

**CHAPTER 87**  
**FOOD STAMP MANUAL**

**Authority**

N.J.S.A. 30:4B-2, 7 CFR Parts 271, 272, 273, 274, 275, and 278; and the Americans with Disabilities Act (P.L. 101-336).

**Source and Effective Date**

R.1994 d.42, effective December 21, 1993.  
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 87, Food Stamp Manual, expires on December 21, 1998.

**Chapter Historical Note**

Chapter 87, Food Stamp Manual, was filed as R.1969 d.22, effective December 3, 1969. See: 1 N.J.R. 14(a), 1 N.J.R. 30(b). A new Food Stamp Manual was adopted as R.1972 d.177, effective September 8, 1972. See: 4 N.J.R. 187(a), 4 N.J.R. 239(a). A new Manual was again adopted, as R.1975 d.350, effective January 1, 1976. See: 7 N.J.R. 363(b), 7 N.J.R. 567(d). The Manual was further replaced, by R.1979 d.29, effective March 1, 1979. See: 10 N.J.R. 537(b), 11 N.J.R. 76(a).

Pursuant to Executive Order No. 66(1978), Chapter 87 was readopted as R.1984 d.68, effective March 1, 1984. See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a). Chapter 87 was again readopted, as R.1989 d.121, effective January 27, 1989. See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Pursuant to Executive Order No. 66(1978), Chapter 87 was readopted as R.1994 d.42. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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### APPENDIX A. FISCAL MANAGEMENT

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:87-1.1 Purpose of the Food Stamp Program

The Food Stamp Program is designed to promote the general welfare and to safeguard the health and well being

of the population by raising the levels of nutrition among low-income households.

#### Case Notes

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).

Recipients who illegally receive benefits under the Food Stamp Program are subject to both federal and state criminal sanctions. *Atty.Gen.F.O.1978, No. 2.*

The state and counties are obligated to investigate apparent instances of fraud committed by either employees or recipients of the Food Stamp Program, make demand for the repayment of food stamp coupons issued as a result of fraud or misrepresentation, make an administration determination as to whether the facts warrant referral of the matter to state or federal authorities for prosecution, and refer the matter to such authorities if appropriate. *Atty.Gen.F.O.1978, No. 2.*

#### 10:87-1.2 Administration of the Program

(a) The Program is authorized by the U.S. Congress and regulated by the U.S. Department of Agriculture (USDA). In New Jersey, the county welfare agencies (CWAs) are responsible for certifying eligible households and arranging for coupon issuance outlets. Only persons employed by a CWA are legally empowered to enroll applicants in the program.

(b) Although the counties directly administer the Program, the State is ultimately responsible for ensuring that program operations conform with Federal laws and USDA regulations.

(c) The county administration of the Food Stamp Program is supported by a centralized computer management information system to comply with the requirement for keeping uniform system of records and accounts throughout the State. CWAs have access to the management information system that performs routine clerical tasks, determines eligibility status, calculates the food stamp allotment, generates food stamp benefits, and management and fiscal reports. This automated system expedites implementation of policy changes, eliminates duplication of effort, and allows for efficient updating of information.

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

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

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

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

In (c), substituted a reference to food stamps for a reference to coupons, and substituted a reference to benefits for a reference to Authorizations to Participate in the second sentence.

#### Case Notes

Notice informing claimant that food stamp benefits would be reduced because of an increase in his supplemental security income was insufficient. *Meyer v. New Jersey Dept. of Human Services, Div. of Family Development*, 269 N.J.Super. 310, 635 A.2d 544 (A.D.1993).

**10:87-1.3 Legal basis of the Program**

Policies and procedures for the administration of the program are derived from the Food Stamp Act of 1977 (7 U.S.C. 2011-2029) and current USDA, Food and Nutrition Service (FNS), regulations and instructions (which are uniform nationwide).

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Substantially amended.

**10:87-1.4 Program informational activities**

(a) The Division of Public Welfare (DPW) will supply CWAs with posters and pamphlets concerning nutritional information, and, where available, explanations of Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP) explanations. CWAs shall display the posters and make the pamphlets available at all food stamp and public assistance offices.

(b) CWAs shall inform participant and applicant households of their program rights and responsibilities. The information may be provided through whatever means DPW deems appropriate.

(c) All informational material shall be available in languages other than English as required by FNS bilingual guidelines (see 7 CFR 272.4(b)) and shall include a statement that the program is available to all without regard to race, color, sex, age, handicap, religious creed, national origin, or political belief.

As amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981), exp. November 30, 1981.

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

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

See: 13 N.J.R. 769(a), 14 N.J.R. 103(a), 14 N.J.R. 208(b).

Old text concerning "outreach efforts" deleted are replaced with new text concerning "program informational activities".

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

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

Old text repealed and new text added.

**10:87-1.5 Purpose of the New Jersey Food Stamp Manual**

The purpose of this manual is to outline the policies and procedures applicable to the certification and/or recertification of those who apply for food stamps. The policies and procedures contained in this manual shall be used to determine eligibility criteria and issuance requirements for food stamp benefits for all qualified households regardless of their eligibility for other assistance programs.

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

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

Substantially amended.

**Case Notes**

Regulations in N.J.A.C. 10:82 regarding loans inapplicable to Food Stamp dispute. In re: S.C., 6 N.J.A.R. 333 (1981).

**10:87-1.6 The concept of reasonable certainty; situations not covered by the manual**

(a) While this manual attempts to minimize discretionary action on the part of the certification worker, there will be situations which are not specifically covered by existing policy guidelines. In those cases the certification worker shall be expected to make a judgment, based on his or her experience and/or knowledge of the Program, which can be defended as both reasonable and prudent.

(b) In cases where the treatment of a situation is neither specifically nor generally addressed in this manual, the matter shall be referred to DPW for resolution.

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

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

Substantially amended.

**10:87-1.7 Assignment of manual**

Copies of this manual shall be assigned to administrative and other staff working with applicants and recipients. Each staff member is expected to be thoroughly familiar with its contents so that policy and procedures may be consistently applied.

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

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

Deleted "staff", "to" and "in order".

**10:87-1.8 Responsibility of manual holders**

Each holder of the manual shall be responsible for maintaining a current and up-to-date manual. DPW shall issue revisions and changes as necessary; the manual holder shall insert new material and remove obsolete pages promptly.

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

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

Deleted "the Division of Public Welfare".

**10:87-1.9 Retention of obsolete material**

The CWA shall retain one copy of obsolete manual material for administrative purposes.

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

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

Deleted "the County Welfare agency".

**10:87-1.10 Public access to the manual**

(a) This manual is a public document and shall be made accessible in accordance with (b) through (h) below.

(b) Fair hearings: Specific policy material necessary for an applicant, recipient, and/or representative to determine whether or not a hearing should be requested, or to prepare for a hearing, shall be provided to such persons without charge.

(c) Libraries: All public and private libraries which have agreed to maintain the manual on a current up-to-date basis shall make a copy available to the public, subject to their own regulations.

(d) Legal services: Each county legal services office shall be furnished with a copy of this manual.

(e) Service organizations: Welfare, social service and other nonprofit organizations shall be furnished with a free copy of the manual upon receipt by DFD of an official, written request.

(f) Individuals: A current up-to-date copy of the manual, or any part of it, shall be available from DFD, at the cost of printing and mailing, to anyone who requests it in writing.

(g) Public examination: A current up-to-date copy of the manual will be maintained in each CWA for examination by members of the public during regular working hours.

(h) All supplementary State policy directives shall be sent to those who have been supplied with the manual. A mailing list shall be maintained by DFD for that purpose.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

#### 10:87-1.11 Policy of nondiscrimination

CWAs shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings or any other program service, for reasons of age, race, color, sex, disability, religious creed, national origin or political belief.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Amended by R.1994 d.42, effective January 18, 1994.  
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

#### 10:87-1.12 Complaint procedures

(a) Persons who believe that they have been subject to discrimination as described in N.J.A.C. 10:87-1.11 may complain directly to USDA and/or to DFD. The CWA shall explain the complaint procedures and advise the individual(s) of their right to file a complaint.

(b) Time limit for filing a complaint: A complaint must be filed no later than 180 days from the date of alleged discrimination, unless the period is extended by USDA.

(c) CWA responsibility: The CWA shall accept all complaints of discrimination and forward them promptly to the Director of DFD who will in turn forward them to USDA.

(d) If a person alleges verbally that a discriminatory act has been committed and does not (or cannot) put it in writing, the CWA worker receiving the complaint shall do

so. If possible, the following information shall be obtained from the complainant:

1. Identity of complainant: Name, address and telephone number or other means of contacting the persons alleging discrimination;
2. Identity of the sources of discrimination: Location and name of the organization or office and/or person(s) accused of discriminatory practices;
3. Nature of incident: The nature of the incident, action, or aspect of the program administration that led to the alleged discrimination;
4. Reason: The reasons for the alleged discrimination (i.e. age, race, color, sex, disability, religious creed, national origin or political belief);
5. Identity of others having knowledge of discrimination: Names, titles (if appropriate), and addresses of persons (other than the complainant) who may have knowledge of the discriminatory act(s);
6. Date: The date or dates on which the alleged discriminatory actions occurred.

(e) Incomplete complaints: Written complaints shall be forwarded to the Director of DFD even if the information in (d) above is not complete. Persons who file complaints shall be encouraged to provide this information to facilitate the investigation of the alleged discrimination and shall be advised that investigations by USDA will be conducted only if information specified in paragraphs (d)2, 3, and 4 above is provided.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Amended by R.1994 d.42, effective January 18, 1994.  
See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

#### 10:87-1.13 Public Notification Plan

(a) The CWA shall publicize the procedure described in N.J.A.C. 10:87-1.12.

(b) Minority group contacts: At least once every fiscal year, the CWA shall advise local minority group organizations, in writing, that the Food Stamp Program is available to all eligible households on a nondiscriminatory basis and of the complaint procedures. If there are no minority group organizations in the county, the CWA shall contact minority ministers, teachers, and/or other community leaders in the county, informing them of this nondiscrimination policy.

(c) Records relating to the Public Notification Plan: The CWA shall maintain file copies of correspondence concerning public notification of nondiscrimination. These documents shall be available for inspection during audits and compliance reviews conducted by State and Federal offices.

(d) The CWA shall display a nondiscrimination poster (supplied by FNS and/or DEA) in all local food stamp certification offices.

(e) The CWA shall ensure that participants (and other low-income households) have access to information regarding their rights, nondiscrimination statutes and policies and complaint procedures, no later than 10 days from the date the information is requested.

(f) The CWA shall advise applicants for program participation that his or her application shall be processed without discrimination in accordance with N.J.A.C. 10:87-1.11.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

#### 10:87-1.14 Confidentiality and disclosure of information

(a) Confidentiality of information: The CWA shall restrict the use or disclosure of information obtained from applicant or recipient households to persons directly connected with the administration or enforcement of the Food Stamp Program, WFNJ/TANF, jointly-processed WFNJ/GA households, SSI, Medicaid, Child Support and Paternity program (CSP), Income Eligibility Verification System (IEVS), or with any other Federal or Federally aided, means-tested assistance programs.

1. The verification of immigration documents of aliens applying for food stamp benefits will be accomplished through the Systematic Alien Verification for Entitlements (SAVE) Program and is subject to the same confidentiality safeguards afforded other programs listed herein.

2. The New Jersey Department of Labor may access information regarding food stamp recipients for the purpose of administering the Food Stamp Employment and Training Program.

3. Agencies administering a Food Stamp Nutrition Education Plan approved by USDA may access information regarding food stamp recipients for the purpose of administering the Nutrition Education Plan.

(b) Disclosure of information: The CWA may release information concerning an applicant or recipient household in the following situations only:

1. Law enforcement agencies: Upon written request, the CWA shall cooperate in furnishing information to Federal, State or local law enforcement agencies in any investigation which concerns a household or person fraudulently obtaining coupons or otherwise violating the statutory provisions of the Food Stamp Act and/or FNS and/or State regulations. The law enforcement agency must provide a written request which shall include the identity of the individual requesting the information and his or her authority to do so, the violation being investigated, and the identity of the person about whom the information is requested.

i. CWAs shall make available, upon request, to any Federal, State, or local law enforcement officer the address, photograph (if available), and Social Security number of a food stamp recipient. The officer must furnish the recipient's name, and must notify the CWA that the recipient is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or the CWA has information necessary for the officer to conduct an official duty related to a felony or parole violation.

2. Judicial summons: Staff members shall provide such testimony as may be mandated by a court of competent jurisdiction in connection with administration and enforcement of the Food Stamp Program (see (a) above).

3. Waiver of confidentiality: Upon written request by the household, the household may waive its rights to confidentiality of information and the CWA shall make disclosure of information, but only to the extent specifically authorized by the waiver.

4. Client review: If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials in its case file, the material and information contained in the case file shall be made available during normal business hours.

i. Confidential information: The CWA may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

5. Fair hearings: Information and records shall be released to parties directly involved in a fair hearing procedure (see N.J.A.C. 10:87-8.6(a) and 10:87-8.15(a)).

6. Release of lists of names and addresses: The furnishing of any lists of names and/or addresses or both for purposes not directly related to the provisions of (a) above is specifically prohibited.

7. Quality control reviews: The disclosure of information in connection with the performance of a quality control review or State audit shall be permitted.

8. Parent Locator Service: The CWA shall make available, to the CSP's Parent Locator Service, food stamp case file information to assist the CSP program, under Title IV-D of the Social Security Act.

9. School officials: Households that provide a food stamp or AFDC case number on the school meal application are categorically eligible for free school meals. The CWA shall honor requests from school officials to verify Food Stamp Program participation for households applying for free school meals. The CWA shall not release any information with regard to the household beyond the verification of Food Stamp Program participation. Section 169 of the Food Stamp Application Privacy Act (P.L. 97-253) allows such information to be provided to officials verifying eligibility for free school meals.

10. Comptroller General's Office: The CWA shall furnish information to employees of the Comptroller General's Office of the United States for audit examination authorized by any other provisions of law.

Amended by R.1985 d.179, effective April 15, 1985.

See: 17 N.J.R. 166(a), 17 N.J.R. 968(b).

(b)8 added.

Amended by R.1985 d.475, effective September 16, 1985.

See: 17 N.J.R. 1377(b), 17 N.J.R. 2273(a).

Substantially amended.

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

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

Substantially amended.

Amended by R.1990 d.565, effective November 19, 1990.

See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).

Specified that county welfare agencies are to release information to school districts for verification of eligibility for free school meal programs.

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

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

Rewrote (a); and in (b)1, added i.

### 10:87-1.15 Public access to information

(a) Copies of the manual, supplementary directives issued for use in certifying applicant households, and food stamp fair hearing reports shall be readily available for public inspection in all CWA central food stamp offices.

(b) In addition, Federal food stamp statutes, FNS regulations, instructions, the State Plan of Operation, and a copy of this manual shall be readily available for public inspection during regular office hours in the central DEA office as well as the FNS Regional Office.

(c) DEA, at its option, may require other CWA offices within the State to maintain a copy of Federal statutes and FNS regulations.

As amended on an emergency basis, R.1981 d.398, eff. September 30, 1981 (oper. October 1, 1981) exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, eff. December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a): Deleted "the State Outreach Plan . . . coordinates".

(b): Deleted "and" after "regulations" and inserted same after "instructions"; deleted "and the State Outreach reports".

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

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

Substantially amended.

### 10:87-1.16 Appeals

An applicant or recipient shall have the right to appeal any action or inaction concerning the Program on the part of the CWA that affects his or her household (see N.J.A.C. 10:87-8 concerning fair hearings).

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

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

Substantially amended.

### 10:87-1.17 Suits against county

(a) The CWA shall notify the DEA immediately of any suit(s) filed by any person/organization against the CWA and/or DEA which involve(s) administration of the Food

Stamp Program and shall furnish DEA with copies of the original pleadings and all subsequently filed pleadings.

(b) Failure to comply: If the CWA fails to comply with the provisions of (a) above and is ordered by a court to take actions which are determined by USDA to be inconsistent with the Food Stamp Act of 1977 and its FNS regulations or instructions, the CWA may be liable for the amount of benefits issued pursuant to the court order.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (Operative October 1, 1981), expires November 30, 1981.

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

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

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

Deleted text of N.J.A.C. 10:87-1.17 concerning "outreach" and redefined N.J.A.C. 10:87-1.18 as 1.17 without change in text.

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

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

Substantially amended.

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

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

In (b), substituted a reference to benefits for a reference to coupons.

### 10:87-1.18 (Reserved)

## SUBCHAPTER 2. THE APPLICATION PROCESS

### 10:87-2.1 The household concept

Every food stamp application shall be made on behalf of a household. It is critically important to determine exactly who constitutes the household for food stamp purposes since all considerations of eligibility will follow from this initial determination.

#### Case Notes

Applicant not permanent legal alien and not present under color of law was ineligible for benefits. *S.V. v. Passaic County Board of Social Services*, 93 N.J.A.R.2d (DEA) 29.

