly Part–Time Co–Payment		Monthly Part–Time Co–Payment**		Percent of State 1989 Median Family	Family Size and Annual Income****					
First Child	Second Child ***	First Child	Second Child ***	Income	1 or 2	3	4	5	6	
$17.60	$8.80	$76.21	$38.10	46%–50%	15,912–17,679	19,656–21,839	23,399–25,998	27,142–30,157	30,886–34,317	
$19.80	$9.90	$85.73	$42.87	51%–55%	17,680–19,446	21,840–24,022	25,999–28,597	30,158–33,173	34,318–37,749	
$23.10	$11.55	$100.02	$50.01	56%–60%	19,447–21,214	24,023–26,206	28,598–31,197	33,174–36,188	37,750–41,180	
$27.50	$13.75	$119.08	$59.54	61%–65%	21,215–22,982	26,207–28,390	31,198–33,797	36,189–39,204	41,181–44,612	
$30.80	$15.40	$133.36	$66.68	66%–70%	22,983–24,750	28,391–30,574	33,798–36,397	39,205–42,220	44,613–48,044	
$33.00	$16.50	$142.89	$71.45	71%–75%	24,751–26,518	30,575–32,758	36,398–38,996	42,221–45,236	48,045–51,476	
Weekly Part–Time Co–Payment		**Monthly Part–Time Co–Payment****		**Percent of State 1989 Median Family**	**Family Size and Annual Income****					
First Child	**Second Child*****	**First Child**	**Second Child*****	**Income**	**7**	**8**	**9**	**10**	**11**	**12**
$0	$0	$0	$0	0%	0	0	0	0	0	0
$0.00	$0.00	$0.00	$0.00	1%– 5%	1– 3,510	1– 3,588	1– 3,666	1– 3,744	1– 3,822	1– 3,900
$2.20	$1.10	$9.53	$4.76	6%–10%	3,511– 7,019	3,589– 7,176	3,667– 7,332	3,745– 7,488	3,823– 7,644	3,901– 7,800
$3.30	$1.65	$14.29	$7.14	11%–15%	7,020–10,529	7,177–10,763	7,333–10,997	7,489–11,231	7,645–11,465	7,801–11,699
$4.40	$2.20	$19.05	$9.53	16%–20%	10,530–14,039	10,764–14,351	10,998–14,663	11,232–14,975	11,466–15,287	11,700–15,599
$5.50	$2.75	$23.82	$11.91	21%–25%	14,040–17,548	14,352–17,939	14,664–18,329	14,976–18,719	15,288–19,109	15,600–19,499
$7.70	$3.85	$33.34	$16.67	26%–30%	17,549–21,058	17,940–21,527	18,330–21,995	18,720–22,463	19,110–22,931	19,500–23,399
$9.90	$4.95	$42.87	$21.43	31%–35%	21,059–24,568	21,528–25,114	21,996–25,660	22,464–26,206	22,932–26,752	23,400–27,298
$12.10	$6.05	$52.39	$26.20	36%–40%	24,569–28,077	25,115–28,702	25,661–29,326	26,207–29,950	26,753–30,574	27,299–31,198
$14.30	$7.15	$61.92	$30.96	41%–45%	28,078–31,587	28,703–32,290	29,327–32,992	29,951–33,694	30,575–34,396	31,199–35,098
$17.60	$8.80	$76.21	$38.10	46%–50%	31,588–35,097	32,291–35,878	32,993–36,658	33,695–37,438	34,397–38,218	35,099–38,998
$19.80	$9.90	$85.73	$42.87	51%–55%	35,098–38,606	35,879–39,465	36,659–40,323	37,439–41,181	38,219–42,039	38,999–42,897
$23.10	$11.55	$100.02	$50.01	56%–60%	38,607–42,116	39,466–43,053	40,324–43,989	41,182–44,925	42,040–45,861	42,898–46,797
$27.50	$13.75	$119.08	$59.54	61%–65%	42,117–45,625	43,054–46,641	43,990–47,655	44,926–48,669	45,862–49,683	46,798–50,697
$30.80	$15.40	$133.36	$66.68	66%–70%	45,626–49,135	46,642–50,229	47,656–51,321	48,670–52,413	49,684–53,505	50,698–54,597
$33.00	$16.50	$142.89	$71.45	71%–75%	49,136–52,645	50,230–53,816	51,322–54,986	52,414–56,156	53,506–57,326	54,598–58,496

* Part-time care is defined as less than six (6) hours of care per day.

** The monthly co-payment is calculated by multiplying the weekly co-payment by 4.33.

*** The co-payments listed are for the first and second child of the family receiving care. The co-payment for the second child receiving care is calculated at one-half of the full co-payment for that child. No additional co-payment is charged for the third or subsequent child(ren) in the family receiving care.

**** Families with a maximum gross income for their family size in excess of their scale will be assessed an additional weekly fee of $.50 ($1.00 for a Bi-weekly fee) for each $1,000 of gross income above their scale.

(e) The criteria for determination and re-determination of the co-payment are as follows:

1. The criteria for determining the amount of the co-payment are family size and family annual gross income.

i. Family size consists of all members of the AFDC eligible unit at the time the AFDC case is closed.

ii. Family income includes all gross earned and unearned income, as defined at N.J.A.C. 10:82–4, received by all members of the AFDC eligible unit. The gross amount of family income must be verified by wage stubs or similar documentation, as a condition of receiving post-AFDC child care benefits.

2. The co-payment scale is determined by the number of hours child care services are being provided to the child.

i. Full-time care is defined as care for 30 hours or more per week.

ii. Part-time care is defined as care for less than 30 hours per week.

iii. In no case may the co-payment exceed the cost of care.

3. Once the co-payment is determined, it will remain unchanged for the duration of the eligibility period for the 12–month post-AFDC period, unless there is an increase in family size, or a reduction in gross family income. The participant must notify the CWA of any such changes occurring in the family. The CWA (case management) shall determine any changes in the co-payment based on reported circumstances affecting co-payment calculation.

(f) The process for co-payment assessment is as follows:

1. The process for co-payment assessment is based on up to two children in care in a family. If more than two children in a family are in care, no co-payment is required for the third and subsequent children. The co-payment is determined on a per week basis.

2. The weekly co-payment is based on whether the care is full-time or part-time care, on the number of children (up to two per family) in the family needing such care through the program, and on the family's annual gross income level.

3. If only one child is in care, the weekly co-payment is the payment which results from Table I or Table II in (d)1 above. That co-payment is assessed on that family's size, the family's annual gross income, and whether the care is full-time or part-time care for that child, resulting in the co-payment from Table I or Table II.

4. If two or more children in the family receive child care services through the Program, the weekly co-payment amount is a composite total payment for up to two children in the family receiving such service.

i. The weekly co-payment sum equals the full co-payment assessed for the first child from Table I or Table II plus one-half of the full assessed co-payment for the second child in care from Table I or Table II. The two children are selected for determination of the co-payment from all children in the family in care, based first, on the number of children in the family in full-time care arrangements.

(1) If two or more children in the family are in full-time care arrangements, the full co-payment amount is assessed on two children in full-time care. A full co-payment amount is assessed for the first child in full-time care from Table I; to that co-payment amount is added one-half of the full co-payment amount for the second child in full-time care from Table I. The resulting composite co-payment equals one and one-half of the full-time co-payment amount from Table I based on the family's size and annual income level.

(2) If at least one child in the family is in a full-time care arrangement and the second and subsequent children are in part-time care arrangements, the full weekly co-payment amount is assessed from Table I on the first child in full-time care; to that co-payment amount is added one-half of the part-time co-payment amount from Table II for the second child in part-time care. The resulting composite co-payment equals the full-time co-payment assessed amount from Table I plus one-half of the part-time co-payment amount from Table II.

(3) If all children in the family are in part-time care arrangements, the full weekly co-payment amount is based on up to two children in care and is one and one-half times the part-time co-payment amount from Table II for the family's size and income amount.

(g) The requirements for a provider's receipt of co-payment are as follows:

1. The composite co-payment is paid to only one provider of care based on the care arrangements of the family. That is, the composite co-payment amount is paid in total to the provider of the highest cost of care arrangement (that is, either the full-time care provider or the provider with the highest reimbursement rate per category of care). The following situations may result and the co-payment is distributed as follows:

i. When one child is receiving child care services through the Program, the full assessed co-payment from Table I or Table II is made by the recipient to that provider of care.

ii. If one child is receiving child care services through the Program but more than one provider is involved in giving care, the co-payment from Table I or Table II is paid by the recipient to that child care provider who provides the highest cost of care arrangement.

iii. When two children are receiving child care services from the same provider, the composite co-payment amount is determined in accordance with (f) above, and the sum total is paid by the recipient to that provider of care. The composite total is based on the respective type of care (full-time or part-time) provided each child; the full assessed co-payment fee from Table I or Table II for the first child is added to one-half of the full assessed fee from Table I or Table II for the second child in care with the provider, for the total co-payment amount.

iv. When both children are receiving different child care services from separate providers, the child care provider providing either full-time care or who receives the highest reimbursement rate per category of care will receive from the recipient the full amount of the composite co-payment assessed for both children from Table I and Table II based on the respective type of care provided (full-time or part-time care) for both children.

v. When both children are receiving the same child care services but from different providers (for example, both receiving full-time care), the provider assessed at the highest cost of care arrangement receives the full composite assessed co-payment from the recipient.

vi. No co-payment shall be assessed for the third and additional children in a family receiving child care service program benefits.

vii. Fees shall be rounded down to the nearest dollar.

(h) The requirements for refunds of co-payments are as follows:

1. Refunds are made to the participant by the REACH program as a lump sum payment when:

i. A fair hearing decision results in a reduced co-payment; or

ii. An error in co-payment computation has resulted in overcharges to the participant.

2. Overcharges are refunded within 30 calendar days of the fair hearing decision or discovery of the error.

New Rule, R.1990 d.340, effective July 2, 1990.
See: 22 N.J.R. 1054(a), 22 N.J.R. 2010(a).
Amended by R.1991 d.601, effective December 16, 1991.
See: 23 N.J.R. 2981(a), 23 N.J.R. 3791(a).
Co-payment (was sliding scale) fees schedule standardized throughout Human Services.
Amended by R.1993 d.396, effective August 16, 1993.
See: 25 N.J.R. 1692(a), 25 N.J.R. 3772(b).
Amended by R.1994 d.206, effective April 18, 1994.
See: 26 N.J.R. 296(a), 26 N.J.R. 1636(a).

10:81–14.18B Co-payment determination, collection and monitoring

(a) This section sets forth procedures for determining the amount of a REACH participant's co-payment toward the cost of post-AFDC child care, for the collection of the co-payment, monitoring payment (and nonpayment) of the co-payment, and for notification of nonpayment of co-payments, and termination of post-AFDC child care benefits for continued nonpayment of co-payments.

1. The procedures are listed according to the entities involved in the co-payment determination and collection process: the county welfare agency income maintenance staff, the county REACH case management staff, the provider of child care, and the county REACH lead child care entity.

2. Counties are responsible for the entire co-payment determination and collection process and functions, according to the standard procedures detailed in this section. Counties may adapt the procedures to local operations, and may reassign functions among the entities listed below. However, counties must make sure that the tasks are completed, benefits are processed in a timely manner that affords participants maximum benefits, co-payments are accurately determined, and participants are not denied benefits they are otherwise eligible to receive.

(b) Procedures for determining REACH post-AFDC child care co-payments are as follows:

1. County welfare agency (CWA) income maintenance (IM) functions are as follows:

i. When the AFDC recipient becomes employed, she must report employment to the CWA and provide documentation to verify employment—the start date and amount of earnings—as a condition of eligibility for REACH post-AFDC benefits of one year of extended Medicaid coverage and post-AFDC child care.

ii. When the IM worker receives the documentation referenced in (b)1i above, the worker will determine if the family will continue to be eligible for AFDC based on income.

iii. If earned income received or expected to be received renders the family ineligible for AFDC, the IM worker will initiate AFDC case closing and the processing of post-AFDC REACH benefits, including extended Medicaid benefits and post-AFDC child care.

(1) The IM worker will do the following:

(A) Enter the amount of verified earnings into FAMIS at the time the action is taken on computer to close the AFDC case. These earnings will be used to compute the co-payment that the participant must pay toward cost of post-AFDC child care, if the participant elects to apply for such benefits.

(B) Send out Form PA–15, Notification Form, advising of the termination of AFDC benefits and effective date.

(C) Send out Form R–10, REACH Benefit Letter, advising the participant of:

(I) The availability of post-AFDC REACH benefits—extended Medicaid and post-AFDC child care:

(II) The requirement to pay a co-payment toward the cost of post-AFDC child care; and

(III) The need to apply for post-AFDC child care by contacting (by phone, mail or in-person) the REACH case manager listed at the bottom of Form R–10.

(D) Forward one copy of Form R–10 to REACH case management.

(2) If the participant has not provided verification of earnings at time of case closing, the IM worker will complete steps (b)1iii(1)(A) through (B) above, inserting estimated earning in FAMIS, and including a statement in the Form R–10 of the need to provide such verification of earnings as a condition of eligibility for the extended benefits.

iv. To the extent possible, the IM worker should complete the AFDC case closing, income verification process and mailing of Form R–10 before the AFDC case is closed. This will ensure that participants receive child care benefits in a timely and uninterrupted manner, and ensure that providers receive payment of co-payments and REACH voucher payments. If this is not possible, the process should be completed as soon as possible after the AFDC case is closed, during the first month of AFDC ineligibility.

v. Computation of eligibility period for post-AFDC child care benefits: The eligibility period for post-AFDC child care benefits will be computed in accordance with N.J.A.C. 10:81–14.18(e)4i.