### 10:87-2.2 Household defined

(a) A household may be composed of any of the following individuals or groups of individuals:

1. Individual living alone;

2. Individual living with others: An individual living with others, but who customarily purchases food and prepares meals for home consumption separate and apart from the others;

3. Group of individuals living together: A group of individuals living together for whom food is purchased in common and for whom meals are prepared together for home consumption;

4. Elderly and disabled individual living with others: An individual who is 60 years of age or older (and the spouse of such individual) living with others who is unable to purchase and prepare meals because he or she suffers

from a disability considered permanent under the Social Security Act or suffers from some other physical or mental nondisease-related, severe, permanent disability may be a separate household (see definition of elderly or disabled in N.J.A.C. 10:87-2.38 and verification requirements in N.J.A.C. 10:87-2.20(i)). However, the gross monthly income of the household with which the individual resides cannot exceed the gross monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.7. This income determination shall be made in accordance with the following procedures:

i. The gross monthly income of the others with whom the elderly, disabled person resides shall be determined as if they were applying for participation in the program. The income of the elderly, disabled person and his or her spouse is not included in the calculation. The elderly, disabled person and his or her spouse are not to be considered household members for this purpose;

ii. The gross monthly income of the others shall then be compared to the monthly income eligibility standard for the appropriate household size in N.J.A.C. 10:87-12.7 to determine if the income is within the prescribed limit. The elderly, disabled person and his or her spouse would not be considered as household members for this comparison.

5. An applicant household that has customarily purchased and prepared food separately in the past but, because of changes in financial or other circumstances, is now temporarily buying and preparing food with others, shall be considered a separate household, providing it intends to return to its former status upon receipt of food stamps. The applicant household's statements on past and intended practices shall suffice, except when the information provided is questionable according to the criteria at N.J.A.C. 10:87-2.20(i). If the applicant household does not return to its former status, the actual household composition will prevail and will be considered a client-reportable change in accordance with N.J.A.C. 10:87-9.5(a). The 10-day period for reporting that the applicant household has not returned to its former status will commence upon receipt of food stamp benefits.

(b) Individuals or groups of individuals who are residents of an institution (except as otherwise specified in N.J.A.C. 10:87-2.4) or commercial boarding home, or boarders (except as specified in N.J.A.C. 10:87-2.3(b)) may not participate in the program.

(c) In no event shall nonhousehold member status or separate household status be granted to:

1. Parents and their natural, adopted, or stepchildren (excluding foster children) under the age of 22 who reside together;

2. Adults and children under the age of 18, if the adult has parental control of the children (excluding foster children) who reside together, unless the children are married and living with their spouses, or are living with their own children. Children under 18 who are living with an adult who is not their parent, but who are living with either their spouse or children of their own, shall not be considered to be under parental control;

3. A spouse of a member of the household. For the purposes of this Program, the term "spouse" shall include persons recognized by applicable State law as such and persons representing themselves as husband and wife to the community, relatives, friends, neighbors or trades people; or

4. Individuals who purchase and prepare meals together.

i. A household containing an elderly and disabled member who cannot purchase and prepare meals separately can be separated from the other household members, provided that the income of the other members does not exceed 165 percent of the Federal poverty level for the household size of the other members, per N.J.A.C. 10:87-2.2(a)4. (See N.J.A.C. 10:87-12.7 Table VII.)

ii. Foster individuals (N.J.A.C. 10:87-2.3(b)6) cannot be required to be included in the household if the household decides otherwise.

Amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expires November 30, 1981.

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

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

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

Section substantially amended.

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

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. Language has been added to provide for and distinguish income limitations for elderly and disabled individuals living with others.

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

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

Substantially amended.

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

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

Stylistic revisions in (a)4 and 5 correcting reference to N.J.A.C. 10:87-2.20(i).

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

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

Rewrote (c).

#### Case Notes

No separate household status for minor grandchildren. B.G. v. Mercer County Board of Social Services, 93 N.J.A.R.2d (DEA) 15.

Grandparents' income part of household income for minor grandchildren. G.R. v. Passaic County Board of Social Services, 92 N.J.A.R.2d (DEA) 52.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a)3, revised definition of who qualifies for food stamp benefits in an institution.

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

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

In (b)3, inserted “, provided that such accommodation is not maintained for more than 90 days” following “individual”.

### 10:87-2.5 Boarding home/house

(a) Residents of commercial boarding homes/houses are not eligible for program benefits. For program purposes, a boarding home/house shall be defined as an establishment which is licensed as a commercial enterprise which offers meals and lodging for compensation. In areas without licensing requirements, a boarding home/house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders shall not be used to determine if a boarding home/house is a commercial enterprise.

(b) Boarding home/house proprietor: The household of the proprietor of a boarding home/house may participate in the Program separate and apart from the residents of the boarding home if that household meets all of the eligibility requirements for program participation.

### Case Notes

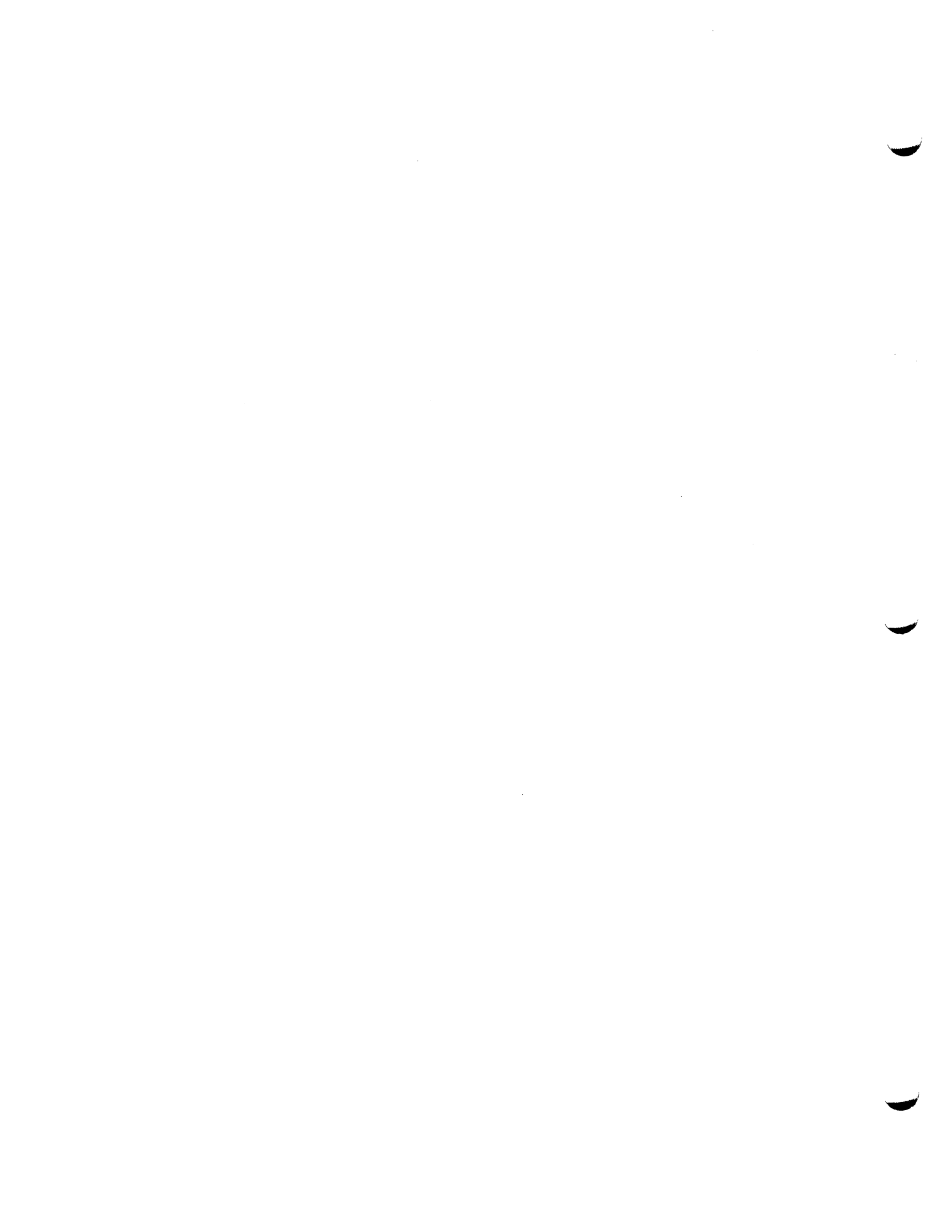
Remedy for violation of boarding home standards was not a food stamp application by resident therein, but an enforcement proceeding by Department of Community Affairs to correct violation. D.W. v. Union County, 95 N.J.A.R.2d (DEA) 13.

### 10:87-2.6 Head of household

(a) The household shall designate an adult member to be head of household, except that for purposes of failure to comply with work registration, work and training requirements and voluntary quit provisions, the head of household shall be determined in accordance with (b) below.

(b) For purposes of failure to comply with work registration, work and training requirements, and voluntary quit provisions, the head of household shall be considered to be the principal wage earner.

1. Principal wage earner: The principal wage earner shall be the household member (including excluded members, see N.J.A.C. 10:87-2.3(c)) who has the greatest source of earned income in the two months prior to the month of the work registration, work or training requirement or voluntary quit violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours.



i. No person of any age living with a parent, or person fulfilling the role of parent (substitute parent), shall be considered head of household if such parent or substitute parent is registered for work or exempt from work registration requirements because such parent or substitute parent is subject to and participating in any work requirements under Title IV of the Social Security Act; or is in receipt of unemployment compensation (or has registered for work as part of the unemployment compensation application process); or is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

ii. If there is no principal source of earned income in the household, the CWA shall determine who is the designated head of household as specified in (a) above. Additionally, a household may select an adult member with children as its head provided that all adult members agree to the selection. If the household either does not qualify to select its head, or does not opt to select its head, then all other rules in this subsection will be applied. The household may designate its head each time the household is certified, but may not change the designation during the certification period unless there is a change in household composition.

iii. The head of household designation is subject to adjustment if an individual joins the household and qualifies to be the household's principal wage earner.

iv. If the head of household fails to comply with a work registration requirement, the household cannot reassign the head of household designation to a different household member until any imposed period has expired.

Emergency Amendment, R.1987 d.202, effective April 3, 1987 (expires June 2, 1987).

See: 19 N.J.R. 649(a).

Added all new text.

Readoption of Emergency Rule and Concurrent Proposal, R.1987 d.261, effective July 6, 1987.

See: 19 N.J.R. 649(a), 19 N.J.R. 1207(b).

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

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

Substantially amended.

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

Added new (b)iv.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (b)iii, provides for the selection of a head of household.

### 10:87-2.7 Authorized representatives

(a) The head of the household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the functions described in (b) through (f) below.

(b) Making application for the program: When the head of the household or the spouse cannot make application,

another household member may apply, or an adult non-household member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible even though another household member or the authorized representative will actually be interviewed. In conjunction with these provisions, another household member or the household's authorized representative may complete work registration forms for those household members required to register for work. The CWA shall inform the household that it will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in N.J.A.C. 10:87-7.18(f). Adults who are non-household members may be designated as authorized representatives for certification purposes only under the following conditions:

1. The authorized representative has been designated in writing by the head of the household or the spouse, or another responsible member of the household; and

2. The authorized representative is an adult (age 18 or older) who is sufficiently aware of relevant household circumstances.

(c) Obtaining the coupons: An authorized representative may be designated to obtain coupons. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual. This designation shall be made at the time the application is completed and an authorized representative shall be named on the ID card. Even if a household member is able to make application and obtain coupons, it should be encouraged to name an authorized representative in case of illness or other circumstances which might result in an inability to obtain coupons.

1. Emergency authorized representative: The household may also designate an emergency authorized representative at a later date. An emergency authorized representative is someone not already listed on the ID card who obtains coupons when neither a household member nor the authorized representative is able to obtain them because of unforeseen circumstances. The designation of an emergency authorized representative will be made by the household on the ATP by authorizing in writing a proxy (emergency authorized representative) to negotiate the household's ATP. The emergency representative must present the household's ID card to the coupon issuer to obtain the household's allotment.

(d) Use of coupons: Any authorized representative may use coupons to purchase food for the household's consumption, with the full knowledge and consent of the household, provided that individual has the household's ID card.

(e) Drug or alcoholic treatment centers as authorized representatives: Narcotics addicts or alcoholics who regularly participate in a drug or alcoholic treatment program on a resident basis may elect to participate in the Food Stamp

Program. The resident shall apply and be certified for program participation through the use of an authorized representative who shall be an employee of and designated by the publicly operated community mental health center or the private nonprofit organization or institution which is administering the treatment and rehabilitation program. The organization or institution shall apply on behalf of each addict or alcoholic and shall receive and spend the coupon allotment for food prepared by and/or served to the addict or alcoholic. The organization or institution shall also be responsible for complying with the requirements set forth in N.J.A.C. 10:87-7.16.

1. Center defined: For the purpose of this Manual, a center shall be defined as any drug addiction or alcoholic treatment and rehabilitation facility which has been certified as such by the New Jersey Department of Health.

2. Prior to certifying any residents for food stamps, the CWA shall verify that the treatment center is authorized by FNS as a retailer or is certified as an approved center, including the basis for the CWA determination that the center is a nonprofit organization.

i. Evidence of authorization (Form FNS-254): A center or facility which is in possession of a current Food Stamp Program Authorization Card (Form FNS-254) shall be construed as an authorized center.

ii. State list of authorized facilities: The Division of Economic Assistance, Bureau of Food Stamps, shall keep a list of currently certified facilities which may be obtained by the CWA upon request.

(f) Group living arrangement facility as authorized representative: Residents of group living arrangements shall either apply and be certified through use of an authorized representative employed and designated by the group living facility or apply and be certified on their own behalf or through an authorized representative of their own choice. Prior to certifying any residents for food stamps, the CWA shall verify that the facility is authorized by FNS or certified by the Department of Human Services (see (f)1 below).

1. Group living arrangement defined: A group living arrangement shall be defined as a public or private nonprofit residential setting which serves no more than 16 residents, which is certified by the New Jersey Department of Human Services and which may elect to be authorized by FNS to accept food coupons.

i. Evidence of authorization (Form FNS-254): A center or facility which is in possession of a current Food Stamp Program Authorization Card (FNS-254) shall be construed as an authorized center.

ii. State list of authorized centers and facilities: The Division of Economic Assistance, Bureau of Food Stamps, shall keep a list of currently approved centers and facilities, which may be obtained by the CWA upon request.

2. Staff of the group living arrangement facility has the responsibility to determine if any individual or group of individuals residing at the facility is competent to comprehend the application process and be responsible for his/her statements in order to apply on his/her own behalf.

3. If the group living arrangement facility acts as the authorized representative, the facility shall decide if application should be made for an individual resident as a one-person household or if some residents should make application together as a household.

4. If the resident applies through the facility as the authorized representative, the facility may either receive and spend the coupon allotment for food prepared by and/or served to the eligible residents or allow the eligible resident to use all or any portion of the allotment on his/her own behalf.

5. If the residents are certified on their own behalf, the coupon allotment may either be returned to the facility to be used to purchase food for meals served, whether communally or individually to eligible residents; or the coupon allotment may be used by eligible residents to purchase and prepare food for their own consumption; and/or to purchase meals prepared and served by the group living arrangement.

6. The group living arrangement facility is responsible for complying with the requirements set forth in N.J.A.C. 10:87-7.16.

As amended, R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)2i: Added last sentence.

(a)4i: Deleted requirement for prior authorization to receive food stamps.

As amended, R.1982 d.437, effective December 20, 1982.

See: 14 N.J.R. 1041(a), 14 N.J.R. 1462(b).

Household representative authorized to complete work registrations for other household members.

As amended, R.1982 d.474, effective January 3, 1983.

See: 14 N.J.R. 1081(b), 15 N.J.R. 35(a).

Authorization by FNS delineated.

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

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

Substantially amended.

#### Case Notes

Sister was not brother's authorized representative for food stamp purposes. *R.S. v. Passaic County Board of Social Services*, 93 N.J.A.R.2d (DEA) 9.

#### 10:87-2.8 Nonhousehold member as authorized representative

In the event the only adult living with a household is classified as a nonhousehold member as defined in N.J.A.C. 10:87-2.3, that individual may be the authorized representative for the minor household members.

As amended, R.1982 d.474, effective January 3, 1983.

See: 14 N.J.R. 1081(b), 15 N.J.R. 35(a).

N.J.A.C. cite inserted.

#### 10:87-2.9 Documentation of authorized representative

The CWA shall bear the responsibility of recording in the case record the name of the authorized representative.

**10:87-2.10 Restrictions on authorized representatives**

(a) Welfare employees and retailers: Public welfare agency employees who are involved in the certification and/or issuance process and retailers that are authorized to accept food coupons may not act as authorized representatives without the specific written approval of the CWA Director, and only if the Director determines that no one else is available to serve as an authorized representative. The CWA Director shall personally approve any appointments of this nature.