2. REACH case management functions are as follows:

i. Upon receipt of the Form R–10 from IM, case management will monitor the form to see if the REACH participant contacts case management.

ii. The date the REACH participant contacts case management in response to the Form R–10 will be considered the date of application for REACH post-AFDC child care benefits. In order to begin receiving payments for post-AFDC child care, the participant must make a complete application, which includes providing verification of earnings.

iii. The period of eligibility for post-AFDC child care benefits is computed according to N.J.A.C. 10:81–14.18(e)4. A REACH participant will begin receiving post-AFDC child care benefits when a complete application is received, computed according to (b)2iii(1) and (2) below:

(1) If the participant submits a complete application within 30 days of the effective date of AFDC case closing, that is, by the end of the month for which the case was closed, the participant will start receiving post-AFDC child care benefits as of the effective date of case closing. The benefit period will be 12 months.

(2) If the participant submits a complete application after the AFDC case has been closed for one calendar month, the participant will start receiving post-AFDC child care benefits commencing with the date the complete application was received by the CWA. The benefit period will be the balance of the 12–month period. In such situations, post-AFDC benefits will not be retroactive to the first day of the month the complete application was received.

iv. Upon receipt of a response from a participant requesting REACH post-AFDC child care benefits, the REACH case manager and the participant will discuss the child care arrangements, including the requirement to pay a co-payment toward the cost of care. The REACH case manager will determine the amount of the participant's co-payment based on verified earnings, family size and the number of children in post-AFDC child care. The case manager and participant will then complete a REACH Agreement for Support Services indicating the child(ren) for whom child care is to be provided, the duration of the child care benefits, the name(s) and address(es) of the child care provider(s), and the amount of the child care benefits.

(1) The case manager will give the participant a copy of the Agreement and forward a copy of the REACH Agreement to the lead child care entity.

(2) Once the REACH Agreement is signed, case management will process the support agreement, and mail out vouchers to the provider(s) listed in the REACH Agreement(s).

v. The case manager, in consultation with the REACH participant, will complete Form R–20, Notification of REACH Post–AFDC Child Care Co-payment. Form R–20 is a four-part form which contains information about the REACH post-AFDC child care co-payment arrangement. It sets forth the requirement of the REACH participant to pay a co-payment toward the cost of care and of the REACH program to pay the balance of the approved cost of child care. It contains the amount(s) of co-payment(s) computed for the first and, if necessary, second child in care, the total co-payment to be paid. It provides instructions about co-payment arrangements, proof of payment and accounting of co-payments collected. The form specifies actions to be taken for nonpayment of the co-payment, including written notice from case management and termination of all post-AFDC child care benefits for continued nonpayment (with right to a fair hearing). Form R–20 is signed by the REACH case manager, and may be signed by additional agency representatives.

(1) The purposes of Form R–20 are to:

(A) Provide the participant receiving REACH post-AFDC child care benefits with written documentation of his or her co-payment obligation;

(B) Establish the responsibilities of the participant and the provider; and

(C) Establish a basis for monitoring compliance with the REACH post-AFDC co-payment policy.

(2) Form R–20 is to be completed and signed for each child for whom a co-payment is assessed.

(3) Case management must immediately send copies of Form R–20 to the participant, child care provider(s), lead child care entity, and must retain one copy.

vi. The biweekly REACH child care voucher process will be used to report post-AFDC child care co-payment collection and nonpayment. Case management (or other entity designated by the county REACH program to process its REACH vouchers) will issue the voucher biweekly listing the name(s) of the post-AFDC REACH participant's child(ren). Case management or the county entity will ensure that a method for recording payment or nonpayment of the fee is included in this voucher issuance. Acceptable methods include a separate form attached to the voucher, a computer-printed message on the voucher, or any other method approved in writing by the county's Division of Economic Assistance representative.

3. Child care service provider functions are as follows:

i. Upon receipt of the Form R–20, Notification of REACH Post–AFDC Child Care Fee, from case management, the participant and the provider must negotiate the frequency of co-payments and collection (either weekly or biweekly), and date or day of co-payment. Frequency and day of co-payment can be based on individual circumstances, including the participant's source and frequency of income and the co-payment procedures already established by the provider, but the co-payment must be paid by the last day of the voucher service period. Collection periods must coincide with the periods covered by the REACH post-AFDC child care voucher.

(1) The voucher service period is the two week period listed on the REACH voucher for which REACH child care services are provided.

ii. The provider should implement a system designed to ensure an efficient, error-free method of recording and accounting for all co-payment collections. The Lead Child Care Entity is available to provide technical assistance to providers in establishing such a system. The provider may wish to adapt recordkeeping systems used in the Social Services Block Grant (SSBG) system, such as the One–Write Fee Collection System or a comparable method.

(1) Providers must establish procedures for the collection of the co-payment from the participant.

iii. The provider and REACH participant will then follow the terms of the Form R–20 notification. The provider will collect the assessed co-payments from the participant during the voucher service period. The child care provider has the responsibility to make reasonable efforts to collect assessed co-payments from the REACH post-AFDC participant.

iv. At the end of the voucher service period the provider will complete the voucher indicating the child(ren)'s attendance, the amount of the REACH payment due for child care services provided and whether the REACH participant(s) paid the required co-payments. The provider must return the voucher to obtain payment for REACH services provided, to document co-payments not paid and thereby to preserve his or her right to possible reimbursement for unpaid co-payments.

v. The income and co-payment information recorded on the Form R–20 notification is confidential. The provider, Lead Child Care Entity, and REACH Case Manager are responsible for ensuring that access to this information is restricted to those individuals responsible for assessing and collecting co-payments.

4. REACH Lead Child Care Entity functions are as follows:

i. The Lead Child Care Entity is responsible for advising the provider at time of recruitment into REACH of the post-AFDC co-payment requirements, including the requirement that the participant must pay a portion of the cost of care; training the provider in voucher completion; and providing assistance in co-payment collection and monitoring, as determined by the county.

ii. The functions of the REACH Lead Child Care Entity are as follows:

(1) To maintain a file of the completed REACH Agreements for Support Services for all participants receiving post-AFDC child care as part of the overall provision of child care services;

(2) To maintain a file of the completed Forms R–20 for the same reason; and

(3) To offer technical assistance to child care providers as needed and when requested.

5. Reassignment of functions shall be accomplished as follows:

i. A county may opt to reassign functions set forth in this subsection to county entities other than those listed, for example, the Lead Child Care Entity, if, given the county's REACH operations, those functions would be more appropriately handled by that other entity. A county must obtain approval from the Division of Economic Assistance representative for the county prior to any reassignment.

(1) Functions that may not be reassigned to entities other than those listed in this subsection include: determining eligibility or ineligibility for REACH post-AFDC child care benefits, or sending adverse action notices to the REACH participant advising of the termination of REACH post-AFDC child care benefits.

ii. A county must use the Form R–20 in its REACH post-AFDC operations. Each county must provide to the Division of Economic Assistance a copy of its notice of co-payment payment and nonpayment. This is completed by the provider and its notice of termination of REACH post-AFDC benefits.

(c) Co-payment collection, monitoring, and procedures for late payment or nonpayment of co-payments and termination of REACH post-AFDC child care benefits are as follows:

1. The following are provider functions:

i. It is the responsibility of the child care service provider to collect co-payments and report nonpayment of co-payments in accordance with the terms of the R–20 notification.

ii. Whenever the REACH post-AFDC child care co-payment has not been paid to the provider by the end of the voucher service period, the co-payment is considered unpaid.

iii. In the event of nonpayment of assessed co-payments by the participant, the provider will complete the voucher, indicate on the voucher the child(ren) for whom the participant(s) failed to pay the required co-payment; and return the voucher to the designated entity in the county REACH program. This action by the provider in conjunction with the REACH case manager will initiate the process for terminating REACH post-AFDC child care benefits.

iv. The provider must continue to attempt to collect co-payments from the participant and must document such collection efforts.

v. Under no circumstances may the participant be charged a late co-payment penalty.

2. The Lead Child Care entity will provide technical assistance to the provider in cooperation with REACH case management as needed.

3. REACH case management functions are as follows:

i. It is the responsibility of case management to monitor co-payment collection by examining the completed REACH post-AFDC vouchers returned by providers and responding to nonpayment of co-payments reported in the voucher.

ii. Following receipt of a REACH voucher from a provider indicating nonpayment of assessed co-payments by the participant, the REACH case manager will do the following:

(1) Determine the effective date that REACH post-AFDC child care benefits will be terminated; and

(2) Complete a letter notifying the participant of termination of REACH post-AFDC child care services. A county may develop a letter specifically for this purpose or may amend an existing notification letter. The letter must contain at a minimum the information in the sample form, Notice of Termination of REACH Child Care Support Agreement, in Appendix A. The purpose of this notice is to provide written notice to:

(A) Advise the participant of a child receiving REACH post-AFDC child care services of the amount of assessed co-payments which have not been paid;

(B) Advise the participant of the right to request and obtain a fair hearing;

(C) Serve as formal notice to the participant that REACH post-AFDC child care services will be terminated by a specific date unless overdue co-payments are paid;

(D) Serve as written confirmation for the provider and Lead Child Care Entity that child care services will be terminated due to the late or nonpayment status of the REACH post-AFDC participant; and

(E) Advise the participant to pay the required co-payments and to contact the county REACH program immediately if she has already paid the overdue co-payment(s) so that benefits may be continued.

(3) Four copies of the notification of termination must be completed and signed by the REACH case manager. The REACH case manager will:

(A) Send the original to the participant;

(B) Distribute copies to the provider and the Lead Child Care Entity; and

(C) Retain a copy for the participant's files.

4. When post-AFDC child care services are terminated due to nonpayment of co-payments, the participant of a child receiving REACH post-AFDC child care services retains the right to request a fair hearing. If timely request (within 10 days) is made, the REACH Program will continue to make payment to the provider for the REACH portion of child care services rendered until a fair hearing is held, and a final determination is made.

i. In all cases where a fair hearing is requested, the procedures outlined in N.J.A.C. 10:81–6, 10:81–7, and 10:90–2.5 (see N.J.A.C. 10:81–14.7) are to be followed.

5. Reassignment of functions shall be accomplished as follows:

i. A county may opt to reassign functions set forth in this subsection to county entities other than those listed, for example, the Lead Child Care Entity, if, given the county's REACH operations, those functions would be more appropriately handled by that other entity. Prior to any reassignment, a county must obtain approval from the Division of Economic Assistance representative for the county.

(1) Functions that may not be reassigned to entities other than those listed in this subsection include: determining care benefits, sending adverse action notices to the REACH participant advising of the termination of REACH post-AFDC child care benefits, or involvement in the fair hearing process.

ii. A county must use the Form R–20 in its REACH post-AFDC operations. Each county must provide to the Division of Economic Assistance a copy of its notice of co-payment payment and nonpayment that is completed by the provider and its notice of termination of REACH post-AFDC benefits.

6. Reimbursement of unpaid co-payments shall be accomplished as follows:

i. If a REACH participant fails to pay assessed co-payments for care provided to her child(ren), the provider(s) may be reimbursed by the REACH program for the amount of unpaid co-payments subject to the following:

(1) Reimbursement by the REACH program will be made if all of the following conditions are met:

(A) The child's attendance at the provider's facility was documented on the REACH voucher;

(B) The provider has documented on the REACH voucher nonpayment of the co-payments for each voucher service period for which a claim of nonpayment is made; and

(C) The participant's post-AFDC REACH benefits were actually terminated.

(2) Reimbursement of unpaid co-payments is limited to a maximum period of two months. Exceptions may be granted in extreme circumstances with prior written approval by the Division of Economic Assistance representative for the county.

(3) Reimbursement of unpaid co-payments to the provider must be paid from State REACH funds.

ii. If a participant whose post-AFDC REACH benefits have been terminated due to nonpayment of co-

payments reapplies for post-AFDC child care benefits, the participant must reimburse the amount of the unpaid co-payments before eligibility for post-AFDC child care benefits will be granted for the balance of the post-AFDC period.

(1) If the county REACH program has already paid the provider(s) for previous unpaid co-payments, the participant must reimburse the county for the full amount of co-payment arrearages due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county.

(2) If the county REACH program has not yet paid the provider(s) for previous unpaid co-payment arrearages, the participant must reimburse the provider(s) for the full amount of co-payments due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county and the provider(s).

New Rule, R.1990 d.340, effective July 2, 1990.
See: 22 N.J.R. 1054(a), 22 N.J.R. 2010(a).
Amended by R.1991 d.601, effective December 16, 1991.
See: 23 N.J.R. 2981(a), 23 N.J.R. 3791(a).
Co-payment (was sliding scale) fees schedule standardized throughout Human Services.

10:81–14.19 REACH/JOBS supportive services: participant allowances (PALs) for transportation and work/training-related expenses

(a) REACH participant allowances (PALs) shall be paid or reimbursed to the participant for costs of transportation and other work/training-related supportive services if the case manager determines that such services are not provided through existing resources and those services are necessary for an individual to participate in REACH. The PALs are allowances to cover expenses incidental to REACH participation or employment. Transportation-related expenses (TREs), allowances for employment-directed activities (EDAs), expenses required to accept or maintain employment (JOBs), REACH cumulative payments for automobile-related expenses (CARs) and the CWEP allowance are the various types of participant allowances, and are detailed as follows.

(b) Transportation-related expenses (TREs): The agency shall provide payment or reimbursement for transportation costs (which includes meals) for participation in training as approved by the case manager, when determined necessary to enable participation in REACH, under conditions specified below. The participant shall be encouraged to make use of his or her available transportation resources.