(b) Disqualified household members: Individuals disqualified for intentional program violation shall not act as authorized representatives during the period of disqualification, unless the disqualified individual is the only adult member of the household able to act on its behalf and the CWA has determined that no one else is available to serve as an authorized representative. The CWA shall separately determine whether or not these individuals are needed to apply on behalf of the household, to obtain coupons, and to use coupons for food for the household. For example, the household may have an authorized representative to obtain its coupons each month but may not be able to find anyone to purchase food regularly with the coupons. If the CWA also is unable to find anyone to serve as authorized representative to purchase food regularly with the coupons, the disqualified member shall be allowed to do so.

(c) Multihousehold representatives: Limits shall not be placed on the number of households an authorized representative may represent. In the event that employers such as those that employ migrant or seasonal farmworkers are designated as authorized representatives or that a single authorized representative has access to a large number of ATPs or coupons, the CWA will exercise caution to assure that: the household has freely requested the assistance of the authorized representative; the household's circumstances are correctly represented and the household is receiving the correct amount of benefits; and the authorized representative is properly using the coupons. When a CWA which suspects an authorized representative of not properly using coupons, it should report the circumstances to the Director, Division of Economic Assistance, who will in turn forward the report to the Food and Nutrition Service.

(d) Disqualification of authorized representatives: CWAs which have obtained evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of coupons, may disqualify that person from acting as an authorized representative for up to one year. The CWA shall send written notification to the affected household(s) and the authorized representative 30 days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the food stamp office and, if possible, the person to contact for further information. The household, not the authorized representative, may appeal this action. This provision is not applicable in the case of drug and alcoholic treatment centers and

those group homes which act as authorized representatives for their residents.

(e) Homeless meal providers may not act as authorized representatives for homeless food stamp recipients. A homeless meal provider means a public or private nonprofit establishment (for example, soup kitchens, temporary shelter), approved by the N.J. Department of Human Services, that feeds homeless persons.

1. The Division of Economic Assistance, or another appropriate State or local governmental agency identified by the New Jersey Department of Human Services, shall approve establishments and shelters serving the homeless. The establishment or shelter is required to present sufficient evidence, as determined by the State agency, that it does in fact serve meals to homeless persons. The Division of Economic Assistance will remain responsible for ensuring effective compliance with these provisions when another agency has been identified to approve establishments or shelters serving the homeless.

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

(a)4, disqualification of authorized representatives added.

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

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

Substantially amended.

**10:87-2.11 Application for food stamps**

The application process includes filing and completion of an application form, interview of the applicant, and verification of certain information. The CWA shall act promptly (see N.J.A.C. 10:87-2.30 and 2.31) on all applications and provide food stamp benefits retroactive to the month of application to those households which have completed the application process and have been determined eligible. Expedited service shall be available to households in immediate need (see N.J.A.C. 10:87-2.32 through 2.34).

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

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

Substantially amended.

**10:87-2.12 Food stamp application form**

(a) The composition of the applicant household will determine the appropriate food stamp application to be used:

1. PA households: Public Assistance (PA) households are those food stamp households (as determined in N.J.A.C. 10:87-2.2) in which any or all members are also applying for and subsequently certified to receive AFDC and/or Medicaid benefits. For such households the appropriate application form is the Form PA-1J, "Application and Affidavit for Public Assistance", which will serve as a joint application for public assistance and food stamps.

2. NPA households: Non-public Assistance (NPA) households are those households (as determined in N.J.A.C. 10:87-2.2) in which none of the members are also applying for public assistance. For such households, the appropriate application form is the Form FSP-901, "Application for Participation in the Food Stamp Program".

3. SSI jointly processed households: SSI jointly processed households are those households in which all members are applicants for, or recipients of, SSI and are neither certified for, nor have an application for food stamps pending and have applied for food stamps at a Social Security Administration district office (SSA/DO). For such households, the appropriate application form is Form FSP-901A, "SSI Jointly Processed Application and Recertification for Participation in the Food Stamp Program" (see N.J.A.C. 10:87-2.37).

(b) All applicants for food stamp benefits shall be notified at the time of application, and at each recertification, through a written statement, that information available through the State income and eligibility verification system will be requested to verify eligibility. Discrepancies found are subject to additional verification through collateral contact and such information may affect the household's eligibility and benefits.

(c) Each household member 18 years of age and older is required to sign the application that shall contain a statement attesting under penalty of perjury to his or her citizenship or alien status. An adult shall sign for all household members under age 18. If there are no adult members in the household the applicant shall sign the perjury statement for himself or herself and for all other household members under 18 years of age. An applicant or other adult household member who does not sign the statement shall be ineligible. The income and resources of the ineligible member(s) shall be considered available in determining the eligibility of any remaining household members in accordance with N.J.A.C. 10:87-7.14.

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

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

Substantially amended.

### 10:87-2.13 Filing an application

(a) Households must file a food stamp application by submitting the appropriate form to the food stamp office in person, through an authorized representative, or by mail. The amount of time for the CWA to deliver benefits is calculated from the date the application is filed in the food stamp office designated to accept the household's application (see N.J.A.C. 10:87-2.30 and 2.31). Households subject to SSI joint processing (see N.J.A.C. 10:87-2.12(a)3) must file a food stamp application by submitting the appropriate form to the SSA/DO in person, through an authorized representative, or by mail. The amount of time for the CWA to deliver benefits is calculated from the date the application is filed in the SSA/DO designated to accept the household's application (see N.J.A.C. 10:87-2.30). Residents of public institutions who jointly apply for food stamps and SSI under SSA's Prerelease Program for the Institutionalized shall have their date of release from the institution considered as the date of application for food stamp purposes.

(b) Right to file: Each household has the right to file an application during office hours of the same day it contacts the food stamp office within the county of its residence. The household shall be advised that it does not have to be interviewed before filing the application and may file an incomplete application.

1. Minimum requirements for application: In order to be considered an application for food stamp purposes, the application must contain, at a minimum, the applicant's name and address, and must be signed by a responsible member of the household or the household's authorized representative (see N.J.A.C. 10:87-2.7).

2. Documentation by the CWA: The CWA shall document the date the application was filed by recording on the application the date it was received by the CWA.

3. Filing during a period of Federal reduction, suspension, or cancellation of food stamp benefits: CWAs shall accept and process applications during a month(s) in which a reduction, suspension, or cancellation is in effect in accordance with the requirements in this subchapter. Benefits shall be issued in accordance with the requirements in N.J.A.C. 10:87-2.30(c).

(c) Contacting the food stamp office: The CWA shall encourage households to file an application the same day the household or its representative contacts the certification office, in person or by telephone, and expresses interest in obtaining food stamp assistance.

1. Contacting the designated office: If the household has contacted the certification office by telephone designated to accept that household's application but does not wish to come to the office to file the application that same day and instead prefers receiving an application through the mail, the CWA shall mail an application form to the household on the same day the telephone request is received. If the household has requested food assistance in writing, the CWA shall mail an application form to the household on the same day the written request is received.

2. Contacting the wrong office: If a household contacts the wrong certification office within the county, either in person or by telephone, that certification office shall, in addition to meeting the requirements in (c)1 above, give the household the address and telephone number of the appropriate office, explain how to file an application, and encourage the household to file its application in person or by mail at the appropriate office that same day. The certification office shall also offer to mail the household's application to the appropriate office that same day if the household has completed enough information to file. The household shall be informed that its application will not be considered filed and the processing standards shall not begin until the application is received by the appropriate office. If the household has mailed its request or application for food assistance to the wrong office, the certification office shall mail the request or application to the appropriate office on the same day.

(d) Availability of application forms: The CWA shall make application forms readily accessible to potentially eligible households and those groups and organizations involved in outreach efforts. The CWA shall also provide an application form to anyone who requests this form.

(e) Notice of right to file: The CWA shall post signs in each certification office which explain the application processing standards and the right to file an application on the day of initial contact. The CWA shall include similar information about same day filing in outreach materials.

(f) Withdrawing application: The household may voluntarily withdraw its application at any time during the certification process. The CWA shall document in the case record the reason for withdrawal, if any was stated by the household, and that contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time subsequent to the withdrawal.

As amended, R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(c)2: Added second to last sentence; added "that same day" to previous sentence; made minor language changes.

As amended, R.1981 d.64, effective February 26, 1981.

See: 13 N.J.R. 226(b).

(b)3 added.

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

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

Substantially amended.

Amended by R.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Date of application for applicants who are institutionalized is now the same as date of release from institution.

#### Case Notes

Failure of CWA to provide Food Stamp application where requested. J.S. v. Essex County Division of Welfare, 1 N.J.A.R. 432, (1979).

### 10:87-2.14 Household cooperation

To determine eligibility for program benefits, the application must be completed and signed, the household (or its authorized representative) interviewed, and certain information (see N.J.A.C. 10:87-2.20 and 2.21) must be verified. If the household refuses to cooperate with the CWA in completing this process, the application shall be denied at the time of refusal.

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

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

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

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

Added reference to N.J.A.C. 10:87-2.20.

#### Case Notes

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).

Termination of Food Stamp Program participation due to inability to reconcile income and household size reported to household with case record; termination reversed due to ready availability of income information and agency responsibility to establish household size from

information provided by household. Burlington Cty. Welfare Bd. v. H.R., 3 N.J.A.R. 363 (1980).

Denial of benefits for failure to cooperate proper where applicant refused to disclose sum of injury claim proceeds held in escrow by attorney. M.R. v. Camden Cty. Welfare Bd., 1 N.J.A.R. 94 (1979).

### 10:87-2.15 Denial of eligibility for non-cooperation

For a determination of refusal to be made by the CWA, the household must be able to cooperate but clearly demonstrate that it will not take actions that it can take, to do what is required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed, not merely fail to appear for the interview. If there is any question as to whether the household has merely failed to cooperate as opposed to refused to cooperate, the household shall not be denied.

#### Case Notes

Denial of benefits for failure to cooperate proper where applicant refused to disclose sum of injury claim proceeds held in escrow by attorney. M.R. v. Camden Cty. Welfare Bd., 1 N.J.A.R. 94 (1979).

### 10:87-2.16 Subsequent refusal to cooperate

The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates.

Amended by R.1985 d.180, effective April 15, 1985 (operative May 1, 1985).

See: 17 N.J.R. 167(a), 17 N.J.R. 969(a).

Section substantially amended.

#### Case Notes

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).

### 10:87-2.17 Refusal to cooperate with Quality Control reviews

(a) The household shall also be determined ineligible if it refuses to cooperate in a State or Federal Quality Control review. If a household is terminated for refusal to cooperate with a quality control reviewer, the household may reapply but shall not be determined eligible until one of the following conditions is met:

1. The household cooperates with the reviewer; or

2. If a household that was terminated for refusal to cooperate with a State quality control reviewer reapplies after 95 days from the end of the annual review period, the household shall not be denied for its failure to cooperate with a State quality control reviewer during the completed review period, but must provide verification prior to certification, in accordance with N.J.A.C. 10:87-2.20(k). The annual review period ends on September 30 of each year.

3. If a household that was terminated for refusal to cooperate with a Federal quality control reviewer reapplies after seven months from the end of the annual review period, the household shall not be determined ineligible for its refusal to cooperate with a Federal quality control reviewer during the completed review period, but must provide verification in accordance with N.J.A.C. 10:87-2.20(k) prior to certification. The annual review period ends on September 30 of each year.

Amended by R.1985 d.180, effective April 15, 1985 (operative May 1, 1985).

See: 17 N.J.R. 167(a), 17 N.J.R. 969(a).

Old text deleted and new text substituted.

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

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

Added (c).

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

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

Revised rule to conform with Federal regulations, specifying household's responsibility to comply with Quality Control reviews.

Deleted prior (a)2 and (b)-(c), and added new (a)2 and (a)3.

### 10:87-2.18 (Reserved)

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

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

Section was Interviews.

### 10:87-2.19 Interview process

(a) All applicant households, including those submitting applications by mail, shall have a face-to-face interview with a qualified eligibility worker, prior to initial certification and all recertifications. All interviews for food stamp benefits shall meet the requirements below.

(b) Person interviewed: The individual interviewed may be the head of household, spouse, and other responsible member of the household or an authorized representative. An applicant may bring any person he or she chooses to the interview.

(c) Responsibilities of interviewer: The interviewer shall not simply review the information which appears on the application but shall explore and resolve with the household any unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including an explanation of the processing standards and the household's responsibility to report changes.

1. The interviewer shall explain to the applicant the work registration and employment and training requirements and the consequences of the household's principal wage earner quitting his or her job without good cause (see N.J.A.C. 10:87-10.11).

(d) Confidential nature of the interview: The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be of adequate size and layout to preserve the privacy and confidentiality of the interview.

(e) Waiver of office interview: The office interview shall be waived for any household which is unable to appoint an authorized representative (see N.J.A.C. 10:87-2.7) and which has no household members able to come to the food stamp office because they are elderly or disabled, as defined in N.J.A.C. 18:87-2.38. The CWA shall waive the office interview on a case by case basis for any household which reports it is unable to appoint an authorized representative and has no members able to come to the Food Stamp office because of transportation difficulties or similar hardships.

1. Hardships: Hardship conditions include but are not limited to: illness, care of a household member, hardships due to a residency in a rural area, prolonged severe weather, or work hours which preclude an in-office certification. If a waiver is granted, the CWA shall document the reason for the determination in the case record.

2. Telephone interview or home visit: The CWA has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. Home visits shall be made only if the date and time of the interview is scheduled in advance with the household.

3. Verification requirements: Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary evidence would normally be provided.

4. Certification period: Waiver of the face-to-face interview shall not affect the length of the household's certification period.

(f) Scheduling of interviews: The CWA shall schedule all interviews as promptly as possible to ensure that eligible households receive an opportunity to participate within 30 days after the application is filed. Initial applicants and recipients applying for recertification who cannot obtain certification services without missing time from work must be given appointments for such services. While appointments outside normal business hours are not required, CWAs are encouraged to offer them.

1. Failure to appear: If a household fails to appear for the first interview, the CWA shall initiate action to schedule another interview. The interview shall be rescheduled without requiring the household to provide good cause for failing to appear. However, if the household does not appear for the rescheduled interview, the CWA need not initiate action to schedule any further interviews unless the household requests that another interview be scheduled.

(g) PA households: For public assistance households as defined in N.J.A.C. 10:87-2.12(a)1 the CWA shall conduct a single interview at initial certification for both AFDC and food stamps. Such PA households shall not be required to see different eligibility workers or otherwise be subjected to two interview requirements in order to obtain benefits from both programs.

(h) SSI jointly processed households: For SSI jointly processed households as defined in N.J.A.C. 10:87-2.12(a)3, the SSA/DO shall conduct a single interview for both food stamps and SSI. Jointly processed households shall not be required to see a CWA eligibility worker or otherwise be subjected to an additional interview by the CWA in order to obtain food stamps (see N.J.A.C. 10:87-2.22).

Amended by R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Reference added, to right of applicant to bring person of choice to an interview.

Emergency Rule R.1985 d.4, effective January 2, 1985 (expires March 3, 1985).

See: 17 N.J.R. 215(a).

(a)2i added.

Readoption by R.1985 d.145, effective March 4, 1985.

See: 17 N.J.R. 215(a), 17 N.J.R. 818(a).

This is the readoption of Emergency Rule adding (a)2i.

Emergency Amendment, R.1987 d.202, effective April 3, 1987 (expires June 2, 1987).

See: 19 N.J.R. 649(a).

Substituted "principal" for "primary".

Readoption of Emergency Rule and Concurrent Proposal, R.1987 d.261, effective July 6, 1987.

See: 19 N.J.R. 649(a), 19 N.J.R. 1207(b).

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

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

Substantially amended.

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

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

In (e), revised definition of elderly or disabled.

In (e)1, added rural area residency to hardships.

### 10:87-2.20 Mandatory verification

(a) The CWA shall verify the following information in (b) through (k) below prior to certification for households initially applying for food stamp benefits.

(b) Gross nonexempt income: Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the CWA, and all other sources of verification are unavailable, the eligibility worker shall determine the amount to be used for certification purposes based on the best available information.

(c) Alien status: For each household member identified on the application as an alien, the CWA shall determine if that member is an eligible alien (see N.J.A.C. 10:87-3.8) by requiring that the household present verification for each alien member.

1. Verification of immigrant status and continuous residence: Aliens lawfully admitted as immigrants and aliens in continuous residence (see N.J.A.C. 10:87-3.8(a)) shall present INS Form I-151 or Form I-551 "Alien Registration Receipt Card" or the "Re-entry Permit", a passport booklet for lawful permanent resident aliens.