1. Transportation costs shall be provided for the following:

i. REACH preparation activities: REACH applicants and recipients, in preparation activities such as evaluation, assessment, and REACH Agreement conferences, for the duration of participation in such activities, for costs of transportation that are reasonably necessary for attendance;

ii. Employment-directed activities (EDAs): EDAs include educational and non-educational activities;

(1) Educational activities—training programs or education services: Participants in approved education and training courses preparatory to employment, such as General Education Development (GED), English as a Second Language (ESL), and Adult Basic Education (ABE), job skills training and job readiness activities, for the duration of their participation in such educational programs/services;

(2) Non-educational employment-directed activities: Approved REACH non-educational employment-directed activities, including but not limited to, Job Search and Community Work Experience Programs (CWEP) (see N.J.A.C. 10:81–14.10 and 14.12);

(A) Transportation costs for participation in Work Supplementation (WSP) and REACH On–the–Job Training (OJT) are not covered under this section as those costs are accounted for through the $90.00 work expense disregard of earnings (see N.J.A.C. 10:81–14.11(g) and 14.14(b));

iii. Employment: Payments for transportation for employed individuals are issued only in instances when a participant is starting employment. For such participants, transportation payments may be issued until the first paycheck is received to ease the transition into employment. Those payments shall not exceed one month.

(1) Transportation costs for regularly employed individuals shall not be covered under this section as those costs are accounted for through the $90.00 work expense disregard of earnings (see N.J.A.C. 10:82–2.3(a)2, 2.8(a), and 4.4).

2. Transportation allowances are utilized when such costs are not available from or paid by any other existing funding source and it is determined that a need to help defray such costs exists. REACH remains the payor of last resort, outside of any REACH contractual agreements.

i. In determining necessary transportation expenses, the case manager shall consider the most available and economical means of transportation based on the accessibility of private and public transportation from the individual's home to the site of the activity.

ii. Transportation allowances shall be provided to the REACH participant during the period of need which may begin with participation in the first REACH activity following orientation by income maintenance, and may end with the receipt of the first paycheck from employment. However, payment for transportation is based on the actual length of the participation period for the specific activity.

3. Transportation allowance: An allowance of up to $6.00 per day ($30.00 per week) may be paid for transportation needs (including meals as determined necessary for attendance in training). However, payment shall be the actual cost of transportation/meals incurred by the participant. The $6.00 per day allowance ($15.00 in special instances) shall not be apportioned between meals and transportation. The allowance is the maximum flat fee amount for those combined expenses and as such, the TRE payment is inclusive of both costs (meals and transportation), transportation only or meals only, as applicable to the individual's needs for the REACH activity. If actual transportation costs exceed the above limit, a higher amount to cover actual costs may be provided up to a maximum of $15.00 per day (up to a maximum of $60.00 per week) with the approval of the case management supervisor provided that:

i. The actual cost of the transportation exceeds $6.00 per day;

ii. The transportation to be used is the lowest priced transportation reasonably available and accessible to the participant;

iii. The activity or service needed by the participant is not available in the vicinity of the participant's home or at a location accessible to the participant by less expensive means of transportation; and

iv. The county has documented the circumstances, including costs of transportation, surrounding the need for the higher TRE in the REACH case record and approval has been given by the supervisor of the case manager.

4. Increased transportation allowance for extraordinary situations: Allowances in excess of $15.00 per day (capped, up to a maximum of $60.00 per week) may be provided in extraordinary situations determined on a case-by-case basis by the case manager. Before a county issues allowances in excess of the $15.00 maximum standard or $60.00 per week maximum, the county must have obtained written approval from DEA.

5. Method of payment: Transportation costs are usually direct reimbursement payments made retrospectively to participants. Transportation costs, however, shall be paid prospectively for sessions involving evaluation and assessment, development of the REACH Agreement, or for the initial two weeks of an activity if the individual is unable to participate without the payment, or requires the payment to cover the expense of New Jersey Transit vouchers for the purchase of discounted monthly passes on bus and rail routes. However, if a county has arranged for transportation for participants by means other than established transportation (through the contracting process) then the participant may request to use that source of transportation and direct that his or her transportation allowance be paid directly to the county or the provider of the transportation as a vendor payment.

i. Example: A rural county with minimum public transportation has contracted with a vendor to provide transportation in a specific geographic area for REACH participants from their homes to training and job search sites. To offset the cost of this transportation and to ensure availability of transportation, the participant would request that the $6.00 per day transportation allowance would be paid directly to this vendor. Once the participant completed the activity in the geographic area served by this vendor, he or she would discontinue the arrangement of payment to the vendor.

6. Amounts paid to REACH participants for transportation related expenses incident to participation in REACH activities are excluded as income for purposes of the Food Stamp Program.

7. Transportation-related expenses (TREs) shall be paid through OMEGA.

(c) Transportation costs for transporting children to child care facilities (TCCs)—Non–REACH, Title IV–A funds: In addition to the standard transportation allowances for participation in REACH as delineated in (b) above, a Title IV–A transportation allowance may be made for actual costs up to the rate of $10.00 per week maximum per child, for the cost of transportation of a REACH participant's child(ren) to and from a licensed child care center or day camp (see N.J.A.C. 10:82–5.2(e)1). The payment for the cost of transporting a "special needs" child of a REACH participant to and from the child care site may be authorized through Title IV–A funds for actual costs up to a maximum of $10.00 per week per child as set forth at N.J.A.C. 10:82–5.2(e)2. Amounts paid for such transportation costs are excluded as income for purposes of the Food Stamp Program. Such payments are made through FAMIS.

(d) $100.00 cumulative allowance for participation in REACH employment-directed activities (EDAs): Allowance payments based on need up to a maximum cumulative total of $100.00 per eligibility participation period (see (g) below) are provided for necessary expenditures to permit participation in approved REACH employment-directed activities (EDAs) during the participation period, including training programs, educational services and non-educational employment-directed activities. Such payments shall be made in preparation of and during participation in the specific activity. EDA allowances are not an entitlement and are issued based on need only.

1. Employment-directed activities: Approved non-educational REACH employment-directed activities, include, but are not limited to, Job Search and CWEP (see N.J.A.C. 10:81–14.10 and 14.12). Non-educational employment directed activities not eligible for $100.00 cumulative EDA allowance payments are WSP and OJT programs as those activities are classified as subsidized employment activities per Federal requirements. Participants in those activities may be considered for the JOB allowance described in (e) below (see N.J.A.C. 10:81–14.11 and 14.14(b)).

2. Allowable expenditures include, but are not limited to, the following: books; supplies; equipment; uniforms; tools for a particular training or employment-directed activity; licensing fees; testing fees; clothing (that is, special shoes or boots, protective devices such as safety glasses, gloves and helmets or other clothing necessary or within reason for a participant to attend training); and other materials required for participation in REACH EDA activities. Payment for regular clothing items is not permitted. Items purchased become the property of the participant.

3. The case manager shall determine that the costs of participation are not available or paid by any other funding source (for example, JTPA). REACH remains the payor of last resort, outside of any REACH contractual agreements.

4. Each eligibility participation period covered by the cumulative $100.00 EDA fund begins with enrollment in the first REACH employment-directed activity (the effective date of the activity as indicated on the OMEGA System) and ends with the last day of participation in the final employment-directed activity in the eligibility participation period (see (g) below for further clarification of eligibility periods).

5. The $100.00 cumulative total EDA fund shall cover needed payments made for expenditures for combined participation in all REACH activities during the eligibility participation period.

6. In extraordinary circumstances, determined on a case-by-case basis by the case manager, EDA payments exceeding the $100.00 maximum in the eligibility participation period may be made. Written approval from the DEA shall be obtained before the payment can be issued. The case manager shall document the particular circumstances surrounding the payment in the case record.

i. Additional monies for this purpose shall be capped at $50.00 over the $100.00 EDA allowance per eligibility participation period (that is, the $100.00 EDA allowance value plus the ability to approve additional payment(s) of up to $50.00 more, when warranted, or $150.00 maximum for the EDA allowance). Under no circumstances shall DEA approval be granted for amounts which exceed the $150.00 EDA allowance maximum.

7. EDA payments are excluded as income for purposes of the Food Stamp Program.

(e) $100.00 cumulative allowance to accept or maintain employment (JOB): Allowance payments (JOBs) based on need, up to a maximum cumulative total of $100.00 per eligibility participation period (see (g) below), are provided for actual expenses necessary to permit an individual to accept or maintain employment. Such payments shall be issued in preparation for and during the course of employment. JOB payments are not an entitlement and are issued based on need only for actual expenses incurred.

1. Participants in WSP and OJT programs (see N.J.A.C. 10:81–14.11 and 14.14(b)) are eligible for the $100.00 cumulative JOB allowance payments as those programs are categorized as subsidized employment under Federal provision.

2. Allowable expenditures include, but are not limited to, the following: clothing (that is, special shoes or boots, protective devices such as safety glasses, gloves and helmets, waterproof garments, uniforms or other clothing necessary or within reason for a participant to attend work); tools and equipment for a particular type of employment (for example, welder's torch and supplies); union dues (see (e)2i below); books; and other items needed for employment that are not available from an employer or other funding source (for example, JTPA). As in (d) above, payment for regular clothing items is not permitted. If other sources of funding are available to pay such costs, then JOBs payments are not available to the individual.

i. Union dues are paid on an initial, one-time basis where such membership is a prerequisite to employment including initiation fees. Documentation from the employer concerning the fact that union membership is mandatory is required before the JOB payment can be issued. If initial union dues are automatically deducted from the participant's paycheck, the participant may be reimbursed for those costs.

3. The case manager shall determine that JOB expenditures are necessary and not available from, or paid by, any other funding source. REACH remains the payor of last resort, outside of any REACH contractual agreements.

4. AFDC–C, –F, and –N recipients, who become ineligible for assistance due to income from employment and who were not participating in REACH, may be eligible for JOB allowance payments provided the individual complies with REACH requirements for such payments, including signing a REACH Agreement. In those circumstances, the JOB allowance may be an incentive for the individual to remain employed. The county shall advise the individual that he or she may only be eligible for the remaining balance of the JOB cumulative total of $100.00 should the individual return to AFDC within a two-year period from the date of termination of AFDC (see (g) below for further clarification of eligibility participation periods).

5. Each eligibility participation period covered by the cumulative $100.00 JOB fund begins with the first day the participant receives a firm job offer and accepts the position (the effective date of employment indicated on the OMEGA System) and ends 90 days after loss of eligibility for AFDC cash assistance. Therefore, employed individuals receiving post-AFDC child care and/or Medicaid, if determined in need of monies available through the JOB allowance, shall be authorized for payment of that allowance or of the remaining portion of that allowance fund only for the first 90 days following the AFDC case closing. The eligibility participation period for WSP and OJT participants begins with the effective date of the activity, as indicated on the OMEGA system, and ends no later than 90 days after loss of eligibility for cash assistance or the expiration of the OJT contract, whichever occurs first.

i. Example: If an AFDC individual enters a six month OJT or WSP activity in January and loses AFDC eligibility effective March 1, he or she would remain eligible for the JOB allowance through May 29 in the post-AFDC period which encompasses the 90–day limited timeframe for Federal financial participation (FFP). Although there are four months remaining in the activity contract period through June, the final month of participation in the activity, no authorization for participant allowances can be made for that final month.

6. The JOB allowance is capped at $100.00 per eligibility participation period. Therefore, no payments beyond the $100.00 maximum JOB allowance shall be authorized.

7. Amounts paid as JOB allowances are excluded as income for purposes of the Food Stamp Program.

(f) REACH/JOBS $500.00 cumulative motor vehicle related (CAR) expense allowance: Allowance payments based on need, up to a maximum cumulative total of $500.00 per eligibility participation period (see (g) below), are available for REACH/JOBS participants who own motor vehicles to make those vehicles operational to transport the REACH/JOBS participant to REACH/JOBS activities or employment. CAR allowances are not an entitlement and are issued based on need, only for actual expenses incurred. CAR allowance payments are available beginning with participation in the first REACH/JOBS activity (the effective date of the activity as indicated on the OMEGA System) and ending no later than 90 days after loss of eligibility for AFDC in the post-AFDC period.

1. Example: A former AFDC REACH/JOBS participant has been employed and is in receipt of post-AFDC child care services. The AFDC case closed as of August 1. On November 15, the recipient requests a CAR allowance of $50.00. In this instance, case management cannot authorize payment from the CAR allowance fund since the 90–day authorization period has expired.

2. Allowable expenditures include: motor vehicle servicing and repairs, including necessary tune-ups and tires if needed to make the vehicle operable, roadworthy or as required in order to pass the State safety inspection; payment of motor vehicle insurance (including mandatory surcharges by the insurer due to the participant's past driving record) or other costs clearly related to the participant's use of his or her own automobile. CAR allowance payments shall not be used to purchase or rebuild a motor vehicle, pay for its licensing or registration, for routine maintenance, or for radio and air conditioning repairs.

3. Payments from the $500.00 cumulative CAR allowance may be issued provided that the following circumstances are considered first:

i. No less expensive alternative means of transportation is available to the participant;

ii. The motor vehicle under consideration for a CAR expenditure is owned by the participant or a member of his or her immediate family living in the same home who is eligible for AFDC as a member of the same filing unit or as an essential person, and the vehicle will be at the participant's disposal for traveling to and from REACH activities or a job. CAR allowance payments are not available for a vehicle that is registered (for any reason) in the name of another relative outside the eligible family as described above;

iii. The actual repair or service expenditure cannot be met through the regular transportation cost (TRE) process even at maximum funding (of up to $15.00/day but no more than $60.00/week);

iv. The participant has documented the need for necessary motor vehicle repairs or service with a written estimate from a bona fide auto mechanic;

v. The general overall condition of the vehicle justifies the cost of repairs (as determined by a bona fide auto mechanic);

vi. The repairs (including towing and road service) or part replacements are necessary to make the vehicle operable, roadworthy or are required for it to pass the State safety inspection;

vii. The REACH activity or service needed by the participant is not available in the vicinity of the participant's home or at a location accessible to the participant by less costly means of transportation; and

viii. The county has provided all REACH activities or services needed by the participant (especially individual evaluation and assessment) thus far through its resources through a site visit either to the participant's home or to a location in the vicinity of the participant's home and the participant is in need of activities/services beyond the scope of those activities already provided.