2. INS Form I-94: Aliens in the categories specified in N.J.A.C. 10:87-3.8(a)3 through 7 shall present an INS Form I-94, "Arrival-Departure Record". The CWA

shall accept the INS Form I-94 only if it is annotated with Section 207, 208, 212(d)(5), or 243(h) of the Immigration and Nationality Act; or if the form is annotated with one of the following terms or combination of terms: refugee, parolee, paroled, or asylum.

i. An INS Form I-94 annotated with the letters (A) through (L) shall be considered verification of ineligible status unless the alien can provide other documentation from INS which indicates the alien is eligible.

ii. If the INS Form I-94 does not bear any acceptable annotations and the alien has no other verification of alien classifications in his or her possession; the CWA shall advise the alien to submit Form G-641, Application for Verification of Information from Immigration and Naturalization Service Records, to INS. The CWA shall accept this form when presented by the alien and properly annotated at the bottom by an INS representative as evidence of lawful admission for permanent residence or parole for humanitarian reasons. The alien shall also be advised that classification under Sections 207, 208, 212(d)(5) or 243(h) of the Immigration and Nationality Act shall result in eligible status. Additionally, the alien shall also be advised that he or she may be eligible if acceptable verification is obtained and that the alien may contact INS or otherwise obtain the necessary verification. If the alien so wishes and signs a written consent, the CWA will contact INS to obtain clarification of the alien's status.

3. Aliens unable to provide documentation: If an alien is unable to provide any INS document at all (not even an INS Form I-94), the CWA has no responsibility to offer to contact the INS on the alien's behalf. The CWA's responsibility exists only when the alien has an INS document that does not clearly indicate eligible or ineligible alien status. In any event, the CWA shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

4. Other documentation of alien status: If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The CWA shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to Section 101(a)(15), 101(a)(20), 207, 208, 212(d)(5), 243 or 249 of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to Section 243(h) of the Immigration and Nationality Act.

5. Awaiting verification of alien status: While awaiting acceptable verification, the alien whose status is questionable shall be ineligible. If the alien does not wish to contact INS or give permission for the CWA to contact INS, the household shall be given the option of withdrawing its application or participating without that member. The income and resources of the ineligible alien shall be treated in the same manner as an excluded individual as set forth in N.J.A.C. 10:87-7.14 and shall be considered

available in determining the eligibility of any remaining household members.

6. Reporting illegal aliens: Whenever the CWA determines that any member of a household is ineligible to receive food stamps because he or she is present in the United States in violation of the Immigration and Nationality Act, that individual shall be reported to the local INS office. CWAs must take a distinction between aliens who are ineligible for the Food Stamp Program for various reasons and aliens who are in the United States illegally. Only those aliens specifically known to be illegal aliens shall be reported to INS.

i. When a household indicates inability or unwillingness to provide documentation or alien status for any household member, that member should be classified as an ineligible alien.

(d) Utility expenses: The CWA shall verify a household's utility expenses if the household wishes to claim expenses in excess of the appropriate utility allowance and the expense would actually result in a deduction. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the CWA shall use the appropriate utility allowance, provided the household is entitled to use one of the utility allowance as specified in N.J.A.C. 10:87-5.10(a)5iv.

1. Unoccupied home: If a household wishes to claim expenses for an unoccupied home, the CWA shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use either of the utility allowances.

(e) Medical expenses: The amount of any medical expenses (including the amount of reimbursements) deductible under N.J.A.C. 10:87-5.10(a)3 shall be verified prior to initial certification. Verification of other factors including whether or not the services provided are allowable under N.J.A.C. 10:87-5.10(a)3i or the eligibility of the person incurring the cost, shall be required if questionable.

(f) Residency: Residency (see N.J.A.C. 10:87-3.2 and 3.3) shall be verified except in unusual cases (such as homeless household, some migrant farmworker households or households newly arrived in the county) when verification of residency cannot reasonably be accomplished. Acceptable verification of residency should be accomplished, to the extent possible, in conjunction with the verification of other information such as but not limited to rent and mortgage payments, utility expenses and identity. If verification cannot be accomplished in conjunction with the verification of other information, the CWA shall use a collateral contact or other readily available documentary evidence. Any documents or collateral contacts which reasonably establish the household's residency shall be accepted and no requirements for a specific type may be imposed (see also N.J.A.C. 10:87-3.4).

(g) Identity: The identity of the person making application shall be verified. If an unauthorized representative applies on behalf of a household, the identity of both the authorized representative and the head of household shall be verified. Identity may be verified through readily available documentary evidence, or if that is unavailable, through collateral contact.

1. Acceptable verification: Examples of acceptable documentary evidence which the applicant may provide include, but are not limited to, a driver's license, a work or school identification card, an identification for health benefits or for another assistance or social service program, a voter registration card, wage stubs, or a birth certificate. Any documents which reasonably establish the applicant's identity must be accepted, and no requirement for a specific type of document may be imposed.

(h) Procedures for obtaining and verifying Social Security numbers are as follows:

1. The CWA shall verify the Social Security numbers (SSNs) provided by the household with the Social Security Administration (SSA) by submitting them through the management information system. Certification for, or issuance of benefits to, an otherwise eligible household shall not be delayed pending SSN verification. Once the SSNs have been verified, the CWA shall make a permanent annotation to the household case file to prevent unnecessary reverification of the SSN in the future. Social Security numbers previously verified by another program participating in the Income Eligibility Verification System shall be acceptable to the CWA for Food Stamp Program participation.

2. The CWA shall require an individual who is unable to provide, or does not have, a Social Security number to submit an application for a SSN (Form SS-5) to the Social Security Administration. The CWA shall advise the household member that proof of application from the SSA will be required prior to certification. The Social Security Administration receipt for application for a SSN, Form SSA-5028, may be used as evidence that an individual has applied for a Social Security number. Refusal or failure without good cause to provide a Social Security number will result in disqualification of the individual for whom a SSN is not obtained.

i. If the county welfare agency determines that a household member has refused or failed without good cause to provide or apply for a SSN, then that individual shall be ineligible to participate in the Food Stamp Program. The disqualification applies to the individual for whom the SSN is not provided, and not to the entire household. The earned or unearned income and resources of an individual disqualified for failure to obtain or provide a SSN shall be counted as household income and resources.

3. Determining good cause procedures are as follows:

**10:87-2.21 Verification of questionable information**

(a) The CWA shall verify all other factors of eligibility not described at N.J.A.C. 10:87-2.20 prior to certification only if they are questionable and affect the household's eligibility or benefit level. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the CWA prior to certification. When determining if information is questionable, the CWA shall base the decision on each household's individual circumstances. The fact that a household's expenses exceed its income may be grounds for a determination that further verification may be required. However, this fact shall not, in and of itself, be grounds for a denial. The CWA shall instead explore with the household how it is managing, whether or not the household receives excluded income or has resources, and how long the household has managed under these circumstances. Certain special procedures described in this section shall be followed when information concerning one of the following eligibility requirements is questionable.

(b) Citizenship: When a household's statement that one or more of its members is a U.S. citizen is questionable, the household shall be asked to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, or certificates of citizenship or naturalization provided by INS, such as Identification Cards for Use of Resident Citizens in the U.S. (INS Form I-179 or INS Form I-97) or U.S. Passports.

1. Participation in the AFDC program shall be considered acceptable verification of citizenship if verification was obtained for that household for eligibility in that program.

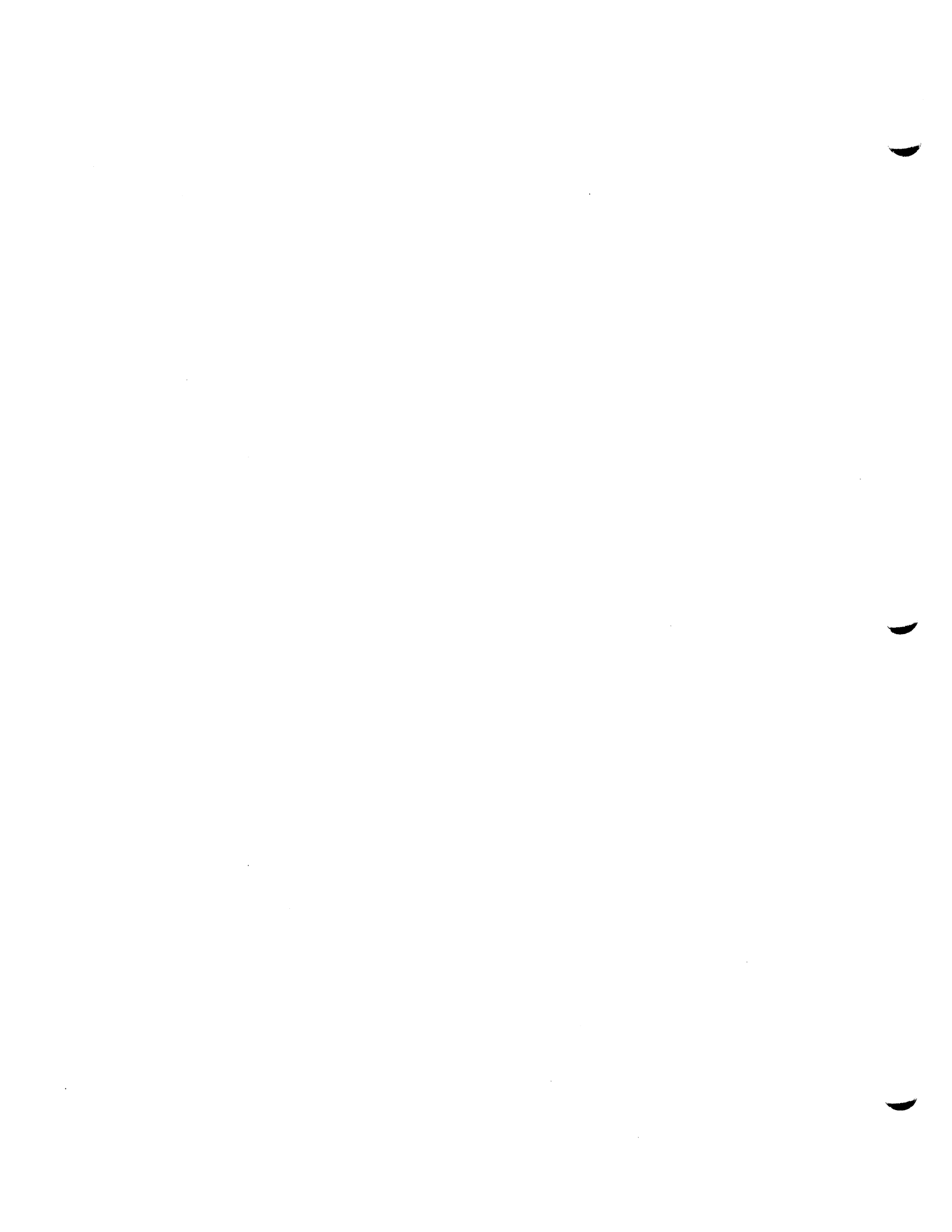
2. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the CWA shall accept a signed "Affidavit of Citizenship" from someone who is a U.S. citizen who declares, under penalty of perjury that the member in question is a U.S. citizen.

3. The member whose citizenship is in question shall be ineligible to participate until proof of United States citizenship is obtained. Until proof of United States citizenship is obtained, the member whose citizenship is in question shall have his or her income, less a pro rata share, and all of his or her resources considered available to any remaining household members as set forth in N.J.A.C. 10:87-7.14(c).

(c) Deductible expenses: Deductible expenses other than utility costs which exceed the standard or heating utility allowance shall be verified if questionable and if allowing the expense would actually result in a deduction. In accordance with N.J.A.C. 10:87-5.10(a)5iv(1) and (2), the CWA shall verify that the household is entitled to a utility allowance.

1. Shelter costs of unoccupied homes: Households which wish to claim shelter costs for a home that is unoccupied because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss must provide verification of actual utility costs would result in a deduction. These households are also responsible for providing verification of any other shelter costs of the unoccupied home if the cost is questionable and it would result in a deduction. The CWA is not required to assist the household in obtaining verification of this expense if the verification would have to be obtained from a source outside the county.

2. Delays in verification: If a deductible expense must be verified and obtained the verification may delay the household's certification, the CWA shall advise the household that the household's eligibility and benefit level may be determined without providing a deduction for a claimed but unverified expense. Shelter costs would be computed without including the questionable and unverified components. The standard utility allowance shall be used if the household is entitled to claim it and has not verified higher actual costs. If the expense cannot be verified within 30 days of the date of application, the CWA shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense.



3. Subsequent verification: If the household subsequently provides the missing verification, the CWA shall redetermine the household's benefits, and provide increased benefits, if any in accordance with the timeliness standards on reported changes. The household shall be entitled to the restoration of any benefits lost as a result of the disallowance of the expense only if the expense could not be verified within the 30-day processing standard because the CWA failed to allow the household sufficient time (as defined in N.J.A.C. 10:87-2.31(c)) to verify the expense. If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in N.J.A.C. 10:87-2.30 and 2.31.

(d) Liquid resources and loans: The CWA shall verify liquid resources and whether or not moneys received by the household are loans whenever such items are questionable:

1. When verifying that income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties which indicates that the payment is a loan and must be repaid shall be sufficient verification.

2. If the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, the CWA may also require that the provider of the loan sign an affidavit which states that repayments are being made or that payments will be made in accordance with an established repayment schedule.

(e) Verification for PA households (as defined in N.J.A.C. 10:87-2.12(a)1): These verification procedures shall be followed for those factors of eligibility which are needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility which are needed to determine both AFDC eligibility and food stamp eligibility, the CWA may use the AFDC verification rules. However, the CWA shall not delay the household's food stamp benefits if, at the end of 30 days following the date the application was filed, the CWA has sufficient verification to meet food stamp verification requirements but does not have sufficient verification to meet the AFDC verification rules.

1. Duplicate participation cross-checks: The CWAs shall check each household member by name through the ALFX file to verify that each individual is not already participating in the Food Stamp Program as part of another household. The ALFX file is an alphabetical listing, within the State's management information system, of the names of all individuals receiving AFDC and Food Stamp benefits in New Jersey. The ALFX file is available on computer terminal, and enables a worker to locate an individual's case record, when the case number is not known, by alphabetic cross-reference to all cases and recipients in the State.

Amended by R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

(a): Added 4, renumbered 4-5 as 5-6; changed internal references to conform.

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

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

(a)5iv deleted. Renumber (a)5v and vi as iv and v.

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

See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Changes upon readoption were precipitated by emergency adoption (R.1983 d.38) filed on January 31, 1983. Readopted as R.1983 d.72. Language has been added to include specific additional verification requirements for household composition.

Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Treatment of ineligible alien's resources and income and ineligibility until citizenship established was added.

Amended by R.1984 d.19, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Reference made to INS Form I-181-B; restrictions on use of INS Form I-94 and other clarifications regarding reporting of items.

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

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

(a)10 added.

Correction: Deleted (a)iv and renumbered v and vi to iv and v.

See: 18 N.J.R. 2391(b).

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

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

Substantially amended.

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

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

Recodified from N.J.A.C. 10:87-2.21, subsections (a)-(j). N.J.A.C. 10:87-2.20, which was "Verification," was repealed. Old subsections (k)-(n) of N.J.A.C. 10:87-2.21 recodified as new subsection 2.21, "Verification of questionable information." Revised rule by deleting (i) regarding questionable information and recodifying (j) to (i).

Deleted old (j)3 and text in old (j)2 regarding elderly or disabled individuals, and added new (j) and (k) on disability determinations.

#### Case Notes

Loans to Food Stamp recipient which, by testimony of lender and recipient, are to be repaid at a fixed rate once the recipient obtained employment are excluded from consideration as income in allotment determination. In re: S.C., 6 N.J.A.R. 333 (1981).

Shelter cost deduction refused for unverified and unitemized expense. M.D. v. Passaic Cty. Bd. of Social Services, 3 N.J.A.R. 366 (1981).

Termination of Food Stamp Program participation due to inability to reconcile income and household size reported by household with case record; termination reversed due to ready availability of income information and agency responsibility to establish household size from information provided by household. Burlington Cty. Welfare Bd. V.H.R., 3 N.J.A.R. 363 (1980).

#### 10:87-2.22 Verification of Social Security and/or SSI using SDX/BENDEX

(a) The CWA shall ensure that the required verifications are obtained prior to certification. If documentary evidence of Social Security and/or SSI benefits is not readily available from the applicant, CWA may verify the income through the Beneficiary Data Exchange (BENDEX) and/or the State Data Exchange (SDX). The CWA shall not verify wages through use of the BENDEX. Any further contact by the

CWA must be done by home visit (with permission of the SSI household), telephone or letter only, and shall not constitute a second food stamp certification interview.

(b) The CWA may use the BENDEX/SDX data to verify other food stamp eligibility criteria provided the household is given an opportunity to verify the information from another source if the BENDEX/SDX information is contradictory to the household's information or is unavailable. However, determination of a household's eligibility and benefit level shall not be delayed beyond the application processing time standards (see N.J.A.C. 10:87-2.30), if the BENDEX/SDX data are unavailable.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Substantially amended.

### 10:87-2.23 Sources of verification

(a) The CWA shall use documentary evidence as the primary source of verification. Documentary evidence is written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts and utility bills. Acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Where information from another source contradicts statements made by the household, the household shall be immediately afforded the opportunity to resolve the discrepancy. Whenever documentary evidence cannot be obtained, the CWA shall use alternate sources of verification such as collateral contacts and home visits.

#### (b) Collateral contacts:

1. A collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. The acceptability of a collateral contact shall not be restricted to a particular individual but may be anyone who can be expected to provide an accurate third party verification of the household's statements. Examples of acceptable collateral contacts are employers, social service groups, migrant service agencies and neighbors of the household. Systems of records such as, but not limited to, the SDX/BENDEX to which the CWA has routine access are not considered collateral contacts and, therefore, need not be designated by the household.

i. Home visits: Home visits shall be used as verification only if documentary evidence cannot be obtained and the visit is scheduled in advance with the household.

(c) When information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.

#### (d) Responsibility for obtaining verification:

1. The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information. The CWA shall assist the household in obtaining this verification provided the household is cooperating with the CWA as specified in N.J.A.C. 10:87-2.14. Households may supply documentary evidence in person, through the mail or through an authorized representative. However, the CWA shall not require the household to personally present verification at the food stamp office. The CWA shall accept any reasonable documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application.

2. Inability to obtain documentary evidence: When documentary evidence cannot be obtained, the CWA shall substitute a collateral contact or a home visit. The CWA shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The CWA is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third party verification. When the collateral contact designated by the household is unacceptable, the CWA shall ask the household to designate another collateral contact. The CWA is responsible for obtaining verification from acceptable collateral contacts.

3. The CWA shall provide each household, at initial certification and recertification, with a Notice of Required Verification (Form FSP-33) if the household is required to provide information necessary to complete the certification process. That notice informs the household that the CWA will assist the household in obtaining the needed verification if the household encounters difficulty, and that failure to secure the required information may affect the household's eligibility for food stamp benefits.

Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (d)1: stylistic changes and clarification with reference to N.J.A.C. 10:87-2.14.

Amended by R.1991 d.247, effective May 6, 1991.  
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

Added new (d)3.

#### Case Notes

M.R. v. Camden County Welfare Board, 1 N.J.A.R. 94, (1979).

### 10:87-2.24 Documentation

Case records must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. Where verification was required to resolve questionable information, the CWA shall document why the information was considered questionable and what documentation was used to resolve the questionable information. The CWA shall also document the reason why an alternate source of verification, such as a collateral contact or home visit, was needed and the reason a collateral contact was rejected and an alternate source requested.

In (a)1.ii and (a)3, added "2.20" to N.J.A.C. 10:87 reference.  
Amended by R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (a)1ii, inserted a reference to eligibility for utility allowances in the introductory paragraph.

### 10:87-2.35 AFDC eligibility determination (PA households)

(a) Action on the food stamp portion of the application shall not be delayed nor the application denied on the grounds that the AFDC eligibility determination has not been made.

1. Anticipating AFDC grant: If the CWA can anticipate the amount and date of the initial AFDC grant, but the grant will not be received until a subsequent month, the CWA shall vary the household's food stamp benefit level according to the anticipated receipt of payment and notify the household.

2. Retroactive AFDC payments: Portions of initial AFDC payments intended to retroactively cover a previous month shall be disregarded as lump-sum payments in accordance with N.J.A.C. 10:87-5.9(m).

3. Unable to anticipate receipt of AFDC: If the amount or date of receipt of the initial AFDC payment cannot be reasonably anticipated at the time of food stamp eligibility determination, the AFDC payments shall be treated as a change in circumstances.

4. Adverse action: The CWA is not required to send a notice of adverse action if the receipt of the AFDC grant reduces or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced or terminated when the grant is received.

5. Denial of AFDC: A household whose AFDC application is denied shall not be required to file a new food stamp application but shall have its food stamp eligibility determined or continued on the basis of the original application filed jointly for AFDC and food stamp purposes and any other documented information obtained subsequent to the application which may have been used in the PA determination and which is relevant to food stamp eligibility or level of benefits.

Amended by R.1981 d.97, effective April 9, 1981.  
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)2: N.J.A.C. 10:87-5.9(a)10 was (a)9.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Recodified with amendments from 2.36.

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

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

In (a)5: added text "filed jointly . . . purposes" regarding applications.

### 10:87-2.36 Categorically eligible WFNJ/SSI households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive WFNJ/SSI benefits shall be considered categorically eligible for the

Food Stamp Program unless the household is institutionalized or disqualified for any reason from receiving food stamps.

1. Residents of public institutions applying jointly for SSI and food stamp benefits shall not be categorically eligible upon a finding by the Social Security Administration (SSA) of potential SSI eligibility prior to release. Those individuals shall be considered categorically eligible when a final SSI eligibility has been made and the individual has been released from the institution.

2. Authorized to receive means that an individual is considered a recipient if he or she has been determined eligible for AFDC/SSI but has not yet received or, is not currently entitled to, a money payment.

3. Categorically eligible recipients shall include those persons determined eligible to receive AFDC/SSI but currently not entitled to cash benefits; that is, persons whose benefits are being recovered and/or suspended subject to retrospective budgeting when the household is temporarily ineligible in a prior budget month, and AFDC recipients whose benefits are less than \$10.00 and are therefore not payable.

4. Individuals entitled only to Medicaid and not AFDC/SSI shall not be considered categorically eligible. Additionally, General Assistance (GA) and AFDC-N recipients shall not be considered categorically eligible for food stamp purposes.

i. If an AFDC household contains one or more -N segment individuals or a GA recipient, the household shall not be considered categorically eligible.

5. A household containing a member who is suspended from SSI for noncompliance with Drug or Alcohol Abuse (DAA) treatment requirements shall not be categorically eligible for food stamps. The household's food stamp eligibility would be calculated without including any SSI benefit as income for the suspended individual. (SSI installments are not issued during the suspension period.) The household cannot be considered categorically eligible as SSI recipients again until that individual either ends his or her suspension, resumes receipt of SSI, or leaves the household.

(b) For any household that is otherwise categorically eligible, no person shall be included as a member of that household if that person is:

1. An ineligible alien as defined in N.J.A.C. 10:87-3.7 through 3.9;

2. An ineligible student as defined in N.J.A.C. 10:87-2.3(a)2; or

3. Institutionalized in a non-exempt facility (see N.J.A.C. 10:87-2.4).

4. When determining benefit levels for households containing ineligible individuals, the income and resources of

such ineligible members shall be treated in accordance with procedures at N.J.A.C. 10:87-7.

(c) No household shall be considered categorically eligible for food stamps if any member of that household is disqualified for:

1. An intentional program violation (see N.J.A.C. 10:87-11.1 et seq.);
2. Failure to comply with monthly reporting requirements in accordance with N.J.A.C. 10:90; or
3. The head of the household is disqualified for failure to comply with the work requirements contained in N.J.A.C. 10:87-10.
4. Such households are subject to all food stamp eligibility criteria and benefit determination provisions and cannot be reinstated in the Program on the basis of categorical eligibility provisions.

(d) The factors which are deemed for food stamp eligibility without the verification required by N.J.A.C. 10:87-2.20 and 2.21 because of AFDC/SSI status are:

1. Gross and net income limits;
2. Resource limits;
3. Social Security number information;
4. Sponsored alien information; and
5. Residency.

(e) If any of the following factors are questionable, the CWA shall verify, in accordance with N.J.A.C. 10:87-2.21, that the household which is considered categorically eligible contains:

1. Only members that are AFDC or SSI recipients;
2. Meets the definition of a household in accordance with N.J.A.C. 10:87-2.2;
3. Includes all persons who purchase and prepare food together in one food stamp household regardless of whether or not they are separate units for AFDC or SSI purposes; and
4. Includes no person disqualified as specified in (c) above (see also N.J.A.C. 10:87-10 and 10:87-11.1).

(f) The exemptions concerning work registration in the food stamp employment and training program shall be applied to individuals in categorically eligible households. Individual(s) not exempt from work registration shall be subject to work requirements contained in N.J.A.C. 10:87-10.

(g) Households in which all members are applying for AFDC/SSI shall be allowed to apply for food stamp benefits at the same time they apply for AFDC/SSI benefits. Such households' food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. Households, whether jointly processed and/or eligible because of their AFDC/SSI status, shall be certified in accordance with the notice, procedural and timeliness requirements of N.J.A.C. 10:87-2.29 through 2.37.

(h) Households applying for both AFDC and food stamps shall complete a joint application for both programs. The joint application shall clearly indicate that the household is providing information for both programs and is subject to the criminal penalties of both programs for making false statements.

(i) The CWA shall conduct a single interview at initial application for both AFDC and food stamp purposes. AFDC households shall not be required to see a different eligibility worker or otherwise be subjected to two interview requirements to obtain the benefits of both programs.

1. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for food stamps and AFDC.
2. A household's eligibility for a food stamp out-of-office interview does not relieve the household of any responsibility for a face-to-face interview to be certified for AFDC.

(j) For households applying for both AFDC and food stamps, the verification procedures described in N.J.A.C. 10:87-2.20 and 2.21 shall be followed for those factors of eligibility which are needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility which are needed to determine both AFDC eligibility and food stamp eligibility, the CWA may use the AFDC verification rules.

1. However, the CWA shall not delay the household's food stamp benefits if, at the end of 30 days following the date the application was filed, the CWA has sufficient verification to meet the food stamp verification requirements, but insufficient verification to meet the AFDC verification rules.

(k) In order to determine if a household will be eligible due to its status as a recipient AFDC/SSI household, the CWA may temporarily postpone, within the 30-day processing standard, the food stamp eligibility determination, if the household is not entitled to expedited service and appears to be categorically eligible. However, the CWA shall postpone denying a potentially categorically eligible household until the 30th day, in the event that the household is determined eligible to receive AFDC/SSI benefits.

1. Once the AFDC/SSI application is approved, the household is to be considered categorically eligible if it meets all categorical eligibility criteria.

2. If the CWA can anticipate the amount and the date of receipt of the initial AFDC/SSI payment, but the payment will not be received until a subsequent month, the CWA shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and notify the household. Portions of initial AFDC/SSI payments intended to retroactively cover a previous month shall be disregarded as lump sum payments.

3. If the amount or date of receipt of the initial AFDC/SSI payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the AFDC/SSI payments shall be handled as a change in circumstances.

(l) The CWA is not required to send a notice of adverse action if the receipt of the AFDC/SSI grant reduces, suspends or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced, suspended, or terminated when the grant is received. The case may be terminated if the household is not categorically eligible.

(m) The CWA shall ensure that a denied application of a potentially categorically eligible household is easily retrievable, in the event that the household is subsequently found to be categorically eligible.

(n) For a household filing a joint application for food stamps and AFDC/SSI benefits, or a household that has an AFDC/SSI application pending and is denied food stamps but is later determined eligible to receive AFDC/SSI benefits and is otherwise categorically eligible, the CWA shall provide benefits using the original application and any other pertinent information occurring subsequent to that application, except for residents of public institutions who apply for AFDC/SSI benefits prior to their release from the public institution. Benefits shall be paid from the beginning of the period for which AFDC/SSI benefits are paid, the original food stamp application date or December 23, 1985, whichever is later.

1. The CWA shall not reinterview the household, but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Changes shall be initialed and the updated application resigned by the authorized representative or household member. In no event can benefits be provided prior to the date of the original food stamp application filed on or after December 23, 1985.

(o) Any household determined AFDC/SSI eligible which is categorically eligible within the 30-day food stamp processing time shall be provided benefits in accordance with N.J.A.C. 10:87-2.30. Benefits shall be prorated in accordance with current procedures. However, no food stamp benefits shall be paid for a month in which such household is ineligible for receipt of AFDC/SSI benefits, unless the household is eligible as an NPA case.

(p) Households that file joint applications that are found categorically eligible after being denied NPA food stamps shall have their benefits for the initial month prorated from the date from which the PA benefits are payable or the date of the original food stamp application, whichever is later.

(q) The CWA shall act on reevaluating the original application either at the household's request or when it becomes otherwise aware of the household's AFDC and/or SSI eligibility. The household shall be informed on the notice of denial to notify the CWA if its AFDC or SSI benefits are approved. Households who file joint applications for food stamps and AFDC/SSI and are subsequently denied may be required to file a new food stamp application or have their food stamp eligibility determined or continued on the basis of the original applications.

(r) The CWA shall notify households of the need for a new application. If a required new application is filed within 30 days of the original application, the filing date of the new application shall be the filing date of the original joint application.

(s) Households whose AFDC/SSI applications are denied shall not be required to file a new food stamp application, but shall have their food stamp eligibility determined or continued on the basis of the original applications. The CWA may, in evaluating food stamp eligibility or benefit levels, use any other documented information obtained subsequent to the application, which may have been used in the AFDC/SSI determination.

(t) Categorical eligibility shall be assumed at recertification, in the absence of a timely AFDC redetermination. If a recertified household is subsequently terminated from AFDC benefits, the procedures in N.J.A.C. 10:87-9.5 shall be followed, as appropriate.

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

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

Amended by R.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Cross-reference to N.J.A.C. 10:87-2.30 added.

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

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

Stylistic and structural changes throughout to conform with Federal regulations regarding eligibility for food stamp benefits of AFDC and SSI recipient households.

Added new (a)1 and renumbered 1-3 as 2-4, with no change in text.

Added head of household text at (c)3.

Added new provision at (o) regarding ineligibility status of AFDC/SSI recipients.

Added new (s) and (t).

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

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

In (a), substituted a reference to WFNJ for a reference to AFDC in the introductory paragraph, and added 5.

### **10:87-2.37 Procedures for SSI jointly processed households**

(a) Supplemental Security Income (SSI) is defined as Federal SSI payments made under Title XVI of the Social Security Act, federally administered optional supplementary

payments under section 1616 of that Act, or federally administered mandatory supplementary payments made under section 212(a) of Public Law 93-66. Households may apply and be certified for food stamp benefits in accordance with the procedures described herein and with the notice, procedural and timeliness requirements of the Food Stamp Act.

1. Households applying simultaneously for SSI and food stamps shall be eligible to receive benefits based solely on food stamp eligibility criteria until the household is considered categorically eligible. Households denied NPA food stamps that have an SSI application pending shall be informed on the notice of denial of the possibility of categorical eligibility should they become SSI recipients.

(b) Initial application at the Social Security District Office (SSA/DO): The SSA/DO will inform households eligible for SSI joint processing (see N.J.A.C. 10:87-2.12(a)3) of their right to apply for food stamps at the SSA/DO without going to the food stamp office and will refer all other households to the appropriate food stamp office. The SSA/DO will accept and complete FSP-901A forms received from households eligible for SSI joint processing and forward them within one working day to the appropriate CWA. Along with the FSP-901A, the SSA/DO will forward a Social Security Administration Transmittal for Food Stamp Applications (Form SSA-4233) which documents all verification obtained by the SSA employee.

1. Telephone or mail contact by the SSA/DO: During a telephone interview, if the SSA/DO takes an initial or redetermination application for SSI, a food stamp application will also be completed. In these cases an FSP-901A will be mailed to the claimant for signature to be returned to the SSA/DO or CWA. The SSA/DO will then forward any food stamp application it receives to the appropriate food stamp office. The CWA may not require the household to be interviewed again in the food stamp office (see N.J.A.C. 10:87-2.22). SSI recipients who are redetermined for SSI by mail will be sent a notice informing them of their right to file a food stamp application at the SSA/DO or their local food stamp office and have an out-of-office interview performed by the CWA if the household is unable to appoint an authorized representative.

2. Entitlement to expedited service: The SSA/DO will prescreen all applications for entitlement to expedited service on the day received, and will mark "Expedited Processing" on the SSA-4233 for all households which appear to be so entitled. The SSA/DO will inform such households that benefits may be issued a few days sooner if they apply directly at the food stamp office for screening and interview, and processing of the application.

3. Residents of public institutions who apply for SSI under SSA's Prerelease Program for the Institutionalized may complete a joint application for SSI/FS prior to release from the institutions, and are subject to the same provisions applicable to all other jointly processed SSI households, with the following exceptions:

i. The 30-day processing standard described in N.J.A.C. 10:87-2.30 to deliver benefits to a prerelease applicant shall be based upon the date the individual is released from the institution, rather than the date the application is filed at the CWA.

ii. A prerelease applicant who is entitled to expedited service shall be provided food stamp benefits no later than the fifth calendar day following the date of release from the institution.

iii. A prerelease applicant's benefit level for the initial month of certification shall be based on the day of the month the resident is released from the institution.

(c) Recertification at the SSA/DO: Jointly processed SSI households which have received a food stamp notice of expiration (Form FSP-907A) and who appear at an SSA/DO for an SSI redetermination shall be entitled to make a timely application for food stamp recertification at the SSA/DO office.

(d) Denial of SSI: For jointly processed cases in which the SSI determination results in a denial and the CWA believes that food stamp eligibility or benefit levels may be affected, the CWA shall send the household a Notice of Expiration (Form FSP-907A) advising the household that its certification period will expire at the end of the month following the month in which the notice is sent.

(e) The CWA receiving food stamp applications from SSA for SSI households are required to determine if any member of the SSI household is currently participating in the Food Stamp Program.

(f) The CWA shall ensure that information required by N.J.A.C. 10:87-2.20, 2.21 and 2.22 is verified prior to certification for households initially applying for food stamps. Households shall be provided the opportunity to provide verification from another source if all necessary SSI benefit payment information is not available on/through the State Data Exchange (SDX) or Beneficiary Data Exchange (BEN-DEX) (see N.J.A.C. 10:87-2.22).