4. The county welfare agency may develop a list of "REACH-approved mechanics" to perform CAR repairs;

however, any mechanic whose rates and services meet the requirements of this section and are otherwise competitive for repair/service costs shall not be excluded when his or her service can be rendered in these situations.

5. CAR allowance payments for insurance purposes are limited to the quarterly premium for the minimum insurance required under New Jersey State law for a private vehicle. Payment may include mandatory surcharges by the insurer due to the participant's past driving record.

i. The participant shall be financially able to continue to pay insurance costs after the quarterly premium is paid.

ii. If the participant cancels the insurance policy after the quarterly premium has been paid via a CAR allowance payment and receives reimbursement of the premium, that reimbursement is an overpayment subject to recovery (see N.J.A.C. 10:81–14.24).

6. The $500.00 cumulative total CAR fund may not exceed the $500.00 limit for a participant except in extraordinary circumstances, determined on a case-by-case basis by the case manager. Payments in excess of the $500.00 limit may be issued only after obtaining the written approval by DEA. The case manager must document the particular circumstances surrounding the payment(s) in the case record.

i. Additional monies for this purpose shall be capped at $500.00 over the $500.00 CAR allowance per eligibility participation period (that is, the $500.00 CAR allowance plus the ability to authorize, with DEA approval, additional payment(s) of up to $500.00 more, when warranted, or $1,000 maximum for the CAR allowance). Under no circumstances shall DEA approval be granted for amounts which exceed the $1,000 CAR allowance maximum.

7. CAR allowance payments are excluded as income for purposes of the Food Stamp Program.

(g) Determining the eligibility participation period for full EDA, JOB and CAR allowances: An eligibility participation period is that period of time during which expenditures from the EDA, JOB and CAR funds up to their respective maximum cumulative totals ($100.00, $100.00 and $500.00) are made. A participant shall have been off assistance (including post-AFDC extended benefits) for at least one full year (12 consecutive months) to be once again entitled to a new eligibility participation period with full maximum EDA, JOB and CAR allowances upon resumption of AFDC/REACH. Interrupted participation in AFDC shall result in the following EDA, JOB, and CAR allowance amounts:

1. If a REACH participant receiving AFDC leaves AFDC, does not receive post-AFDC benefits for one year or more and then returns to AFDC and REACH:

i. The participant begins a new eligibility participation period and will be allowed the full EDA, JOB, and CAR allowances.

2. If a REACH participant leaves AFDC and remains off AFDC for less than one year and then returns to AFDC and REACH:

i. The participant will be eligible for the balance remaining in his or her EDA, JOB, and CAR allowances ($100.00, $100.00 and $500.00 less expenditures made) for the resumed period of participation; therefore, the previous eligibility period continues.

3. If a post-AFDC REACH participant receives such post-AFDC benefits, stops REACH participation by stopping REACH post-AFDC benefits, remains off AFDC for one year or more, and then returns to AFDC and REACH:

i. The participant will begin another eligibility participation period and will be allowed the full EDA, JOB, and CAR allowance ($100.00, $100.00 and $500.00 respectively) for this new period of participation.

4. If a post-AFDC REACH participant stops extended REACH benefits, remains off AFDC for less than one year and then returns to AFDC and REACH:

i. The participant will be allowed only the balance remaining in his or her EDA, JOB and CAR allowance ($100.00, $100.00 and $500.00 respectively less expenditures already made) for the resumed period of participation.

(h) Payment procedures for allowance: EDA, JOB and CAR allowances are to be issued as follows:

1. Allowances are on a cumulative account basis. The participant is eligible to receive up to the maximum amount of the allowance during the relevant participation period (see (g) above).

2. Payments are to be issued to cover actual expenses, either as a one-time lump sum payment, or in a number of smaller payments during the course of the eligibility period.

3. Payments may be issued retrospectively as reimbursements or prospectively if needed, on or after the OMEGA effective date of the REACH activities.

i. Payments are to be issued as vendor payments when possible.

ii. Payments may be issued directly to the REACH participant as a reimbursement of expenditures already made.

iii. Payments shall be issued as "lump sum" payments.

4. Costs currently paid through REACH contracted service providers (for example, contracted through JTPA) or other providers servicing REACH participants shall not be transferred to the REACH TRE, EDA, JOB, or CAR allowances.

(i) Administration of TRE, EDA, JOB, CAR, TCC, and CWEP funds: The county shall be responsible, to the greatest extent possible, for ensuring the prudent administration of the TRE, EDA, JOB, CAR, TCC, and CWEP funds by:

1. Providing REACH activities or services on site, when possible, at participants' homes or at locations which are accessible to participants by less expensive means of transportation. This may be applicable to groups of participants living in the same general area and to homeless participants living in the same shelter accommodations;

2. Scheduling participants to complete more than one REACH activity on the same day when possible; and

3. Enrolling participants in equivalent non-REACH contracted activities or services provided in the vicinity of their homes (for example, GED programs are offered at most local high schools).

(j) Additional $10.00 CWEP reimbursement: The CWA shall provide reimbursement for costs which are determined necessary and are directly related to participation in CWEP. Such costs incurred by the CWEP participant include clothing and personal care items, materials and supplies and similar expenses related to applying for or accepting employment through CWEP. This amount shall not exceed $10.00 per month per participant.

Repeal and New Rule, R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Section was "REACH support services, transportation and related expenses." Prior rulemaking activity is as follows:
Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.
Amended by R.1994 d.429, effective August 15, 1994.
See: 26 N.J.R. 1573(a), 26 N.J.R. 3479(a).

10:81–14.20 REACH/JOBS support services: medical assistance

(a) Post-assistance Medicaid coverage: When an AFDC–C, –F or –N family becomes ineligible for AFDC (including families deemed to be recipients of AFDC) for any of the reasons listed in (b) below, the members of the family shall continue to receive Medicaid for a period of 12 months, unless such family falls within the provisions of N.J.A.C. 10:86, the Family Development Program.

(b) Eligibility: To be eligible for the 12–month Medicaid extension, the family must lose AFDC eligibility for any one of the following reasons:

1. Earnings or increased earnings from employment, including earnings from new employment;

2. Loss of the $30.00 or one-third disregards of earning income (see N.J.A.C. 10:82–4) because of the time-limited application of those disregards;

3. Increased hours of employment; or

4. Receipt of New Jersey state unemployment or temporary disability insurance benefits.

(c) Additional requirements: The following additional requirements apply to the 12–month Medicaid extension:

1. Except as specified in 1i below, the family must have received AFDC in the month preceding the month in which the family became ineligible for AFDC.

2. Eligibility for the 12–month Medicaid extension is not available for any month to any individual who, except for income, resources or hours of employment, is not otherwise eligible to receive AFDC.

3. With the exception of a child born to the family during the extension period, only those family members who received AFDC at the time the family became ineligible for AFDC may receive the 12–month Medicaid extension.

4. Periodic reporting: The Department of Human Services may require that the individual or family periodically report certain information, such as health insurance coverage from an employer or absent parent, earnings and continued employment, to ensure that the individual or family continues to be eligible for Medicaid. Eligibility for the 12–month Medicaid extension will be discontinued if the individual or family does not comply with such reporting requirements.

(d) The 12 calendar-month period begins with the month AFDC is terminated, but no later than the payment month corresponding to the first budget month in which the family became ineligible due to the change in circumstances. If the family fails to report the change in circumstances causing ineligibility, the 12–month extension shall begin with the first month in which the family became ineligible for AFDC.

1. Example: A client receives increased earnings in the January budget month and reports the increase timely in the February processing month. The increased earnings render the family ineligible for AFDC; assistance is terminated effective for the March payment month. Extension of Medicaid benefits shall begin with March, the payment month for which assistance was terminated.

2. Example: In January a family receives increased earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June. The 12–month Medicaid extension shall begin in January, the month in which the earnings causing ineligibility were first received.

Emergency Amendment, R.1987 d.495, effective October 26, 1987 (operative November 1, 1987, expires December 24, 1987).
See: 19 N.J.R. 2206(a).
Substantially amended.
Adopted Concurrent Proposal as R.1988 d.47, effective December 24, 1987.
See: 19 N.J.R. 2206(a), 20 N.J.R. 291(a).
Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Added (c)4.
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Deleted (c)1i, text referring.
In (e): added "... prior to April 1, 1990 ..." to requirements.
Amended by R.1992 d.36, effective January 21, 1992.
See: 23 N.J.R. 2988(a), 24 N.J.R. 287(b).
Deleted (d).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
References to Family Development Program added.

10:81–14.21 Need and amount of assistance in REACH

(a) General: Determination of need and amount of assistance for REACH participants shall be made in accordance with established regulations and policy at N.J.A.C. 10:81 and N.J.A.C. 10:82, with the exceptions set forth below.

(b) Income earned by AFDC parents serving as child care providers (600 Child Care Provider Slots): Income earned by AFDC parents from providing child care for children of REACH participants and other AFDC recipients shall be considered income from self-employment, and shall be treated in accordance with (b)1 through 4 below.

1. Maximum income eligibility: In determining gross earned income for purposes of the maximum income level at N.J.A.C. 10:82–1.2, an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded. The remaining income is compared to the maximum income limits table at N.J.A.C. 10:82–1.2 based on the eligible family size.

2. Prospective needs test: In determining prospective need an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded. The remaining income is then compared to the payment standard at N.J.A.C. 10:82–1.2, Schedule II, for the eligible family size to determine if the family is prospectively eligible.

3. Determination of calculated earned income—AFDC–C, –F and –N: In determining the calculated earned income for the AFDC–C, –F and –N segments, from the total gross earnings from providing child care, deduct an amount equal to one-half (50 percent). The remaining income shall be counted in computing the AFDC grant. No additional deductions shall be made for expenses of producing self-employment income set forth at N.J.A.C. 10:82–4.3, or for the Federal and State disregards as set forth at N.J.A.C. 10:82–2.8 and 4.4.

4. If a child(ren) is born to the participant and the provisions of N.J.A.C. 10:82–1.11 are applicable, then the participant shall have the option of having income budgeted in accordance with N.J.A.C. 10:86–5.8(a) and 10:81–14.21(b) or may have the earned income disregards applied as set forth at N.J.A.C. 10:82–2.8 and 4.4.

(c) Disregard of income earned in a training program (all segments): Earned income received through a training program, regardless of whether the program is through Job Training Partnership Act (JTPA), by an AFDC dependent child who is under age 18 or age 19 if attending school or by an AFDC parent who is under age 18 or age 19 if attending school, shall be disregarded in the determination of maximum income eligibility, initial eligibility, prospective needs test, and amount of the AFDC grant. However, the exemption of such income shall not exceed six months in any calendar year.

1. This disregard of income is independent of the earned income disregard at N.J.A.C. 10:82–4.7(g). If a full-time student secures employment unrelated to participation in a training program, a second six-month period shall be established in accordance with the provisions of that subsection.

(d) Disregard of earned income in REACH Work Supplementation Program: In determining the calculated earned income for a WSP participant, from the total gross earnings deduct the WSP disregards as set forth at N.J.A.C. 10:81–14.11.

1. The CWA shall disregard from the earned income of the WSP participant the first $90.00 of such earnings.

2. The CWA shall disregard the first $30.00 from the WSP participant's remaining earned income. After that disregard is taken, an additional one-third of the remaining earned income shall be disregarded. The $30.00 and one-third disregards are applicable up to a maximum of nine months.

3. The remaining calculated earned income shall be deducted from the maximum AFDC assistance payment for the family unit to determine the WSP participant's residual grant.

(e) Calculation of net loss of cash income through employment as good cause for nonacceptance of the job (–C and –F segments): Individuals shall have good cause for refusing a specific employment opportunity, as set forth at N.J.A.C. 10:81–14.8(e)2, if accepting that job would result in a net loss of disposable cash income for the family of the participant. This calculation shall ensure that the family of a participant is not penalized by having less disposable income after employment than would be available to the family while receiving assistance. The calculation is a manual process which is done on a case-by-case basis by income maintenance at the time of the offer of employment if the participant requests a determination of "good cause" for nonacceptance of a job. If the agency makes direct payments for the actual costs of child care up to the maximum limits established by DHS (see N.J.A.C. 10:82–5.3(g)) or makes a supplemental payment for child care costs over the disregard limits, then good cause for net loss of cash income does not exist. Any child care supplemental payment shall be computed monthly on a case-by-case basis.

1. Net loss of cash income means that actual work-related expenses which would otherwise not be incurred shall be subtracted from the family's gross income to determine whether the resulting disposable income is at least equal to the AFDC cash assistance benefit which would be received at the time employment is offered. The cash assistance payment is equal to the flat grant amount (Needs Allowance Standard) less any unearned income.

i. Gross income includes, but is not limited to, earnings from the offered job, any unearned income the family receives, and the adjusted grant determined based on the income at the time the employment is offered, including the application of the appropriate earned income disregards.

ii. The determination of net loss of cash income is a comparison of actual expenses incurred from the job versus the applicable earned income disregards.

iii. The net loss of cash income is a manual calculation which shall be computed on a case-by-case basis at the time the participant gains employment.

iv. The value of the family's food stamp allotment is not included in the calculation.

v. Actual work-related expenses due to that specific job shall be used in the computation. Work-related expenses to be considered are mandatory payroll deductions, union membership fees, transportation costs, required uniforms/clothing, and/or necessary equipment or tool costs.

vi. The calculation is a simultaneous, two-step process: Step I is the determination of the adjusted grant through the application of applicable earned income disregards; Step II is the determination of the net loss of income determined by subtracting the actual work expenses incurred from the gross income (including the adjusted grant from Step I when the grant is $10.00 or more) and then making a comparison to the cash assistance payment that would be received by the family if they did not accept the offer of employment.

2. In Step I, subtract from the gross earned income, the $90.00 work expense disregard; the $30.00 and one-third disregards (if applicable) and the disregard of child care/incapacitated care (if applicable). Next, add any unearned income. The resulting available income is subtracted from the needs allowance standard for the family size; the resulting adjusted grant shall be used in Step II if the grant is $10.00 or greater. If the resulting adjusted grant is less than $10.00, then there is no adjusted grant to be carried over for the computation in Step II.

3. In Step II, subtract from the gross earned income, the actual work expenses and actual child care costs; add the adjusted grant from Step I (if greater than $10.00).

4. Determine the difference between the resulting income figure from Step II and the cash assistance payment (that is, the flat grant less any unearned income) for the family.

5. The resulting difference is the net loss of cash income.

6. The following examples (Examples I and II) illustrate the calculation process.

EXAMPLE I: Calculating Net Cash Loss

Case demographics: Client + 2 children (AFDC-C); flat grant amount of $424.00; unearned income of $112.00; secures employment at $5.50/hr., 40-hour week; 1 child needs child care at a cost of $75.00/wk; $176.00 actual work expenses (FICA, taxes, etc.) per month.

Step I
Calculation of Adjusted Grant

$880.00	Gross monthly earned income
−90.00	Work expense disregard
$790.00	
−30.00	Disregard
$760.00	
−253.33	1/3 disregard
506.67	
−200.00	Child care disregard
306.67	Calculated earned income (CEI)
+112.00	Unearned income
$418.67	Available income

$424.00	Flat grant
−418.67	Available income
$ 5.33	Adjusted grant

No grant is used for Step II since it is under $10.00

Step II
Determination of Net Loss of Cash Income

$880.00	
−176.00	Actual work expenses
$704.00	
−300.00	Actual child care costs
$404.00	Income
+ 0.00	Adjusted grant from Step I (deficit)
	Step I (deficit)
$404.00	Total income from job

$424.00	Flat grant
−112.00	Unearned income
$312.00	*Cash assistance payment

$404.00 Available income from job

**No net loss of cash income exists

*Cash assistance payment is equal to the flat grant amount less any unearned income.

**No net loss of cash income exists as the income available from the job is greater than the cash assistance payment.

EXAMPLE II: Calculating Net Cash Loss

Case demographics: Client + 2 children (AFDC-C); flat grant amount of $424.00; secures employment at $5.50/hr., 40-hour week; 1 child needs child care at a cost of $390.00/month; $200.00 actual work expenses (FICA, taxes, union initiation fees) for month.

Step I
Calculation of Adjusted Grant

$880.00	Gross monthly earned income
-90.00	Work expense disregard
$790.00	
-30.00	Disregard
$760.00	
-253.33	1/3 disregard
$506.67	
-200.00	Child care disregard
306.67	Calculated earned income (CEI)
+ 0.00	Unearned income
$306.67	Available income
$424.00	Flat grant
-306.67	Available income
$117.33	Adjusted grant
$117.00	Adjusted grant

Step II
Determination of Net Loss of Cash Income

$880.00	
-200.00	Actual work expenses
$680.00	
-390.00	Actual child care costs
$290.00	
$290.00	Income
+117.00	Adjusted grant from Step I (deficit)
$407.00	Total income from job
$424.00	Flat grant
- 0.00	Unearned income
$424.00	Cash assistance payment
-407.00	Available income from job
$ 17.00	Net cash loss

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Added (d).
Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
In (b): added "... 600 Child Care Provider slots ...".
Added text at (b)1 and 2 regarding income limits and allowance standard.
In (b)3: raised work expense deduction to "$90.00" from "$75.00."
Added new subsection (e).
Administrative correction to (b).
See: 24 N.J.R. 2257(b).
Amended by R.1992 d.366, effective September 21, 1992.
See: 24 N.J.R. 2147(a), 24 N.J.R. 3345(a).
Income-budgeting option added at (b)4.

10:81–14.22 Child support enforcement

(a) General: In addition to the activities set forth in N.J.A.C. 10:81–11, the following activities related to child support enforcement shall be conducted by the State and CWAs on behalf of REACH program participants:

1. Prioritization of the child support workload, such that enforcement efforts are directed first toward absent parents of children of REACH participants, followed by the remaining AFDC cases;

2. Upward modification of existing court orders for child support; and

3. Income withholding, wherein for an established court order for payment of child support, the income of the absent parent will be subject to withholding, that is, the amount of the court-ordered child support payment will be deducted from the income and forwarded to the county probation department on behalf of the child.

4. REACH participants who have signed the Final REACH Agreement should be referred to the CWA's IV–D unit by case management for prioritization and upward modification of support orders. The referral shall be made via Form R–3, REACH Referral, or a locally developed form, on the day the REACH participant enters the identified case activity type. The referral shall include: the AFDC case number; the participant's name, the departmental client number (DCN) or date of birth or Social Security Number (SSN), and the date entering the case activity type.

(b) The activities in (a) above will be conducted in accordance with procedures established by the Division of Economic Assistance, Department of Human Services, and the Administrative Office of the Courts.

Amended by R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).
Added new (a)4.

10:81–14.23 County planning

(a) General: A county planning process, which integrates the local human services system and the local employment and training system, will be used for the REACH program. The purposes of the county planning process are to:

1. Coordinate and ensure the delivery of employment, training, education, case management and support services for REACH recipients;

2. Maximize the use of resources from various Federal, State, county and private funding sources for REACH services; and

3. Establish efficient and effective administration and decision making operations for REACH program management.

(b) Minimum county requirements: Each county is required to establish a REACH Planning Committee, appointed in accordance with established county procedures and designated as a standing committee of the County Human Services Advisory Council, and to submit a REACH County program implementation plan in accordance with deadlines established by the Department of Human Services for each county.

1. REACH Planning Committee: The purpose of the county REACH Planning Committee is to determine the most effective way to plan and organize services for REACH participants in that county.

i. Required membership: The planning committee shall, at a minimum, include the following as voting members: the Director of the County Welfare Agency, the Director of the Private Industry Council or Service Delivery Area established pursuant to the Job Training Partnership Act, the Chairperson or a designee of the County Human Services Advisory Council, a representative of the Board of Chosen Freeholders or County Executive or a designee. In addition, the planning committee shall include as non-voting ex officio members representatives of the following agencies: the Division of Economic Assistance in the Department of Human Services, the Division of Employment Services in the Department of Labor, the Bureau of Adult Education in the Department of Education, the Division of Housing and Development in the Department of Community Affairs, and the county representative of the Department of Human Services.

ii. Additional members: The planning committee may also include as voting members the following: a representative of the local community college; a representative of the county vocational school; a representative of private business or industry in the county; two or more recipients of Aid to Families with Dependent Children residing in the county, whose costs of participation in the planning committee will be reimbursed by the REACH program, in accordance with procedures established by the Division of Economic Assistance; county residents who represent the nonprofit and religious communities in the county; representatives of the lead REACH child care agency or other providers of child care in the county; and other individuals and/or organizations that the county believes would provide a valuable contribution to the REACH program planning and implementation process.

2. REACH County program implementation plan: The content and submittal of the REACH County program implementation plan shall conform to the requirements of and procedures established by the Department of Human Services. At a minimum, the plan shall:

i. Contain a needs assessment of the employment related characteristics and problems (including a target population profile), describe the proposed County REACH program structure (including a resource analysis and service delivery system that addresses employment-directed activities and support services), and describe the flow of the REACH participant through the county REACH program;

ii. Specify the arrangement and method by which employment, training, education and support services will be selected, integrated and provided to eligible applicants and participants of the REACH program in that county;

iii. Ensure that the program components reflect local needs and resources and that support services provided to REACH participants use existing local arrangements wherever possible; and

iv. Designate a county REACH Program Coordinator who will manage and coordinate the planning and implementation process.

(c) Planning and program management: Additional requirements for counties will be specified by the Department of Human Services for REACH planning and program management as follows:

1. REACH Program Coordinator: The Department will contract with the county governing body to provide an amount of funding for REACH program planning and implementation activities, with no county match required. Primarily these funds must be applied toward support of a full time REACH Program Coordinator who will be responsible for centrally managing implementation of the program and coordinating the planning process to the extent possible. Demonstration that a REACH Program Coordinator has been designated will be required for final approval of the REACH county program implementation plan (see (b)2iv above).

2. To assure that REACH services are productive in terms of reducing welfare dependency and increasing the employment and earnings of the REACH participants, the Department of Human Services will establish performance standards for the REACH program.

i. Payments of REACH monies to a county may be linked to achievement of these performance standards. Bonuses for exceeding standards and deferral of payment for failure to meet mutually agreed-upon goals will be proposed for county review and comment prior to adoption.

ii. The performance standards and goals initially negotiated by the county and the Department will be reviewed on the basis of actual experience in the REACH program and may be modified as appropriate for future program years. In the first year of the REACH program, the focus will be on payments for exemplary performance.

(d) Submittal and approval of REACH county implementation plan: Upon completion of the REACH county imple-

mentation plan by the county, the following submittal and approval process shall occur:

1. County process: At the county, the plan shall be submitted to the Private Industry Council/Service Delivery Area (PIC/SDA), County Welfare Agency (CWA), and County Human Services Advisory Council (CHSAC) for review and endorsement of the plans as consistent with respective agency goals, objectives, and service delivery plans. Signatures of the PIC/SDA Director, CWA Director, and CHSAC Chairperson are required as evidence of endorsement. The plan shall be submitted to the county governing body for review and approval, with signature of the County Freeholder Director or County Executive and freeholder resolution required as evidence of approval. The county shall provide for public input on the plan in accordance with existing county public input procedures, with confirmation of input received included in the plan. The REACH County Plan with required endorsements and approvals and required number of copies shall be submitted to the Department of Human Services in accordance with deadlines established by the Department for each county.

2. Minimum standards for REACH county implementation plans: A county is required to meet minimum standards for acceptance of its REACH county implementation plan into the review process:

i. Demonstration of both the establishment of a REACH Planning Committee with minimum membership requirements achieved and the designation of a REACH Program Coordinator;

ii. Evidence of endorsement and approval of the plan by the PIC/SDA, CWA, CHSAC and county freeholder director or county executive;

iii. Minimum required information as specified in Section IV of the REACH County Plan Guidelines; and

iv. Evidence that the specified range of employment, training, education, case management and support services will be offered to REACH participants.

3. Department of Human Services process: The review and approval process set forth below will begin upon receipt of the REACH county implementation plan by the Department of Human Services.

i. The Department will convene an interdepartmental REACH Review Committee to review and make recommendations on the REACH county implementation plan.

ii. The Committee will determine if the REACH County Plan is incomplete or does not contain adequate information for approval. For any plan determined incomplete or inadequate, the Committee may request additional information from the county, conditionally approve the plan, or formally return the plan to the county with specific instructions.

iii. After a review of the complete REACH County Plan, the Committee, will develop a recommendation as to whether approval can be granted and forward that recommendation to the Commissioner of the Department of Human Services.

iv. The Commissioner of the Department of Human Services on behalf of the REACH Review Committee will send formal notification of plan approval to the county.

Amended by R.1988 d.551, effective November 21, 1988.
See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).
Substantially amended.

10:81–14.24 Overpayments and underpayments of supportive services: child care and transportation

(a) This section applies to overpayments and underpayments of supportive services, including REACH child care benefits and post-AFDC child care benefits at N.J.A.C. 10:81–14.18, and payments for transportation and related costs at N.J.A.C. 10:81–14.19.

1. Definition of overpayment: An overpayment is a payment which exceeds the amount of REACH child care benefits, post-AFDC child care benefits or REACH transportation and related payments for which the participant or service provider was eligible.

2. Amount of overpayment: The amount of the overpayment subject to recovery is the difference between the amount actually paid to the REACH participant or service provider and the amount for which the participant or service provider was eligible.

i. If the participant was ineligible for the benefits for the period for which the service was provided, the entire amount paid is an overpayment.

ii. If the service provider was not approved by the REACH program, the entire amount paid is an overpayment.

(b) Requirement to recover overpayments: The county shall take all reasonable steps necessary to promptly correct any overpayment of REACH child care benefits, post-AFDC child care benefits and REACH transportation and related payments made to a REACH participant or service provider. Recovery shall be attempted in the following circumstances:

1. In all cases of fraud;

2. In all cases involving current recipients; and

3. In all cases where the overpayment amount would equal or exceed the costs of recovery.

(c) Method of recovery: An overpayment to a family or provider currently receiving child care or supportive service benefits shall be recovered through repayment (in part or in full) by the family or provider responsible for the overpayment, or by recovering the overpayment through a benefit reduction in the amount payable to the family or provider.

1. In recovering overpayments from an AFDC family, the family shall be permitted to retain, for any month, a reasonable amount of funds.

2. Overpayments to individuals may be recovered as follows:

i. From the family unit which was overpaid;

ii. From individuals who were members of the family when it was overpaid; or

iii. From families which include members of a previously overpaid family.

3. In cases of former recipients or recipients who refuse to repay, recovery shall be made by appropriate action under State law against the income and resources of the overpaid individual or family.

4. Recovery from benefits: Recovery of child care benefits may be made only from child care benefits, and recovery of transportation and related payments may only be made from those REACH benefits.