(g) Households identified as categorically eligible due to their pure SSI status and requiring expedited service shall be handled in accordance with the provisions of N.J.A.C. 10:87-2.34 above.

(h) An applicant or recipient of social security benefits under Title II of the Social Security Act shall be informed by the SSA/DO of the availability of benefits and an application at the SSA office. Interviews and application processing is not required by the SSA/DO unless an eligibility worker has been outstationed at the SSA office.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Substantially amended.

Amended by R.1989 d.464, effective September 5, 1989.

See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Provisions for applicants who are residents of public institutions added at (b)3.

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

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

Stylistic changes in (f).

**10:87-2.38 Elderly or disabled household members**

(a) An elderly or disabled member of a food stamp household is defined as a member who:

1. Is 60 years of age or older;
2. Receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;
3. Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act, provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;



4. Receives federally or State-administered supplemental benefits under section 212(a) of P.L. 93-66;

5. Receives disability retirement benefits from a governmental agency because of a disability considered permanent under section 221(i) of the Social Security Act;

6. Is a veteran with service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;

7. Is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;

8. Is a surviving spouse of a veteran and considered by the DVA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code;

9. Is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the United States Code and has a disability considered permanent under section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

10. Receives an annuity payment under: section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or section 2(a)(1)(v) of the Railroad Retirement Act of 1974 and is determined to be disabled, based upon the criteria used under Title XVI of the Social Security Act; or

11. Receives medical assistance benefits as a disabled individual under:

- i. Medicaid Only (Aged, Blind, and Disabled);
- ii. AIDS Community Care Alternatives Program;
- iii. Community Care Program for the Elderly and Disabled;
- iv. Model Waivers I, II, or III (Medicaid Community/Home Care Waivers);
- v. Home Care Expansion Program;
- vi. Medically-Needy Program; or
- vii. New Jersey Care Program.

R.1983 d.72, eff. February 28, 1983.  
See: 15 N.J.R. 247(a), 15 N.J.R. 444(a).

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

Amended by R.1985 d.707, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2521(b), 18 N.J.R. 193(b).

Deleted "Licenses" and substituted "Is certified for".

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

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

Repealed old text and substituted new.

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

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

Stylistic revisions and added new (a)11.

#### 10:87-2.39 Categorically eligible GA households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive GA benefits shall be considered categorically eligible for the Food Stamp Program. In addition, households comprised entirely of AFDC, SSI and/or GA recipients shall be categorically eligible for food stamp benefits.

(b) No individual shall be included as a member of an otherwise categorically eligible GA household if that individual is:

1. An ineligible alien, as defined at N.J.A.C. 10:87-3.9;
2. A student that does not meet the criteria at N.J.A.C. 10:87-3.14;
3. Disqualified for failure to provide or apply for a Social Security Number, as required by N.J.A.C. 10:87-3.15;
4. A household member not the household head, disqualified for failure to comply with a work registration requirement;
5. Disqualified for Intentional Program Violation; or
6. A resident of a non-exempt institution.

(c) A household shall not be considered as GA categorically eligible if:

1. It refuses to cooperate in providing information to the CWA which is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility;
2. The household is disqualified because the head of household failed to comply with a work registration requirement;
3. The household is ineligible under the striker provisions; or
4. The household is ineligible because it knowingly transferred resources for the purpose of qualifying or attempting to qualify for the Food Stamp Program.

(d) In determining whether a household is categorically eligible, the CWA shall verify that each member receives AFDC, SSI, or GA benefits, and that it includes no individuals who have been disqualified as described at (b) above. The CWA shall also verify household composition if it is

questionable in order to determine that the household meets the definition of a household at N.J.A.C. 10:87-2.2.

(e) When determining the eligibility of a GA categorically eligible household, all Food Stamp Program requirements shall apply except the following:

1. None of the provisions of N.J.A.C. 10:87-4 (Financial Eligibility Resources) apply to categorically eligible households, with the exception of N.J.A.C. 10:87-4.1(b) (categorical eligibility provision) and 4.14 through 4.20 (transfer of resources). The provision at N.J.A.C. 10:87-6.8 shall not be applied to categorically eligible households;

2. With the exception of N.J.A.C. 10:87-5.1(b), none of the provisions of N.J.A.C. 10:87-5.1 (gross and net income limits) apply to categorically eligible households;

3. The provision at N.J.A.C. 10:87-6.5(c) which allows the CWA to deny the application of a household which is program eligible, but is entitled to no benefit because its net income exceeds the level at which benefits are issued, shall not be applied to categorically eligible households. The provisions at N.J.A.C. 10:87-6.20 shall be applied to categorically eligible households that are entitled to no benefit; and

4. Sponsored alien information, which otherwise is required under N.J.A.C. 10:87-2.20(b) and 7.18(f).

New Rule, R.1993 d.62, effective February 1, 1993.  
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

### SUBCHAPTER 3. ELIGIBILITY FACTORS OTHER THAN NEED

#### 10:87-3.1 Applicability

Nonfinancial eligibility factors in this section shall apply equally to all applicant households (see N.J.A.C. 10:87-2.20 and 2.21 for verification requirements).

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Substantially amended.

Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).  
Added "2.20" to N.J.A.C. 10:87 reference.

#### Case Notes

Determination of status as non-striker eligible for Food Stamp Program. *A.R. v. Middlesex Cty. Welfare Agency*, 5 N.J.A.R. 270 (1983).

#### 10:87-3.2 Residency in the county

(a) A household must be a resident of the county in which it files an application for participation. No individual may participate as a member of more than one household, or more than one county, in any month except as provided for in this section.

(b) Residents of shelters for battered women and children: Residents of shelters for battered women and children may participate in the program as a member of more than one household or in more than one county as a separate household in any month if the previously certified household of which they were members also contains the person who subjected them to abuse.

1. Shelter residents who are included in such certified households may receive an additional allotment as a separate household only once a month.

Amended by R.1982 d.473, effective January 3, 1983.  
See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Treatment of battered women and children.  
Amended by R.1984 d.17, effective February 6, 1984.  
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Reference to N.J.A.C. 10:87-9.8 deleted.  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Substantially amended.

#### 10:87-3.3 Determination of residency

(a) For purposes of the Food Stamp Program, a person shall be considered a resident in the place in which he or she actually lives, without regard to legal residence or intent to remain permanently. There shall be no requirement that a person reside in the county for a specified period of time prior to application. A fixed residence is not required; for example, migrant campsites satisfy the residency requirement.

1. The residency requirement shall be verified except in unusual cases such as homeless households, migrant farmworker households or households newly arrived to the project area where verification of residency cannot reasonably be accomplished.

(b) Vacationer excluded: A person temporarily visiting the county solely on a vacation shall not be considered a resident.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Added (a)1.

#### Case Notes

Applicant was entitled to obtain food stamps from county of residence even though she lived at school in another county during a portion of year. *Bergen County Board v. R.K.*, 95 N.J.A.R.2d (DEA) 21.

#### 10:87-3.4 Recording applicant's address

The county welfare agency shall be responsible for recording the applicant's correct address, or location where the applicant may be contacted, in the case record. The CWA shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

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

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

Changed 1. to (b).

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

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

Revised N.J.A.C. 10:87 reference to 2.20(c).

#### **10:87-3.12 Eligibility to use coupons for prepared meals**

(a) The following individuals, if members of an eligible household, may use food coupons to purchase prepared meals from any communal dining facility, meal delivery service, alcoholic and/or drug treatment center, group living arrangement, shelter for battered women and children or homeless meal provider which is currently authorized by FNS to accept food coupons.

1. Communal dining: Any member of an eligible household who is 60 years of age or older or members

who receive SSI may use all or any part of his/her coupons to purchase meals prepared at a communal dining facility authorized by FNS for that purpose. In addition, if such household member lives with his/her spouse, the spouse may also use coupons to purchase meals from a communal dining facility.

2. Meal delivery service: Any member of an eligible household who is 60 years of age or older, or members who are housebound, feeble, physically handicapped or otherwise disabled to the extent that they are unable to adequately prepare all their meals, may use all or any part of their coupons to purchase meals from a nonprofit meal delivery service. The spouse of such an individual may also use coupons to purchase meals from a meal delivery service, regardless of age or disability.



3. Addicts and alcoholics: Members of eligible households who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program may use coupons to purchase food prepared for them during the course of such program by a private nonprofit organization, institution or a publicly operated community mental health center authorized by FNS.

4. Group living arrangements: Members of eligible households who are residents of a private or public nonprofit facility, authorized by FNS to use coupons to purchase food for meals served either communally or individually.

5. Residents of shelters for battered women and children may use their coupons to purchase meals prepared especially for them at a shelter which has been authorized by FNS to redeem coupons at wholesalers, or which redeems at retailers as the authorized representative of participating households.

6. Homeless food stamp households who obtain meals prepared for and served by an authorized public or private nonprofit establishment such as a soup kitchen or temporary shelter approved by the DFD or its designee.

Amended by R.1979 d.422, eff. October 18, 1979.

See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

Amended by R.1982 d.474, eff. January 3, 1983.

See: 14 N.J.R. 1081(b), 15 N.J.R. 35(a).

References to group living and shelters for battered women, added.

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

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

Substantially amended.

### 10:87-3.13 State Income and Eligibility Verification System

(a) DFD shall maintain and use the Income and Eligibility Verification System (IEVS) as specified in this section. By means of IEVS, DFD shall request wage and benefit information from the agencies identified below and use that information in verifying eligibility for, and the amount of, food stamp benefits due to eligible households.

1. Such information shall be requested and used with respect to all household members, including any excluded household members, as specified in N.J.A.C. 10:87-7.14, whenever the SSNs of such included household members are available. (If not otherwise documented, DFD shall obtain written agreements from those information provider agencies that they shall not record any information about individual food stamp households and that staff of those agencies are subject to the disclosure restrictions of N.J.A.C. 10:87-1.14).

2. The wage and benefit information available through IEVS are:

- i. Wage information maintained by the State Wage Information Collection Agency (SWICA);

- ii. Information about net earnings from self-employment, wages, and Internal Revenue Service (IRS) data, retirement payments and unearned income maintained by the SSA and available pursuant to sections 6103(1)(7)(A) and (B) of the IRS Code; Federal retirement, survivors, disability, SSI and related benefit information available from the SSA; and

- iii. Claim information from the agency administering Unemployment Insurance Benefits (UIB) and any information, in addition to information about wages and UIB, which is useful for verifying eligibility and benefits, subject to the provisions and limitations of section 303(d) of the Social Security Act.

(b) DFD shall exchange information with other State agencies administering certain other programs in the IEVS about food stamp households' circumstances which may be of use in establishing or verifying eligibility and/or benefits under the program. CWAs may exchange information with agencies in other states when they determine that the same objectives are likely to be met.

1. These programs are:

- i. Aid to Families with Dependent Children (AFDC);

- ii. Medicaid;

- iii. Unemployment Compensation (UC);

- iv. Food Stamps; and

- v. Any State program administered under a plan approved under Title I, X, or XIV (the adult categories), or Title XVI of the Social Security Act.

2. DFD shall provide information to people administering the Child Support Program (Title IV-D of the Social Security Act) and Titles II (Federal Old Age, Survivors, and Disability Insurance Benefits) and XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act.

(c) The CWA shall use information obtained from IEVS for the purposes of:

- 1. Verifying a household's eligibility;

- 2. Verifying the proper amount of benefits;

- 3. Investigating to determine whether participating households received benefits to which they were not entitled; and

- 4. Obtaining information which will be used in conducting criminal or civil prosecutions based on receipt of benefits to which participating households are not entitled.

(d) CWAs shall request through DFD, and use information about members of all applicant households as specified below:

1. Information shall be requested at the next available opportunity after the date of application even if the applicant household has been determined eligible by that time. Information about members of applicant households who cannot provide SSNs at application shall be requested at the next available opportunity after the CWA is notified of the household members' SSNs. Information received within the 30-day application period shall be used to determine household eligibility and benefits if the information is received timely enough. However, CWAs shall make eligibility and benefit determinations without waiting for receipt of IEVS data to conform with the promptness standards of N.J.A.C. 10:87-2.30. Information received after an eligibility determination has been made shall be used as specified in paragraphs (e) and (f) below.

2. Information from the SWICA, SSA, IRS, and claim information from the agency administering UIB shall be requested and used as specified in (d)1 above. Requests to SWICAs shall access the most recent SWICA data available. Requests to SSA and IRS shall be submitted according to procedures specified by those organizations.

3. Any information, other than wage and UIB which UC agencies may have and that DFD determines would be useful in verifying eligibility or benefits of applicant households, shall be requested by methods and at intervals to which DFD and UC agencies agree, and shall be used as specified in paragraph (d)1 above; and

4. Exchanges of information about applicant households with other programs specified in (b) above shall be made as the DFD and other programs may agree.

(e) Except as provided in (e)7 below, with respect to all members of recipient households, DFD shall:

1. Request information from the SWICA quarterly, such requests shall include all households which participated in any month of the quarter;

2. Request information about household members from SSA data bases no later than the second month of the certification period, when requests at application did not establish automatic reporting to the CWA of changes in SSA data. Requests shall be submitted according to procedures specified by the SSA;

3. Request information from IRS annually for all current recipients. Requests shall be submitted to IRS according to procedures specified by the IRS;

4. Exchange information with other programs specified in paragraph (a) above as the DFD and these other programs may agree;

5. Request information about UIB from the agency administering that program as follows:

i. For all household members about whom requests at application indicate no receipt of UIB, information shall be requested for the three months following the month of application or until the receipt of UIB is reported, whichever is earlier;

ii. For all household members who report a loss of employment, information shall be requested for the three months following the month the loss is reported or until the receipt of UIB is reported, whichever is earlier; and

iii. For all household members receiving UIB, information shall be requested monthly until UIB are exhausted; and

6. Request from UC agencies any information other than UIB information which DFD determines would be useful in verifying eligibility or benefits of recipient households. Requests shall be made by methods and at intervals to which the DFD and the UC agencies agree.

7. Under certain conditions DFD may exclude from the requests for information specified in this subsection those members of recipient households who are participating in one of the other programs listed in (b) above. The conditions for such exclusion are that:

i. The agency responsible for administering the other program is requesting and acting on information on food stamp recipients who are participating in that program as required by the pertinent regulations for that program, including any concerning selective criteria for follow-up action;

ii. The other program agency agrees to inform the CWA of the information obtained from its follow-up action when that information shows discrepancies between actual circumstances of food stamp recipients and circumstances known by the other program agency;

iii. The other program agency agrees to make available, at the request of the CWA, information about food stamp recipients that it did not follow up on; and

iv. The follow-up action taken by the other program agency is at least as beneficial as similar action would be if taken by the CWA.

(f) With respect to information received as a result of requests made according to (e) above, CWAs shall initiate and pursue actions according to the specific attachment to the State Plan of Operation.

1. CWA action on information items about recipient households shall include:

i. Reviewing the information and comparing it to case record information;

ii. For all new or previously unverified information received, contacting the households to resolve discrepancies as specified in (d) and (e) above.

iii. If discrepancies warrant reducing benefits or terminating eligibility, sending out notices of adverse action.

2. CWAs shall initiate and pursue the actions specified above so that they are completed within 45 days of receipt of the information. Actions may be completed later than 45 days from the receipt of information on no more than 20 percent of the information if:

i. The only reason that the actions cannot be completed is the nonreceipt of verification requested from collateral contacts; and

ii. The actions are completed, as specified in N.J.A.C. 10:87-9.5, when verification from a collateral contact is received or, in conjunction with the next case action, when such verification is not received, whichever is earlier.

3. When the actions specified in (f)1 above substantiate an overissuance, CWAs shall take action on claims as specified in N.J.A.C. 10:87-11.23 through 11.32, inclusive.

4. State agencies shall use appropriate procedures to monitor the timeliness requirements in (f)2 above.

5. Except for the claims actions specified in (f)3 above, under the conditions of (e)7 above, CWAs may exclude from the actions required in (f) above, information items pertaining to household members who are participating in one of the other programs listed in (b) above.

(g) IEVS information and quality control responsibilities are:

1. In compliance with Federal regulations, the DFD uses an administrative system (IEVS) to measure the extent and number of, and occasion and basis for, errors of benefit issuance and/or eligibility in the program.

2. The CWA shall be responsible for investigating and then initiating and implementing actions designed to bring the incidence of errors, as established by DFD's Bureau of Quality Control, within certain pre-set tolerance limits.

New rule, R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

### **10:87-3.14 Procedures for students in an institution of higher education**

(a) A student in an institution of higher education defined: Any person who is between the ages of 18 and 50 who is physically and mentally fit and is enrolled at least half time in an institution of higher education. Excluded from this definition are persons who are attending high school, participating in on-the-job training programs and training programs which are not institutions of higher education.