5. Recovery from AFDC grant: Any recoveries of overpayments of child care or transportation and related benefits may be made from the AFDC grant only upon a voluntary request of the recipient family.

(d) Offset: Underpayments and overpayments may be offset against each other in correcting incorrect payments.

(e) Recovery not required: The Department of Human Services may provide that a county need not attempt recovery of overpayments from providers if obligated to make the full payment under the contract. However, Federal financial participation may not be claimed for such overpayments.

(f) Recordkeeping requirements: Counties shall collect and maintain information on the collection of overpayments.

New Rule: R.1991 d.8, effective January 7, 1991.
See: 22 N.J.R. 2405(b), 23 N.J.R. 63(b).

Cross References

Basis for recovery of overpayments, see N.J.A.C. 10:81–4.23.

APPENDIX A

SELF-ARRANGED CARE INSPECTION AND INTERVIEW CHECKLIST

Historical Note

The appendix formerly contained rules on the Cuban Refugee Program. This appendix was repealed and recodified as N.J.A.C. 10:81-10 and were filed and became effective December 6, 1982, as R.1982 d.425. See: 14 N.J.R. 948(a), 14 N.J.R. 1397(b).

New rule, R.1988 d.551, effective November 21, 1988. See: 20 N.J.R. 2222(b), 20 N.J.R. 2916(a).

This checklist shall be used by agency conducting evaluation at a preliminary visit to home of new caregiver applicant.

Agency conducting evaluation _____

Evaluator _____ Date of Visit _____

Applicant _____

Address _____

City _____ State _____ Zip Code _____

County _____ Telephone _____

Applicant's Social Security Number _____

For office use only:
Approved:
Denied:

Referred by _____ (REACH Participant) For	(Children's Name)	(Date of Birth)	(Sex)	(Case Numbers)

Language Spoken In Home _____ Case Manager _____

A. INSPECTION CHECKLIST

Mark each item: C = compliance NC = Non-compliance NA = Not applicable

Physical environment	Compliance	Comments
1. Adequate floor space		
2. Minimum temperature 65°F		
3. Surfaces clean, in good repair		
4. Adequate ventilation		
5. Warm and cold running water available		
6. Working indoor toilets accessible		
7. Indoor and outdoor equipment sturdy, safe non-toxic, easy to clean, free of hazards		
8. Sufficient furniture and equipment for children		be provided by REACH program YES/NO
9. Working telephone in home		
10. If no working telephone in home		
i. Provider demonstrates inability to afford telephone		
ii. If able to afford telephone, provider agrees to install in 90 days		
iii. Working telephone accessible within 5 minutes at all times when enrolled children present		
II. Fire Safety		
1. Working smoke detector on each floor		
2. Lockable interior doors can be unlocked from outside		

3. Heating/cooling devices vented, protected by guards, kept clear of combustible materials		
4. Woodburning stoves have barriers, are not accessible to children		
5. Portable liquid fuel-burning appliances are not used when children are in care		
6. Stairways, hallways, exits unobstructed		
7. Electrical cords in good condition		
III. General Safety		
1. Home and furnishings present no hazard		
2. All toxic substances out of reach		
3. Non-permanent barriers on stairs, ramps, balconies, porches, elevated play areas		To be provided by REACH Program YES/NO
4. Electrical outlets accessible to children are covered		To be provided by REACH program YES/NO
5. Working flashlight available		To be provided by REACH Program YES/NO
IV. Outdoor Space		
1. Adequate, safe outdoor play area adjacent to or within walking distance of home		
V. Accidents, Injuries and Emergencies		
1. First aid supplies accessible		To be provided by REACH Program YES/NO
VI. Sanitation		
1. Individual towels and washcloths or disposable towels and washcloths		
VII. Program		
1. Safe toys, play equipment, creative materials for ages, interests, and number of children		
2. Materials for preschoolers include:		
i. Dramatic play/language development		
ii. Visual/small muscle development		
iii. Auditory development		
iv. Creative expression		
v. Large muscle development		
VIII. Rest and sleep		
1. Daily rest/sleep for each child in clean, safe area according to needs		
2. Children under 18 months/non-walkers sleep in crib, playpen, cot, bed with rails, or floor mat 1" thick		To be provided by REACH Program YES/NO
3. Crib and playpen slats no more than 2 3/8" apart		
4. Drinking water available?		

B. STANDARD INTERVIEW PROCEDURE

Name	Relationship to Caregiver	Sex	Date of Birth

Other Children Living in Home

Name	Relationship to Caregiver	Sex	Date of Birth

QUESTION	RESPONSE
1. Are you over 18 years of age?	
2. What other adults and/or children will be in your home during the time the REACH children are in your care? What type of contact will they have with the REACH children?	
3. How long can you provide the day care? (Days/weeks/months).	
4. Full time?/Part time?	
5. Holidays?/Summers?	
6. Have you ever been convicted of a crime? If yes, explain. (Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as a caregiver. Such determination shall be made on a case by case basis.)	
7. Do you have any illnesses or medical conditions that would prevent you from providing child care services?	
8. Based on compliance with the policy outlined above, are you willing to provide day care to the child, children of the REACH client?	
9. Have you had other experiences in working with children? Describe.	
10. What methods of discipline will you use with the REACH child in your care?	
11. How will you handle medical emergencies if you or the REACH child should get sick during the hours child care is being provided?	
12. Who, other than the REACH child's parent, will be able to pick-up the child at the end of the day? Do you have a telephone number in order to contact this person?	
13. What arrangements have been made to provide nutritious meals to the REACH child/children in your care?	

C. OBSERVATIONS

1. Describe the applicant's home in relation to assessing their home management skills.

_____

_____

_____

2. Have you observed any condition or situation that would cause you to deny this applicant?
If yes, explain:

_____

_____

_____

3. If applicant is being approved for child care, has emergency card been provided?

_____

_____

_____

For evaluator only: (check)

Home Approved _____

Home Denied _____ Reason _____

Date: _____ Evaluator's signature _____

APPENDIX B

AGREEMENT OF COOPERATION

Between

The Division of Vocational Rehabilitation Services

Department of Labor and Industry

and

The Divisions of Public Welfare and
Youth and Family Services

Department of Institution and Agencies

PURPOSE

It shall be the joint and common purpose of the three agencies to work together to improve and coordinate the services within the function of each agency to the end that all needy, disabled and handicapped persons who are present in the State and who may benefit in terms of employability shall be afforded the opportunity to reach the highest possible level of self-dependence through the cure, correction or amelioration of their disabling conditions.

In order to achieve this common purpose the New Jersey Division of Vocational Rehabilitation Services and the Divisions of Public Welfare and Youth and Family Services agree to:

1. Clearly identify the specific responsibilities of each agency in respect to providing to eligible persons maintenance costs, social and related services, so that there is at all times a mutual understanding in planning for the utilization of services for the individual clients, and in order that there shall be no duplication of the assistance, goods or services to be provided.

2. Mutually recognize and give full consideration to the standards established by each agency for the determination of financial and service needs of clients, and each agency to make copies of such standards available to the other.

3. Jointly develop procedures for inter-agency referral and follow-up of clients applying for assistance or services.

4. Provide for the initial and continuing exchange of information pertinent to the planning for and progress of an individual client, through written reports, exchange of case record material, including all medical reports, and joint case conferences between agency staff members.

5. Develop and carry out plans for joint staff training to equip staff with knowledge and increased understanding of the functions, policy and procedures of the three agencies in achieving the common goal of rehabilitation of disabled, needy persons.

6. Protect the rights of the individual clients and the mutual interest of the respective agencies by adherence to the principle of confidentiality of information by:

a. Securing the written consent of the client prior to the release of any information for publication.

b. Review and approval by the agencies of any publicity releases, involving identification of clients known to the agencies, prior to release for publication.

c. Securing written consent of the client prior to the release of any case information to the other agencies.

7. Advise and confer with each other when contemplated or accomplished changes in the policy, procedure or laws governing the respective programs have direct or indirect bearing on the provision of assistance or services to disabled needy persons, or on the eligibility of persons for the services of any of the agencies.

8. The designation by each agency of one or more State staff member(s) who shall be responsible for maintaining a close working relationship among the agencies and shall have responsibility for the continuing review and evaluation of the effectiveness of the operation of this cooperative agreement.

AGENCY FUNCTIONS—GENERAL UNDERSTANDING

Division of Vocational Rehabilitation Services

By law the Division of Vocational Rehabilitation Services (DVRS) is responsible for providing vocational rehabilitation services to any physically or mentally handicapped individual, excepting blind persons under the care of the State Commission for the Blind and Visually Impaired, the deaf persons under the care of the Marie H. Katzenbach School for the Deaf, and persons, who in the judgment of the DVRS, are not feasible for vocational rehabilitation services. The law defines a "handicapped individual" as:

"... any individual (1) who has a physical or mental disability, and (2) who has a substantial handicap to employment, and (3) who is expected to benefit in terms of employability from the provision of vocational rehabilitation services or for whom an extended evaluation of rehabilitation is necessary for the purpose of determining whether he may benefit in terms of employability from the provision of rehabilitation services."

"Employability refers to a determination that the provision of vocational service is likely to enable an individual to enter employment consistent with his capacities and abilities in the competitive labor market; practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; and home bound employment or other gainful work."

The law authorizes the DVRS "To cooperate with and utilize the services of the State agency or agencies administering the State's Public Assistance program ... and other

public and private agencies providing services related to vocational rehabilitation . . .".

The DVRS is responsible for determination of the eligibility of persons for vocational rehabilitation and of the nature and scope of the rehabilitation services to be provided; and such responsibility will not be delegated to any other agency or individual.

Division of Public Welfare

The Division of Public Welfare, through its administering units, is responsible for the determination of the eligibility of persons for public assistance; and such responsibility will not be delegated to any other agency or individual not of the staffs of the Division of Welfare or its administering units.

The Division of Public Welfare (DPW) has been designated as the Departmental unit charged with the administrative supervision of the several public assistance programs, including Medical Assistance for the Aged, Medicaid Only, Assistance to Families with Dependent Children, Assistance to Families of the Working Poor, Cuban Refugee Assistance, general assistance and other related public assistance programs and services.

Division of Youth and Family Services

The Division of Youth and Family Services (DYFS) has been designated as the Departmental unit charged with the administrative supervision of public welfare service programs including those related to Supplemental Security income, Medical Assistance to the Aged, Medicaid only, Assistance to Families with Dependent Children, Assistance to Families of the Working Poor, Cuban Refugee Assistance, and for the child welfare programs.

The Division of Youth and Family Services is responsible for directly supervising and assuring that proper program implementation is carried out by the State, county and municipal units charged with service delivery, and for seeing that all human services are available, accessible, and provided with reasonable promptness to all eligible persons needing them and on an equitable basis.

CLIENT'S RIGHT OF APPEAL AND HEARING

Division of Vocational Rehabilitation Services

By law any individual applying for or receiving vocational rehabilitation services who is aggrieved by any action or inaction of the DVRS is entitled to a hearing by the DVRS in accordance with regulations established by the DVRS.

Division of Public Welfare

The laws governing Assistance for Families with Dependent Children, Medical Assistance for the Aged, Medicaid Only, Assistance to Families of the Working Poor and Cuban Refugee Assistance provide that any applicant for or recipient of assistance who is dissatisfied with the decision made by or the inaction of the administering agency has the right of appeal and fair hearing. Specific regulations have been established to carry out the Department's responsibility in this area.

In general assistance, State regulations charge the local assistance boards with responsibility for review and action on written complaints submitted to them by dissatisfied applicants and recipients.

Division of Youth and Family Services

Provision has been made for a system of appeals and fair hearings, and for the presentation of grievances, with respect to the service programs for families and children, and for the aged, blind, or disabled whereby applicants or recipients can appeal, among others:

1. denial or exclusion from a service
2. failure to take account of recipient's choice of service
3. determination that the individual must participate in the service program.

The Division of Vocational Rehabilitation Services of the Department of Labor and Industry, the Division of Public Welfare and the Division of Youth and Family Services of the Department of Institutions and Agencies having revised this agreement and the necessary supplementary instructions covering operational details of policy and procedure filed as part of the original agreement executed June 1956, and such revision having been mutually agreed upon and approved, are filed as part of this agreement.

It is further agreed by the Division of Vocational Rehabilitation Services of the Department of Labor and Industry, the Divisions of Public Welfare and Youth and Family Services of the Department of Institutions and Agencies that this cooperative agreement and any jointly developed or mutually agreed upon written instructions on specific policy and procedure are subject to joint review for revision or amendment upon the request of any of the agencies.

STATEMENT OF NONDISCRIMINATION

Pursuant to Title VI of the Civil Rights Act of 1964, no person in the United States will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the program of the Division of Vocational Rehabilitation Services, Public Welfare, and Youth and Family Services of the State of New Jersey on the grounds of race, color or national origin.

Date: 9/16/74 (legal signature)

Arthur J. Sinclair
Director, Division of Vocational Rehabilitation Services
New Jersey Department of Labor and Industry

Date: 9/20/74 (legal signature)
G. Thomas Riti
Director, Division of Public Welfare
New Jersey Department of Institutions and Agencies

Date:
James G. Kagen
Director, Division of Youth and Family Services
New Jersey Department of Institutions and Agencies

SUPPLEMENTARY STATEMENT

To

AGREEMENT OF COOPERATION

Between

The Division of Vocational Rehabilitation Services

Department of Labor and Industry

And

The Divisions of Public Welfare and Youth and Family Services

Department of Institutions and Agencies

INTRODUCTION

The common objective of vocational rehabilitation and public welfare is to help disabled clients to reach the highest possible level of self-help and economic independence. By working together, public welfare and rehabilitation agencies can increase their effectiveness in serving clients.