(b) Institution of post secondary education defined: An institution of post secondary education is any public or private educational institution which normally requires a high school diploma or equivalency certificate for enrollment or admits persons who are beyond the legal age of compulsory school attendance, provided that the institution is legally authorized by the State to provide an educational program beyond secondary education or provides a training program to prepare students for gainful employment.

(c) Enrollment defined: A student shall be considered "enrolled" in an institution of higher education beginning on the first day of the school term. Such enrollments shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

(d) Student eligibility requirements: In order to be eligible to participate in the Food Stamp Program, any student (as defined in (a) above) must meet at least one of the following criteria:

1. Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receive weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours;

2. Participate in a Federally financed work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965 as amended) during the regular school year, or a state financed work study program. To qualify under this provision, the student must be approved for work study at the time of application for food stamps, the work study must be approved for the school term, and the student must anticipate actually working during that time. Student eligibility based on work study participation begins either with the month in which the school term begins or the month that participation in work study is approved, whichever occurs last. Once eligible, the student's eligibility shall continue until either the end of the month in which the school term ends, or it becomes known that the student has refused to participate in the work study program. Student eligibility based on work study participation shall not continue between terms where there is a break of a full month or longer, unless the student is participating in work study during the break;

3. Be responsible for the care of a dependent household member under the age of six;

4. Be responsible for the care of a dependent household member between the ages of six and 12 for whom adequate child care is not available to enable the student to either attend class and satisfy the 20 hour work requirement at (d)1 above, or to participate in a state or

Federally-financed work study program during the regular school year;

i. The availability and adequacy of child care shall be determined by the CWA on a case by case basis;

ii. Only one person per dependent may qualify under this provision;

5. Be receiving benefits from the WFNJ/TANF program;

6. Participate in the JOBS program under Title IV of the Social Security Act;

7. Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in (d)7i through iv below. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled, provided that the program has a component for enrollment in an institution of higher education, and that the program accepts the placement. Persons who voluntarily participate in one of these employment and training activities, and are placed in an institution of higher education through or in compliance with the requirements of the activity, shall also qualify for the exemption. The programs are:

i. A program under the Job Training Partnership Act of 1974 (JTPA), 18 U.S.C. § 665; or

ii. A Food Stamp Employment and Training Program (FSETP) activity under N.J.A.C. 10:87-10.9; or

iii. A program under Section 236 of the Trade Act of 1974 (Public Law 93-618); or

iv. An employment and training program for low-income households that is operated by the State of New Jersey, or its local governments, where one or more of that program's requirements is at least equivalent to an acceptable FSETP component as specified in N.J.A.C. 10:87-10.19; or

8. Be a single parent enrolled in an institution of higher education on a full-time basis (as defined by the institution), and be responsible for the care of a dependent child under the age of 12. This provision is to be applied in those situations where only one natural, adoptive, or step-parent (regardless of marital status) is in the same food stamp household as the child. (For example, if one natural parent and a step-parent are living with the child, neither the natural parent nor the step-parent shall qualify as an eligible student under this provision.) If no natural, adoptive, or step-parent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status under this provision if he or she has parental control over the child, and is not living with his or her spouse.

(e) Ineligible student living with household: The income and resources of an ineligible student living with a household shall not be considered in determining eligibility or level of benefits of the household (see N.J.A.C. 10:87-5.9(a)12).

Amended by R.1981 d.97, effective April 9, 1981.  
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

Old section concerning "eligibility of taxpayer's household" deleted and new section concerning procedures for students in an institution of higher education substituted therefor.

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

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

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

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

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

Substantially amended.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (a), reduced maximum age criteria from 60 to 50. In (d)2, added a state financial work study program and defined participation in such programs. In (d)4 and 7 through 11, defined care of a dependent and student eligibility for food stamps.

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

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

Rewrote (d).

#### 10:87-3.15 Social Security numbers

The CWA shall require that a household participating or applying for participation in the Food Stamp Program provide the CWA with the Social Security number (SSN) of each household member or apply for one before certification. If individuals have more than one number, all numbers shall be required. The CWA shall explain to applicants and participants that refusal or inability to provide a SSN will result in disqualification of the individual for whom the number has not been provided.

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

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

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

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

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

Deleted (a)1 through (a)4; recodified from 3.24.

#### 10:87-3.16 Work registration

(a) Each household member who is not exempt shall be registered for employment by the CWA at time of application, and at least once every 12 months as a condition of eligibility for participation in the Food Stamp Program.

(b) The CWA shall provide work registration forms to the applicant or the household's authorized representative for each household member required to register for employment and permit the applicant or authorized representative to complete the form.

(c) See N.J.A.C. 10:87-10.1 et seq. for details concerning work registration, and employment and training requirements.

New Rule, R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

#### 10:87-3.17 Felons and parole violators

Individuals are ineligible for the Food Stamp Program benefits while they are fleeing to avoid prosecution, custody, or confinement for a felony or attempted felony, or for violating a condition of probation or parole.

New Rule, R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

#### 10:87-3.18 Individuals convicted of use, possession, or distribution of controlled substances

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

1. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense . . . for which a sentence of imprisonment in excess of six months is authorized."

(b) A person convicted on or after August 22, 1996 of any such offense which has as an element the possession or use only of such a controlled substance shall be eligible, if otherwise eligible for benefits, if the person has successfully completed a drug abuse treatment program licensed by the State of New Jersey Department of Health and Senior Services (DHSS), at the conclusion of which the person is certified drug free by an authorized program representative.

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

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

(d) Benefits cannot be granted or reinstated until the person completes another drug treatment program, and remains drug free for a minimum of 60 days and is deter-

mined via testing to be free of any nonprescribed controlled substance.

New Rule, R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

#### 10:87-3.19 Disqualification due to duplicate participation

Individuals found in a court or administrative hearing to have made a fraudulent statement regarding their identity or residence in order to concurrently receive food stamp benefits in more than one state or county shall be disqualified from the Program for 10 years.

New Rule, R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

### SUBCHAPTER 4. FINANCIAL ELIGIBILITY; RESOURCES

#### 10:87-4.1 Applicability

(a) The resource criteria and eligibility standards of this subchapter apply to all applicant households, except those in which all members are also applicants for, or recipients of, AFDC and AFDC resource eligibility is or has been established.

1. For public assistance/food stamp (PA/FS) households in which all members of the food stamp household are also applying for or receiving AFDC, and resource eligibility is or has been established for AFDC, such household is resource eligible for food stamps notwithstanding other provisions of this subchapter.

(b) Households that are categorically eligible as defined at N.J.A.C. 10:87-2.36 and 2.39 do not have to meet the resource limits or definitions of this subchapter. Categorically eligible households cited at N.J.A.C. 10:87-2.39 are subject to the transfer of resource provisions at N.J.A.C. 10:87-4.14.

Amended by R.1984 d.414, effective September 17, 1984.  
See: 16 N.J.R. 1934(a), 16 N.J.R. 2441(a).

Section substantially amended.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

Amended by R.1993 d.62, effective February 1, 1993.  
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (b), categorically eligible households subject to transfer of resources.

#### 10:87-4.2 Determining resources and applicant responsibility

(a) Available resources at the time the household is interviewed shall be used to determine the household's eligibility.

(b) At the time of the certification or recertification interview, the applicant shall report all resources currently held by any member of the household.

Amended by R.1984 d.17, effective February 6, 1984.  
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Resources determined to be those available at the time household is interviewed.

#### Case Notes

AFDC recipient's eligibility to continue to receive benefits is determined on a monthly basis with certain exceptions. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div. 1984).

#### 10:87-4.3 Resources defined

(a) The resources of a household shall include the following which shall be recorded by the CWA in sufficient detail to permit verification if necessary (see N.J.A.C. 10:87-2.20, 2.21 and 4.5).

1. Liquid resources: Liquid resources such as cash on hand, money in checking and/or savings accounts, savings certificates, stocks and/or bonds, lump-sum payments as described in N.J.A.C. 10:87-5.9(a)13, funds held in Individual Retirement Accounts (IRAs), and funds held in Keogh plans that do not involve the household member in a contractual relationship with individuals who are not household members.

i. In counting resources of households with IRAs or includable Keogh plans, the CWA shall include the total cash value of the account or plan minus the amount of the penalty (if any) assessed for the early withdrawal of the entire amount in the account or plan.

ii. Keogh plans which do involve a contractual relationship with a nonhousehold member shall be excluded as a resource (see N.J.A.C. 10:87-4.8(a)6).

2. Nonliquid resources: Nonliquid resources, such as personal property, licensed and unlicensed vehicles, buildings, land, recreational property, and any other property not specifically excluded under N.J.A.C. 10:87-4.8.

3. Deemed resources: Resources shall include resources deemed to be an alien from his or her sponsor in accordance with N.J.A.C. 10:87-7.18.

Amended by R.1981 d.97, effective April 9, 1981.  
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

(a)1: "N.J.A.C. 10:87-5.9(a)10" was "(a)9".  
Amended by R.1983 d.121, effective April 4, 1983.  
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

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

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.  
Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).  
Revised N.J.A.C. 10:87 reference to 2.20.

Amended by R.1990 d.565, effective November 19, 1990.  
See: 22 N.J.R. 2219(a), 22 N.J.R. 3486(a).  
Corrected a cross-reference.

#### Case Notes

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were liquid assets rendering applicant ineligible for Food Stamp Program (Director's Final Decision). *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Injury action proceeds held in escrow by attorney are more similar to nonrecurring lump sum payments considered countable resources than to liquid resources, for which actual receipt may be a prerequisite (cited as N.J.A.C. 10:87-4.4). *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

Liquid resources. *M.R. v. Camden County Welfare Board*, 1 N.J.A.R. 94, (1979).

#### 10:87-4.4 Jointly owned resources

(a) Resources held jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resources, only the value of that portion shall be counted toward the household's resource level.

(b) Inaccessible: The resource shall be considered totally inaccessible to the household if the resource cannot be practically subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, excluded household members (as described in N.J.A.C. 10:87-2.3(c)) residing with the household members.

(c) Residents of shelters for battered women and children: Resources shall be considered inaccessible to residents of a shelter for battered women and children if:

1. The resources are jointly owned by such persons and by members of their former household; and

2. The shelter resident's access to the value of the resource is dependent on the agreement of a joint owner who still resides in the former household.

Amended by R.1982 d.473, effective January 3, 1983.  
See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Treatment of resources of residents in shelters for battered women.  
Amended by R.1983 d.223, effective May 31, 1983.  
See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, effective March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Added, excluded household members to be considered household members for this provision.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Added "only" and deleted "of the resource".

**10:87-4.5 Verification of resource information**

Resource information shall be verified prior to certification only if questionable (see N.J.A.C. 10:87-2.21).

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

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

Deleted (a)4 and substituted (i).

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

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

Deleted (i) from N.J.A.C. reference.

**10:87-4.6 Resources of nonhousehold and excluded household members**

(a) Nonhousehold members: The resources of nonhousehold members, as described in N.J.A.C. 10:87-2.3(a), shall not be counted as available to the household.

(b) Excluded household members: The resources of excluded household members, as described in N.J.A.C. 10:87-2.3(c), shall be counted as available to the remaining household members in accordance with N.J.A.C. 10:87-7.14(b) and (c).

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

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

(a): "an integral member ... disqualified ... N.J.A.C. 10:87-11.1" added.

(a)1. and 2. deleted.

Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, effective March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Distinction made between nonhousehold and excluded household members.

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

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

Deleted (b)1 and (c)1.

**10:87-4.7 Resource exclusions**

In the determination of resource eligibility, any item classified as a resource exclusion shall not be considered in the determination of eligibility for participation in the program. Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an excluded household member whose resources are being counted as part of the household's resources.

Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, effective March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Language added concerning excluded household member.

**Case Notes**

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings on AFDC determina-

tion (Division's Final Decision). *G.M. v. Mercer Cty. Bd. of Social Services*, 4 N.J.A.R. 233 (1983).

Regulation is concerned with broad policy questions such as what are exclusions or with assets which applicant has no reasonable prospect of controlling or gaining access to. *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

**10:87-4.8 Identification of resource exclusions**

(a) Only the following shall be classified as resource exclusions by the CWA:

1. Home and surrounding property: The home and surrounding property which is not separated from the home by intervening property owned by others.

i. Public rights of way: Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exclusion of the property.

ii. Home temporarily unoccupied: The home and surrounding property shall remain excluded when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, only if the household intends to return to the home.

iii. Building lot: Households which currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home.

2. Household goods: Household goods, including such items as furniture and appliances.

3. Personal effects: Personal effects, including such items as clothing or jewelry.

4. Burial plots/funeral agreements: One burial plot per household member. In addition, the value of one bona fide funeral agreement per household member is also excluded, provided that the agreement does not exceed \$1,500 in equity value. If the agreement exceeds \$1,500 in equity value, then any value in excess of \$1,500 shall be counted towards the household's resource limit.

5. Life insurance: The cash value of life insurance policies.

6. Pension funds: The cash value of pension plans or funds, only if the funds remain in the pension plans. Keogh plans that involve no contractual relationship with individuals who are not nonhousehold members and Individual Retirement Accounts (IRAs) shall not be excluded.

i. Keogh plans involving a contractual relationship with a nonhousehold member (such as Keogh plans established for the self-employed person(s) and employees) shall be excluded. However, if the Keogh plan is such that individual participants may make withdrawals without affecting the other parties in any way (for example, without any contractual obligation to the oth-

er participants), then the household member's funds in the Keogh plan will be counted as a resource.

7. Income producing property: Property which annually produces income consistent with its fair market value, even if used only on a seasonal basis. Such property shall include rental and vacation homes.

8. Property essential for employment: Property, such as farm land, which is essential to the employment or self-employment of a household member. Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year from the date the household member terminates his or her self-employment from farming.

9. Work related equipment: Work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member.

10. Certain licensed vehicles: See N.J.A.C. 10:87-4.12.

11. Installment contracts and the value of property sold under contract: Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value. The exclusion shall also apply to the value of any property sold under contract, or held as security in exchange for a purchase price consistent with the fair market value of that property.

12. Certain disaster payments: Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended. For example, payments made by the Department of Housing and Urban Development (HUD) through the individual and family grant program or disaster loans or grants made by the Small Business Administration (SBA) shall be excluded.

13. Inaccessible resources: Resources having a cash value which is not accessible to the household, such as, but not limited to, irrevocable trust funds (see (a)14 below for treatment of irrevocable trusts), security deposits on rental property or utilities, property in probate and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold.

i. Good faith effort: The CWA shall verify that the property is actually for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.

ii. Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the creditor from selling the asset(s) shall be excluded.

iii. If the sale or other disposition of a resource is unlikely to produce any significant amount of funds for the support of the household, the resource shall be considered inaccessible. The CWA is not required to verify that a resource is inaccessible unless the information provided by the household is questionable. This resource exclusion does not apply to vehicles owned by the household.

14. Irrevocable trusts: Any funds held in a trust or transferred to a trust, and the income produced by that trust, to the extent it is not available to the household, shall be considered inaccessible if all of the following criteria apply:

i. Controlled by the trustee: The trustee administering the funds is either:

(1) A court, or an institution, corporation or organization which is not under the direction or ownership of any household member; or

(2) An individual (who may be a household member) appointed by the court who has court-imposed limitations placed on his or her use of the funds that meet the requirements of this paragraph;

ii. Funds held in irrevocable trust: The funds held in an irrevocable trust are either:

(1) Established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or

(2) Established from nonhousehold funds by a nonhousehold member;

iii. Trust investments: Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member;

iv. Trust not likely to cease: The trust arrangement is not likely to cease during the certification period; and

v. Power to revoke: No household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

15. Resources counted as income: Resources, such as those of students or self-employed persons, that have been counted as income (see N.J.A.C. 10:87-5.4(a) et seq.).

16. Indian lands: Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

17. Resources excluded by Federal law: Resources which are excluded for food stamp purposes by express provision of Federal statute. The following is a listing of resources excluded by Federal statute:

i. WIC benefits: Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC) (Public Law 92-433);

ii. Federal relocation reimbursements: Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646);

iii. Payments to Ottawa Indians: Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 96-540);

iv. Alaska native claims: Payments received under the Alaska Native Claims Settlement Act (Public Law 92-203) or the Sac and Fox Indian Claims Agreement (Public Law 94-189);

v. Payments received by certain Indian tribe members: Payments received by certain Indian tribal members regarding submarginal land held in trust by the United States (Public Law 94-114);

vi. Payments from Community Service Administration: Payments received from the Energy Crisis Assistance and Crisis Intervention Program administered by the Community Service Administration;

vii. Energy assistance payments: Payments or allowances made under any Federal law for the purpose of energy assistance. In order to qualify for this exclusion, the payments or allowances must be clearly identified as energy assistance by the legislative body authorizing the program or the funds. Home Energy Assistance payments, as well as Federal or State one-time payments for weatherization, or emergency repair or replacement of heating or cooling devices qualify for this exclusion;

viii. Payments from Indian Claims Commission: Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission as designated under Public Law 95-443;

ix. Payments from Maine Indians Claims Settlement: Payments to the Passamoquaddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420);

x. Payments for relocation assistance to members of the Hopi and Navajo Tribes shall be excluded from both resources and income (Public Law 93-531);

xi. Earned income tax credits received either as a lump sum or as payments under Section 3507 of the Internal Revenue Code shall be excluded for 12 months, provided that the household was participating in the Food Stamp Program at the time of receipt of the earned income tax credit, and provided the household participates continuously during that 12-month period. Breaks in participation of one month or less due to administrative reasons, such as delayed certification, shall not be considered as nonparticipation in determining the 12-month period.

xii. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383);

xiii. Resources of a household member receiving AFDC and/or SSI benefits;

xiv. Resources of a household member which are placed in a Plan for Achieving Self-Support (PASS) account; and

xv. Payment received under the Radiation Exposure Compensation Act (P.L. 100-426).

xvi. All payments from the Agent Orange Compensation Exclusion Act (P.L. 101-201), retroactive to January 1, 1989. Payments made from the Agent Orange settlement fund under section 10405 of P.L. 101-239 are also excluded. Veteran's benefits authorized under the Agent Orange Act of 1991 (P.L. 102-4) are not excluded by law.

xvii. Payments under the Crime Act of 1984 to victims of crime (P.L. 103-322).

xviii. Payments made under Section 421 of P.L. 104-204 for children of Vietnam veterans who are born with spina bifida.