The effectiveness of interagency cooperation depends largely on the people who do the agencies' work. To work together constructively they must know each other, must have general knowledge of the basic functions of the respective agencies, and must have instructions regarding the policy and procedures agreed upon by the several agencies to correlate assistance and services.

This statement sets forth the operational detail of policy and procedure necessary to provide effective joint service to needy disabled clients in fulfillment of the terms of the Agreement of Cooperation, and shall be mandatory upon the several agencies.

DEFINITION OF TERMS

As used in this statement the following terms shall be understood to mean:

DVRS—Division of Vocational Rehabilitation Services

Counselor—A rehabilitation counselor of the DVRS

Public Welfare Agency—District offices of the Division of Youth and Family Services (DYFS), county welfare boards (CWB), Department of Municipal Welfare (DMW).

Staff Member—An official representative of the public welfare agency.

Client—A general term referring to an applicant for or recipient of financial assistance or service from the public welfare agency of the DVRS.

A. PROVISIONS TO ASSURE NO DUPLICATION OF ASSISTANCE AND SERVICES

In order to assure that there shall be no duplication of funds, goods or services in providing for the maintenance and medical care needs of public welfare clients who are accepted for rehabilitation services by the DVRS, it shall be understood that:

1. Determination of financial eligibility (economic need)

Eligibility for public assistance in respect to financial need will be determined by the standards provided by the Division of Public Welfare.

Eligibility for Supplemental Security Income (SSI) will be determined by the standards provided by the Social Security Administration.

Determination that an individual, who is accepted for rehabilitation services by the DVRS, is eligible to have the costs of such services defrayed by the DVRS shall be based upon the section of the Manual of Policies and Procedures of the New Jersey Division of Vocational Rehabilitation Services dealing with determination of economic needs.

2. Determination of service eligibility

Eligibility for public welfare services for families and children and for the aged, blind and disabled will be determined by standards provided by the Division of Youth and Family Services, based upon the New Jersey State Social Service Plan.

3. Allocation of responsibility for costs

The allocation of responsibility for costs as between the DVRS and the public welfare agency shall be based on the following general principles:

Public welfare will provide funds for basic essentials of living to persons who qualify under State or Federal standards, and the DVRS will provide for all other costs essential to the rehabilitation plan of individuals under State rehabilitation policies.

It is necessary, however, to particularize responsibility in relation to certain specific situations and conditions.

4. Responsibility for costs (other than medical)

a. Client continues to live in customary shelter arrangement

When a client continues to live in his customary shelter arrangement (that is, own or rented home, with relatives, or in a boarding home arrangement) while receiving rehabilitation services from the DVRS, responsibility for costs shall be as follows:

(1) The public welfare agency or Social Security Administration (SSI) shall provide for all items of maintenance (basic requirements) for which the client is eligible by agency standards, and authorized special service needs not directly resulting from the costs of rehabilitation services.

(2) When a client must leave his home to go to treatment or training facilities, medical or vocational examinations, counseling interviews, and so forth, the DVRS shall be responsible for any transportation costs and any other special requirements that arise solely because of the nature of the rehabilitation program for the particular client (for example, restaurant meals while attending school or training center).

b. Client placed in institutional facility by the DVRS

When, as part of the rehabilitation program, the DVRS arranges for the client to be an inpatient or resident trainee in a medical or special rehabilitation facility for treatment and/or training.

(1) The DVRS shall be responsible, whether through its own services or through cooperative arrangements with other agencies, for all costs of client's board, care, medical services and training, and any necessary transportation costs to the facility upon admission and from the facility upon discharge.

(2) The public welfare agency shall provide for personal incidentals, clothing, and any other authorized special service needs for which the client is eligible under agency regulations while living away from his customary home for a temporary period.

c. Mutual determination of responsibility necessary

In respect to the situations described in a. and b., the individual responsibilities of the agencies concerned must be mutually determined in each case because of the variety of arrangements which will occur. Clients may have special needs in certain circumstances in which agency responsibility must be specifically determined.

A written statement covering the determination of responsibility for all basic and special needs shall be prepared by each agency and filed in the case record.

5. Responsibility for medical care costs

a. Diagnosis and physical restoration

The DVRS shall be responsible for all costs related to medical and vocational evaluation incident to determination of eligibility for vocational rehabilitation, and all indicated physical restorative measures, including medical treatment, prosthetics, appliances, and so forth, in accordance with regulations of the DVRS.

It is understood that in discharging such responsibility the DVRS will rely on and take into account the extent to which such costs may be paid by the Medicaid program or other health insurance programs for which the individual has eligibility.

b. Temporary and acute illness or condition

When, subsequent to acceptance for rehabilitation services, a client becomes ill or develops a condition requiring medical care in addition to the services necessary to the rehabilitation program, the DVRS shall evaluate the effect of the illness on client's rehabilitation program. If the DVRS decides that the illness or condition is transitory and that the program may be continued, then responsibility for the additional medical care shall be assumed as follows:

(1) When the public welfare agency (CWB and/or SSA/DO, DYFS/DO) is making allowances for any maintenance needs, then the costs of medical care shall be met in accordance with such client's eligibility under the Medicaid program.

(2) When the municipal welfare department is making allowances for maintenance needs through the general assistance program, then the costs of medical care may be met by that agency.

(3) If the client requires such care for more than 30 days the DVRS shall reevaluate the situation and decide whether:

a. The client should continue in active status on the rehabilitation program; or

b. The program should be temporarily suspended and the public welfare agency requested to assume total responsibility during convalescence of the client; or

c. The rehabilitation services should be terminated and the case closed.

B. REFERRAL PROCEDURES

Clients will be referred by DVRS and the appropriate public welfare agency so that the service program of each agency is made available to meet the client's service needs. The client should be involved in the service plan prior to the referral. An interpretation of the resources of the receiving agency, and assistance, as necessary, in the arrangement for services should be provided to the client.

If the client does not communicate with the receiving agency by the indicated date on the referral forms (PA 13, PA 14, IM 2), where practical, it is incumbent upon that agency to provide outreach activities to the client in an effort to bring about a personal contact.

In the event these efforts are not successful, the referring agency should be so notified by the return of the bottom half of the forms.

1. Public welfare referrals to DVRS

a. Source of referrals to DVRS by program

In general, the public welfare agency currently providing assistance or services will be responsible for referrals to the DVRS. It is necessary, however, to specifically allocate responsibility to cover situations where the client is known concurrently to more than one public welfare agency. The following procedures shall be observed:

(1) General assistance

The municipal welfare departments will be responsible for referral of disabled GA clients to the DVRS for consideration of eligibility for rehabilitation services.

(2) Programs of the Bureau of Family Services of the Division of Youth and Family Services

The DYFS will refer to the DVRS, disabled children and parents who are under protective services care or guardianship programs and who may be eligible for services from the DVRS.

(3) Medicaid Only cases

(a) The county welfare boards shall be responsible for referral of appropriate applicants for or recipients of Medicaid Only regardless of whether Medicaid Only is granted, denied or the application withdrawn.

(b) In any case in which an applicant being referred to the DVRS is one who has been referred to a county welfare board for Medicaid Only by another welfare agency, the county welfare board shall transmit a copy of form PA–13 to such agency as notice of referral to the DVRS.

(c) Explanation of county welfare board procedure

In Medicaid Only applications the county welfare board must (in addition to establishing need, residence, and so forth) submit to the Division of Public Welfare, Bureau of Medical Affairs, medical and social information for determination that the applicant is permanently and totally disabled. The Bureau of Medical Affairs makes this determination, makes recommendations regarding medical care, social problems, and for referrals to the DVRS and other community resources.

The findings and recommendations of the Bureau of Medical Affairs must be received by the county welfare board before official action is taken to grant or deny Medicaid Only (except for situations described in (e) below).

There may be an occasional case in which the county welfare board questions the advisability of referral for rehabilitation services when recommended by the Bureau of Medical Affairs. When this occurs the welfare board will consult the Bureau of Medical Affairs prior to referral. Conversely, if this Bureau has not recommended referral for rehabilitation services for a client, the county welfare board may itself decide that referral is in order on the basis of staff opinion.

(d) Cases reviewed by Bureau of Medical Affairs

In making referrals to the DVRS the county welfare board shall indicate on form PA–13 under MAJOR DISABILITY whether the case has been "approved" or "disapproved" by the Bureau of Medical Affairs.

Referrals by the DVRS to public welfare agencies shall be made by use of form PA–14, Inter–Agency Referral (Available on order from the Bureau of State Use).

b. Referrals to county welfare boards

If the person appears to be in need of funds for maintenance or services for himself/herself and/or dependents, including child care, and appears to be eligible for a form of public assistance administered by the county welfare board, a referral shall be made by DVRS.

c. Referral to municipal welfare department or Social Security district office

If the person appears to be in need of funds for maintenance for himself/herself and/or spouse (no minor children at home) and there does not appear to be any possibility whatever of eligibility for any form of financial assistance from the county welfare board, he/she shall be instructed how to apply to a municipal welfare department for general assistance or to the Social Security district office for supplemental security income.

d. Referral to district office of the Division of Youth and Family Services

In the event that the person applying to the DVRS appears to be in need of services, including child care for minor children in his or her care, and there does not appear to be eligibility for county welfare board administered program, referral shall be made to the appropriate district office of DYFS for services and payment of services that are needed.

4. Acknowledgement of referrals by public welfare agencies

Upon receipt of form PA–14 from the DVRS, the public welfare agency shall complete the acknowledgment section, detach and return it to the referring agency.

If the public welfare agency is unable to make contact with the client by the indicated date, the tear sheet portion of form PA–14 shall be completed as appropriate and returned to the district office of the DVRS which sent the referral.

C. FOLLOW–UP AND EXCHANGE OF INFORMATION

1. Agency relationship following referral to DVRS

(e) Cases not reviewed by Bureau of Medical Affairs

There will be some persons applying for Medicaid Only whom the county welfare board wishes to refer for consideration for rehabilitation services whose applications have not been submitted to the Bureau of Medical Affairs.

Such referrals will be limited to applications which are withdrawn, or in which it has been determined that the client is ineligible for reasons other than the disability or blindness factor (for example, not in economic need, and so forth) prior to submission of the record to the State Bureau of Medical Affairs.

In any such case the county welfare board shall note on the reverse of form PA–13 that the disability or blindness factor has been evaluated by the Bureau of Medical Affairs, and the reason for the withdrawal or denial of the application.

(4) Assistance to families with dependent children

(a) The county welfare boards will be responsible for referral of all parents of children over 16 years of age who are exempt from WIN Registration because they have been determined to be incapacitated whether or not they may elect to volunteer for WIN.

(b) The county welfare board may refer other incapacitated AFDC clients as appropriate.

(5) Medical Assistance to the Aged and Cuban Refugee program

The county welfare boards will refer to the DVRS certain CRA or MAA clients who appear to have potentiality for rehabilitation, or who have previously been known to the DVRS and need further services, or who it is believed should be recommended for service.

b. Interpretation to client

All voluntary and mandatory referrals to the DVRS by the public welfare agency should be discussed with the client prior to referral. He/she should be offered necessary assistance in follow-up arrangements. He/she shall be informed in general terms of the opportunities available through DVRS.

The client shall be given DVRS' information pamphlet(s) as part of his/her preparation for the referral. A supply of these pamphlets is available from the DVRS.

c. Method of Referral (form PA–13 or IM–2)

Referrals of public welfare clients other than recipients of AFDC to the DVRS shall be made by use of form PA–13. "Referral for Rehabilitation Services", accompanied by completed form DVR–5—"Application for Vocational Rehabilitation Services".

All recipients under the AFDC program who are exempt from registration because they have been determined to be incapacitated, whether or not they elect to volunteer for WIN, should be made on the IM–2—"IM Referral to Vocational Rehabilitation".

The PA–13 form is available on order from the Bureau of State Use. The DVR–5 form is available from the local offices of the DVRS. The IM–2 form is duplicated by the county welfare board.

d. Where to refer

Form PA–13, IM–2 and DVR–5 shall be sent to the district office of the DVRS serving the area in which the client lives.

2. Acknowledgement of referrals by DVRS; application

Upon receipt of form PA–13 or IM–2 the DVRS will complete the acknowledgement section, detach and return it to the referring agency.

The district supervisor or his designee shall have the referral application recorded. If the client does not communicate with DVRS within the specified time, the counselor will provide the necessary outreach activities to the referred client in an effort to bring about a personal contact. If these efforts are not successful, the counselor will inform the appropriate public welfare staff member for appropriate action keeping the referral in pending status.

3. DVRS referrals to public welfare agencies

There will be instances in which disabled persons will apply to the DVRS direct, or be referred by agencies or institutions other than public welfare agencies, and appear to be in need of public assistance or welfare services.

a. Method of Referral (form PA–14)

b. General explanation

Following registration and acknowledgement of a referral from a public welfare agency on PA–13 or IM–2, an assignment to a rehabilitation counselor, the DVRS' working relationship will be with the agency(s) currently providing assistance or services to the client.

c. Counselor-agency consultation

(1) Initial

Following assignment, the counselor will promptly arrange for consultation with a staff member of the referring agency prior to his initial interview with the client.

Consultation will cover:

(a) The client's social situation.

(b) His/her attitude toward his/her disability and the referral for rehabilitation services.

(c) Review of pertinent medical and social information in the case record and request for copies of selected reports.

(d) Clear understanding of the responsibility each is to carry if the client is accepted for rehabilitation.

The counselor and staff member should consider whether a joint interview with the client in the office or home is indicated or advisable either initially or at a later date. It provides an opportunity to clarify for the client the functions of the involved agencies and in helping him/her understand the extent of his/her responsibility.

(2) Follow-up

The counselor and staff member will consult with each other freely and as frequently as necessary throughout the period of joint service to the client to assure that the most effective methods are being used for continuous mutual evaluation of the client's progress and for consideration of change of plan when indicated.

c. Notification and reports

(1) DVRS to referral agency

There shall be free sharing of the information on file with the DVRS and the referral agencies upon the request of either.

Accepted cases

In accepted cases the notification shall include:

(1) The beginning date of responsibility for services.

(2) The specific items of maintenance, medical and other service costs for which the DVRS accepts responsibility.

(3) A brief statement of the plan for treatment and/or training for the client; and the approximate length of time necessary to complete the plan.

Rejected cases

In rejected cases the notification shall:

(1) Explain the basis for rejection;

(2) Recommend other available sources of services which might be used to help the client with his/her problem; and

(3) Include any medical findings or recommendations pertinent to the client's continuing medical (including psychiatric) care.

Notification on rejected cases shall be sent to the agency currently providing assistance or services, and to any agency with which there is a pending application for assistance or services, and to the agency which initiated the referral if not referred by either of the aforementioned.

Upon receipt of notification of rejection of an applicant for vocational rehabilitation services, should any of the aforementioned agencies have pertinent information to further support the applicant's claim of eligibility for such services, that agency representative should immediately confer with the appropriate representative of the DVRS.

Case closings

Any change in case status including

(1) Cases closed without completion of program, and summary statement of the reasons therefore; and

(2) Cases closed at completion of program and evaluation of the client's adjustment, and specific data on job placement, and so forth.

(In accord with the policy of the DVRS, the case will not be closed following job placement for at least 30 days.)

Open (active cases)

In open (currently active) cases the DVRS shall forward to the referral agency two copies of a progress report, at not less than six-month intervals, covering:

(1) How the rehabilitation program is progressing.

(2) Any program modification which has been necessary.

(3) An estimate of approximate date of completion of program.

(4) Request for consultation with agency personnel for joint evaluation and further planning as indicated.

Job placement report

When a job placement is made by the DVRS or obtained by the client, the Bureau of Medical Affairs will then determine medical eligibility for continued financial assistance. The Bureau will evaluate whether the employment is a "useful occupation" and whether the recipient is capable of "substantially gainful employment" in accordance with the

criteria set forth in the Public Assistance Manual. When a recipient has been determined capable of unlimited employment, public assistance payment may continue for one month beyond the month in which such determination is made.

(2) Welfare agency to DVRS

Throughout the period that the two agencies are jointly working with the client, the public welfare agency shall keep the DVRS informed by written notice of

(a) Receipt of referral from DVRS (by returning tear sheet on form PA–14); and

(b) Decision on eligibility for public assistance or services when determination is made subsequent to return of tear sheet on form PA–14, changes in case status, and reports on active cases;

(c) Any change in policy, procedure or allowances which affect the case;

(d) Any significant change in client's social situation which affects the rehabilitation plan.

D. STATE LIAISON REPRESENTATIVES AND AGREEMENT EVALUATION COMMITTEE

The State Divisions of Vocational Rehabilitation Services, Public Welfare and Youth and Family Services have appointed liaison representatives who have responsibility for clarification of policies and procedures, and review of case decision disagreements between a district office of the DVRS and a public welfare agency.

The Agreement Evaluation Committee will have responsibility for continuing review and evaluation of the effectiveness of the joint policies and procedures and for recommending changes to the State agency executives when necessary. This committee will be comprised of the State liaison representatives and at least one additional representative from a district office of the DVRS, a district office of DYFS, and a county welfare board.

E. PROGRAM FOR JOINT ORIENTATION AND STAFF TRAINING

Purpose

Activities shall be specifically planned to bring together at both the State and local level, the staff of the DVRS and of the several public welfare agencies for the purpose of increasing the understanding of the functions, goals and methods of the agencies in working together effectively to achieve the rehabilitation of disabled needy persons.

Content

The focus of such activities shall be on the basic philosophy and concept of using the services of public agencies to protect, conserve and develop human resources by recognizing the potential capacity of all individuals however handicapped.

Specific help should be given on effective methods of joint planning by staff and of working with handicapped persons. It is recommended that medical and medical-social work personnel be called on to provide staff with some insight into the effect of disease and disability on personality, the attitudes and reactions which may be considered normal in these persons, and how to help such a client focus on his/her residual strengths rather than on his/her incapacities.

Opportunity should be provided for staff to learn about the services available in related fields such as employment counseling, homemaker service, public health services, psychology, and the various State affiliates of national health groups, and so forth.

Except in its initial sessions the time devoted joint staff training should not be used to instruct staff on specifics of the inter-agency procedures already provided in written form. Responsibility for instruction in this area should rest with the individual agencies. Questions and problems arising in local agencies should be referred to the respective State agencies, which, when necessary or advisable, will refer them to the appointed liaison representatives for discussion and recommended action.

Responsibility for planning joint orientation and training.

Planning joint orientation and training activities shall be the responsibility of the welfare liaison in the DVRS, the Chief Training Officer of the DPW, the Administrator of the Staff Development and Training Unit of the DYFS, and any other appropriate agency, that is, Division of Medical Assistance and Health Services.

In addition, on a local level, supervisory representatives of the agencies may arrange for joint training sessions subject to the approval of the above respective Division representatives.

APPENDIX C

LIST OF FORMS IDENTIFIED AT N.J.A.C. 10:81

Form No.	Issuance or Latest Revision Date (If Applicable)	Title
AR–3a		Alien Registration Receipt (Although listed, only used during 1941–1949)
CSP–109	Rev. 5/79	Application for IRS Collection of Child Support
CSP–111	1/77	Application for Non–Public Assistance Child Support and Paternity Service
CSP–122	11/79	Request for IRS Master File Information
CSP–123	11/79	Request for IRS Return Information
CSP–151	Rev. 6/89	Batch Transmittal Tax Refund Offset
CSP–152	Rev. 6/89	N.J. CSP Programs—Tax Refund Offset Data Form
CSP–166	6/86	Consumer Credit Request
CSP–167	6/86	Credit Report
CSP–169	6/86	Hearing Request
DRS–1	Rev. 8/89	Examining Physician's Report
DRS–1A	Rev. 8/89	Report of Eye Examination
DRS–2	Rev. 4/89	Medical–Social Information Report
DRS–2A	Rev. 4/89	Interim Medical–Social Report
DRS–5	Rev. 4/89	Cases for Medical Review Team Reevaluation Due During the Month of _____
DRS–8	Rev. 4/89	Report of Findings by Psychiatric Diagnostic Group
ED–6 (changed to CR–AA–0005)	2/85	Request and Authorization for Records Disposal
Form 105 A & B	Rev. 6/88	System Input Documents
FSP–903		Identification Card
G–845	Rev. 4/26/88	U.S. Department of Justice Immigration and Naturalization Service—Document Verification Request
I–94		Arrival–Departure Record (INS Form)
I–151		Alien Registration Receipt (INS Form)
I–181		Temporary Identification (INS Form)
I–327		Re-entry Permit (INS Form)
I–551		Resident Alien Card for Permanent Aliens (INS Form)
I–571		Refugee Travel Document (INS Form)
I–688		Temporary Resident Card, Department of Justice, INS
I–688A		Employment Authorization Card, Department of Justice, INS
I–689		Fee Receipt Form (Issued under amnesty and special agricultural programs, (SAW))
IRS–1040X		Federal Income Tax Form
MAP–1		Medicaid Status File Transaction
MAP–16		Temporary Identification and Validation of Eligibility
NJES–1A	Rev. 10/90	Interagency Information Report (Department of Labor Form)
NJES–506		Registration ID
OS 546–01		URESA Action Request
PA–1C	Rev. 7/89	Public Assistance Inquiry
* PA–1J	Rev. 10/89	Application and Affidavit for Public Assistance
PA–3A	Rev. 5/83	Worksheet and Authorization for Public Assistance
PA–8 (DRS–3)	Rev. 4/89	Record of Action: Medical Eligibility Factor
PA–10D	Rev. 7/86 (Pg. 1 of 2) Rev. 4/86 (Pg. 2 of 2)	Agreement to Repay (AFDC only)
PA–11	Rev. 11/86	Mortuary Affidavit (and Petition for Payment)
PA–12	Rev. 11/68	Referral by State Mental Institution to Public Assistance Agency
PA–14	Rev. 7/78	Referral for Services
* PA–15	Rev. 3/88 (pp. 1–2 & 4–5) Rev. 5/88 (pg. 3) Rev. 11/89 (pg. 3a)	Notification Form
PA–17B	Rev. 10/75	Notice to State Correctional Institution (AFDC Case)
PA–17C	Rev. 12/74	Notice of CWA Action on AFDC Cases
PA–22	3/83	Employment Criteria for AFDC–F Families
PA–24	Rev. 7/89	Verification of Unemployment/Disability Insurance
PA–30	Rev. 1/90	Authorization for Reimbursement of Initial SSI Payment or Initial Post Eligibility Payment (PA–30) AFDC–N
PA–30a	11/78	Agreement to Repay Assistance from Initial SSI Payment
PA–31	Rev. 1/90	Repayment of Interim Assistance Authorization (PA–31) AFDC–N Segment Assistance
PA–33	Rev. 4/90	Investigation Initiation Sheet
PA–34	Rev. 5/80	Investigation Disposition Sheet
* PA–45	3/77	Warning and Waiver of Rights
* PA–46	1/79	Requirement to Cooperate and Right to Claim Good Cause for Refusal to Cooperate in Child Support Enforcement
* PA–47	1/79	Second Notice to Client—Right to Claim Good Cause for Refusal to Cooperate in Child Support Enforcement
PA–48	Rev. 2/80	Summary of Good Cause Claims
PA–48A	2/80	Semiannual Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support
PA–54	2/83	Refugee Program—Interagency Referral
PA–55	11/88	County Welfare Agency Alien Referral to Social Security (SSA) District Office for Social Security Number Application
PA–59A	Rev. 4/89	Request for Voluntary Restricted Payments
PA–59B	Rev. 4/89	Request to Discontinue Voluntary Restricted Payment
PA–196	3/80	Fair Hearings in the Aid to Families with Dependent Children Program (AFDC)
* PA–197	1/80	Your Rights and Responsibilities in the AFDC Program
* R–3	Rev. 9/90	REACH Referral Form
R–3A	No date	REACH Referral to IM (SG)
R–7	Rev. 9/90	Record of Application of Sanction Procedures
* R–8	Rev. 10/89	Second Referral Notice (SG)
R–8A	Rev. 9/90	Conference Letter
* R–10	8/88	REACH Benefit Letter
R–15	8/90	REACH Sanction Reminder Notice
R–20	Rev. 3/90	Notification of REACH Post–AFDC Child Care Fee

Form No.	Issuance or Latest Revision Date (If Applicable)	Title
SS-5	9/89	Application for a Social Security Number Card
SSA-1610		Public Assistance Agency Information Sheet
SSA-1610-U2		Social Security—Public Assistance Agency Request for Information
SSA-8125		SSI Notice of Interim Assistance Reimbursement Eligibility and Accountability Report
W-2		Wage and Tax Statement
WD-1A	Rev. 4/75	A Statement Concerning Obligations of Vendors Under the Civil Rights Act of 1964
WD-1B	Rev. 3/90	A Statement Concerning Obligations of Personnel of Public Assistance Agencies Under the Civil Rights Act of 1964 and the Federal Rehabilitation Act of 1973

* Forms available in English and Spanish
(SG) —Systems Generated

Updated by Notice at 16 N.J.R. 162(a), January 17, 1984.
Updated by Notice at 23 N.J.R. 3029(a), October 7, 1991.

APPENDIX D

FORM R-22

NOTICE OF TERMINATION OF REACH CHILD CARE SUPPORT AGREEMENT.

Participant _____ Our # _____

Date _____

Provider _____ (Fee required)

Provider _____ (Fee required)

Dear _____:

1. On _____ the REACH Program was notified that you failed to pay the required child care fee(s) for the following child care service periods to the provider(s) listed above:

Date _____ Date _____

Date _____ Date _____

Date _____ Date _____

2. EFFECTIVE _____ ALL YOUR REACH CHILD CARE SUPPORT AGREEMENTS FOR CHILD(REN) _____

WILL BE TERMINATED AND NO FURTHER CHILD CARE BENEFITS WILL BE PAID TO ANY OF YOUR CHILD CARE PROVIDERS INCLUDING THOSE LISTED ABOVE FOR WHOM A FEE IS PAID AND THOSE LISTED BELOW FOR WHOM A FEE IS NOT PAID.

3. If you have already paid the overdue child care fee(s), the child care provider(s) for whom a fee is due should contact the REACH Program immediately. We urge you to pay the required child care fee when due.

4. You have the right to a Fair Hearing if you disagree with this decision.

5. If you have any questions or if you wish to request a Fair Hearing, please call _____.

Very truly yours,

_____
CASE MANAGER

cc: Other Provider (No fee required)

New Rule, R.1990 d.340, effective July 2, 1990.
See: 22 N.J.R. 1054(a), 22 N.J.R. 2010(a).

Appendix Historical Note

Appendix D formerly contained rules entitled "Child Support and Paternity Program", originally adopted pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, and filed June 25, 1975 as R.1975 d.180 to become effective July 1, 1975. See: 7 N.J.R. 329(d). Revisions were filed July 23, 1975, as R.1975 d.108 to become effective August 1, 1975. See: 7 N.J.R. 365(b). Revisions were filed on August 22, 1977, as R.1977 d.307 to become effective on September 1, 1977. See: 9 N.J.R. 90(a), 9 N.J.R. 435(b). Appendix D was repealed by R.1984 d.147 and new rules concerning "Child Support and Paternity" were adopted at N.J.A.C. 10:81-11, effective April 16, 1984. See: 16 N.J.R. 328(a), 16 N.J.R. 898(a).