18. HUD retroactive tax and utility cost subsidy payments issued pursuant to settlement of *Underwood vs. Harris* against HUD, for the month in which the payment was received and for the following month.

19. Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. (See N.J.A.C. 10:87-4.7.)

Amended by R.1980 d.117, effective March 19, 1980.

See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)17iii: Added language on advances; replaced reference to various tax Acts of 1975 and 1976 with "before January 1, 1980, . . ."

(a)17iv: "Youth Employment and Demonstration Project Act of 1977" was replaced by "Title IV . . ."; deleted reference to nonexclusion of CETA and Young Adults Conservation Corps payments.

Amended by R.1980 d.220, effective July 1, 1980.

See: 12 N.J.R. 191(c), 12 N.J.R. 323(d).

Added subparagraph (a)17vii.  
Amended by R.1983 d.121, effective April 4, 1983.  
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

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

Amended by R.1983 d.141, effective May 2, 1983.  
See: 15 N.J.R. 212(b), 15 N.J.R. 692(b).

Language added clarifying irrevocable trusts and court administered trusts as inaccessible resources. Federal payments to certain Indian Tribes added as excludable resources.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.  
Amended by R.1989 d.464, effective September 5, 1989.  
See: 21 N.J.R. 1636(a), 21 N.J.R. 2790(a).

Exclusion of payments received under Wartime Relocation Act added at (a)17xiv.

Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (a)8: added text regarding one-year resource exclusion to income producing assets.

In (a)17: deleted iv., "Payments from certain Federal programs," and renumbered v through xiv as iv through xiii with no change in text.  
Amended by R.1991 d.247, effective May 6, 1991.  
See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (a)17xiii: revised reference to Civil Liberties Act of 1988.  
Amended by R.1993 d.62, effective February 1, 1993.  
See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

Added (a)13iii; revised (a)17vii, xii and xiii; added new xiv through xvi.

Amended by R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (a), rewrote 4 and 17.

#### Case Notes

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.

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were liquid assets rendering applicant ineligible for Food Stamp Program (Director's Final Decision). L.D. v. Passaic Cty. Bd. of Social Services, 7 N.J.A.R. 309 (1984).

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings in AFDC determination (Division's Final Decision). G.M. v. Mercer Cty. Bd. of Social Services, 4 N.J.A.R. 233 (1983).

Irrevocable trusts. Camden County Board of Social Services v. "M.L.", 1 N.J.A.R. 155, (1980).

Inaccessible resources. M.R. v. Camden County Welfare Board, 1 N.J.A.R. 94, (1979).

#### 10:87-4.9 Treatment of excluded funds

(a) Any monies excluded by the provisions of N.J.A.C. 10:87-4.8 shall retain the resource exclusion for an unlimited period of time so long as such monies are kept in a separate account and not commingled in an account with nonexcluded funds.

(b) Commingled funds: The resources of students and self-employed persons that are excluded as provided in N.J.A.C. 10:87-4.8(a)15 and are commingled in an account with nonexcluded funds shall retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies which are commingled in an account with nonexcluded funds shall retain their exclusion for six months from the date they are commingled. After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

Amended by R.1980 d.117, effective March 19, 1980.  
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(b) Added first sentence; in second sentence "All other" was "Those".

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

#### 10:87-4.10 Value of resources

The value of a nonexempt resource (except for licensed vehicles as described in N.J.A.C. 10:87-4.12) shall be its equity value. The equity value is the fair market value less encumbrances. When necessary, the value of resources shall be determined by consulting sources knowledgeable as to the value of such resources. The source and result of any such verification shall be documented in the case record.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

#### 10:87-4.11 Fair market value of licensed vehicles

(a) The fair market value of licensed automobiles, trucks, and vans will be determined by the value of those vehicles as indicated by the "Average Wholesale Value" in the most recent edition of The Red Book; Official Used Car Valuations. The CWA shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. If a new vehicle is not listed in the Red Book, the CWA shall determine the wholesale value by some other means such as, but not limited to, contacting a car dealer that sells that make of vehicle.

(b) Households claiming Red Book value does not apply: A household may indicate that, for some reason such as body damage or inoperability, a vehicle is in less than average condition. Any household that claims that the Red Book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source.

(c) Antique, custom or classic vehicles: Households shall be asked to obtain verification of the value of licensed antique, custom made, or classic vehicles if the CWA is unable to make an accurate appraisal.

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.15 Disqualification**

Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified for up to one year (see schedule at N.J.A.C. 10:87-4.19) from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets which the household acquires after being certified for benefits and which are then transferred to prevent the household from exceeding the maximum resource limit.

As amended, R.1983 d.223, eff. May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Parentetical information on excluded household members added.

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

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

**Case Notes**

"J.F." v. Middlesex County Welfare Board, 1 N.J.A.R. 311, (1980).

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.16 Transfers not subject to disqualification**

(a) Eligibility for the program will not be affected by the following transfers:

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

2. Transfer at fair market value: Resources that are sold or traded at, or near, fair market value;

3. Transfer within household: Resources which are transferred between members of the same household (including excluded household members whose resources are being considered available to the household); or

4. Transfers for reasons other than qualifying: Resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits (e.g., a parent placing funds into an educational trust fund, as in N.J.A.C. 10:87-4.8(a)14.).

As amended, R.1983 d.223, eff. May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Parentetical information added concerning excluded household members.

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

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

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.17 Notice to applicant household**

In the event that the CWA establishes that an applicant household has knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits, the household shall be sent a notice of denial explaining the reason for the length of disqualification. The period of disqualification shall begin in the month of application.

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.18 Notice to participating household**

If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action period has expired, unless the household has requested a fair hearing and continued benefits.

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.19 Period of disqualification**

The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceed the allowable limits. For example, if a one-person, non-elderly household with \$1,750 in a bank account transferred ownership of a car worth \$5,000, \$250.00 of that transfer would be considered in determining the period of ineligibility because the first \$4,500 of the car's value is excluded and an additional \$250.00 of the transferred asset can be applied toward the \$2,000 resource limit. The following chart shall be used to determine the period of disqualification:

## Disqualification Period Chart

Amount in Excess of the Resource Limit	Period of Household Disqualification
\$ 0.01 - \$ 249.99	1 month
250 - 999.99	3 months
1,000 - 2,999.99	6 months
3,000 - 4,999.99	9 months
5,000 and over	12 months

Amended by R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Resource limits changed from \$1,500 to \$1,250 and from \$1,750 to \$1,500.

Amended by R.1986 d.301, effective July 21, 1986.

See: 18 N.J.R. 1464(b).

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

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

Substantially amended.

## Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

## 10:87-4.20 Resources of nonhousehold members

(a) The resources of nonhousehold members, as defined in N.J.A.C. 10:87-2.3(a) shall be handled as outlined in N.J.A.C. 10:87-7.15.

(b) The resources of excluded members, as defined in N.J.A.C. 10:87-2.3(c) shall be handled as outlined in N.J.A.C. 10:87-7.14 and 7.15, as appropriate.

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

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

SUBCHAPTER 5. FINANCIAL ELIGIBILITY;  
INCOME

## 10:87-5.1 Applicability

(a) All households which do not contain an elderly or disabled member, shall meet both the net and gross income eligibility standards set forth in N.J.A.C. 10:87-12.3 and 12.4, respectively, in order to be eligible for program participation, with the exception of (b) below. Households which contain an elderly or disabled member shall meet the net income eligibility standards in N.J.A.C. 10:87-12.3. Net food stamp income shall be determined in accordance with procedures contained in this subchapter.

(b) Households that are categorically eligible as defined in N.J.A.C. 10:87-2.36 and 2.39 do not have to meet either the gross or net income eligibility standards.

Amended by R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Reference to meeting net and gross income eligibility.

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

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

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

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

In (a): deleted language "including those in which all members are recipients of public assistance" describing households.

Added text with reference to exception of subsection (b).

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (b), added N.J.A.C. 10:87-2.39.

## 10:87-5.2 Responsibilities regarding the reporting of income

(a) Responsibilities for the reporting of income shall be as follows:

1. Applicant Responsibility: At the time of certification or recertification, the applicant shall report all income currently being received by all members of the household and any income changes or additions which the household anticipates during the course of the certification period. The applicant also has the responsibility of reporting actual income changes during the certification period.

2. Responsibility of CWA: The CWA shall determine that the total income to the household, as reported by the applicant during the certification or recertification interview, is completely identified on the FSP-901, and in sufficient detail to permit verification (see also N.J.A.C. 10:87-2.20(b)).

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

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

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

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

In (a)2: revised reference to N.J.A.C. 10:87-2.20(b).

## Case Notes

AFDC recipient whose benefits were terminated or suspended for month in which she received five paychecks entitled to continued Medicaid assistance. Monmouth Cty. Bd. of Social Services v. A.R., 194 N.J.Super. 4, 475 A2d 1266 (App.Div.1984).

## 10:87-5.3 Income defined

Household income shall be defined as all income from whatever source unless such income is specifically excluded under the provisions of N.J.A.C. 10:87-5.9.

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

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

## Law Review and Journal Commentaries

Food Stamps. Judith Nallin, 137 N.J.L.J. No. 11, 48 (1994).

## 10:87-5.4 Earned income

(a) For the purposes of determining net food stamp income, earned income shall include:

1. Employee compensation: All wages and salaries received as compensation for services performed as an employee.

2. Combined income of household members and non-household members: When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

i. If the household's share can be identified, the CWA shall count that portion as earned income to the household; or

ii. If the household's share cannot be identified, the CWA shall prorate the earned income among those persons it was intended to cover and count that prorated share as earned income to the household.

3. Self-employment income: The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business (see N.J.A.C. 10:87-5.9(a)14).

i. Rental property: Ownership of rental property shall be considered a self-employment enterprise. However, income derived from the rental property shall be considered earned income only if a member of the household is actively engaged in the management of the property for an average of at least 20 hours per week (see also N.J.A.C. 10:87-5.5(a)3).

ii. Income from roomer or boarder: Payments received from a roomer or boarder shall be considered self-employment income.

4. Training allowances: Training allowances from vocational and rehabilitative programs recognized by Federal, State, or local governments, such as the Work Incentive Program (WIN) or Realizing Economic Achievement (REACH) to the extent they are not a reimbursement (see N.J.A.C. 10:87-5.9(a)9iii(1)).

5. Payments to volunteers: Payments to volunteers under Title I (VISTA, University Year for Action, and so forth) of the Domestic Volunteer Service Act of 1973 (P.L. 93-113) shall be considered earned income and subject to the earned income deduction specified in N.J.A.C. 10:87-5.10(a)2, excluding payments to households as set forth in N.J.A.C. 10:87-5.9(a)15iii.

6. Earnings to participants in on-the-job training programs under JTPA, provided that the participant is not under 19 years of age and under the parental control of another adult member and the programs are administered under Section 204(5), Title II, of JTPA. JTPA participants under 19 years of age who are under the parental control of another adult household member shall have their JTPA earnings treated as excluded income in accordance with N.J.A.C. 10:87-5.9(a)15xi.

7. Educational assistance which has a work requirement (such as work study, or an assistantship or fellowship with a work requirement), and which is not excluded under N.J.A.C. 10:87-5.11, shall be treated as earned income.

Amended by R.1983 d.223, effective May 3, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

Combined income of household and nonhousehold members explained at (a)2; 2 and 3 renumbered 3 and 4.

Amended by R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

(a)5; payment to volunteers added.

Correction: Added material missing in (a) and (a)5.

See: 18 N.J.R. 1414(a).

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

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

(a)li deleted from section.

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

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

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

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

Substantially amended.

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

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

In (a)6: added text to specify programs administered under JTPA, Section 204(5).

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

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

In (a), added 7.

#### Case Notes

Eligibility determination must include costs of producing income from applicant-owned apartment house. *Essex Cty. Welfare Bd. v. "W.C."*, 1 N.J.A.R. 36 (1979).

#### 10:87-5.5 Unearned income

(a) For the purposes of determining net food stamp income, unearned income shall include, but not be limited to:

1. Assistance payments: Assistance payments from Federal or federally aided public assistance programs such as SSI or AFDC; and General Assistance program payments; or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment to a third party on behalf of the household, unless specifically exempt as countable income under the provisions of N.J.A.C. 10:87-5.9(a)1 and 2.

i. All assistance payments from programs which require, as a condition of eligibility, the actual performance of work such as the General Assistance Employment Program (GAEP), without compensation other than the assistance payments themselves, shall be considered unearned income.

2. Annuities, pension, Social Security, and other benefits: Annuities, pensions, retirement benefits, veteran's benefits, old-age, survivors, or disability benefits, workman's compensation, unemployment compensation, Social Security benefits, strike benefits, and foster care payments for children or adults provided that the foster child or adult is included in the household;

3. Income from rental property: Gross income (minus the cost of doing business) derived from rental property in which a household member is not actively engaged in management of the property at least 20 hours a week (see N.J.A.C. 10:87-5.4(a)3i);

4. Educational grants and loans: Scholarships, educational grants, deferred payment loans for education, veteran's educational benefits and the like other than educational assistance with a work requirement in excess of amounts excluded in N.J.A.C. 10:87-5.9(a)7;

5. Support and alimony: Support and alimony payments made directly to the household from nonhousehold members;

6. Payments from government-sponsored programs: Payments from Federal, State or local government-sponsored programs which can be construed to be a gain or benefit;

7. Dividends, interest, and royalties: Payments in the form of dividends, interest, and royalties;

8. Trust withdrawals and dividends: Monies which are withdrawn or dividends which are or could be received by a household from trust funds which are considered to be excludable resources (see N.J.A.C. 10:87-4.8(a)14).

i. Trust withdrawals: Trust withdrawals shall be considered income in the month received unless excluded in accordance with N.J.A.C. 10:87-5.9;

ii. Trust dividends: Dividends which the household has the option of either receiving as income or reinvesting in the trust are to be considered income in the month they become available to the household unless excluded in accordance with N.J.A.C. 10:87-5.9.

9. Other direct money payments: All other direct money payments from any source which can be construed to be a gain or benefit to the household;

10. Deemed income: Income deemed to an alien from his or her sponsor in accordance with N.J.A.C. 10:87-7.18.

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

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

Originally adopted as an Emergency Rule, R.1983 d.38, eff. January 31, 1983. The amendment was pursuant to the Omnibus Budget Reconciliation Act of 1982 (P.L. 97-253) and the Food Stamp and Commodity Distribution Amendments of 1981 (P.L. 97-98, Title 13). Amended by R.1983 d.141, effective May 2, 1983.

See: 15 N.J.R. 212(b), 15 N.J.R. 692(b).

Trust withdrawal and dividends added to list of unearned income at (a)8; 8 renumbered 9.

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

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

(a)1i added.

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

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

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

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

Substantially amended.

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (a)2: added phrase, "... provided that the foster ... in the household;"

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

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

In (a)4, deleted a reference to fellowships, and inserted "other than educational assistance with a work requirement" following "the like".

#### Case Notes

Child-support payments for children of another household are not excludable from income when calculating eligibility. *J.S. v. New Jersey Dept. of Human Services, Div. of Family Development*, 274 N.J.Super. 314, 644 A.2d 118 (A.D.1994).

Notice informing claimant that food stamp benefits would be reduced because of an increase in his supplemental security income was insufficient. *Meyer v. New Jersey Dept. of Human Services, Div. of Family Development*, 269 N.J.Super. 310, 635 A.2d 544 (A.D.1993).

Food stamp allotment reduced due to increase in educational grant. *Salem County Board of Social Services v. F.B.*, 93 N.J.A.R.2d (DEA) 23.

Money to pay rent was not unearned income. *Bergen County Board of Social Services v. C.L.*, 92 N.J.A.R.2d (DEA) 9.

Unless educational assistance grants are specifically earmarked by the grantor, only that portion of a grant paying for tuition and mandatory fees qualifies for exclusion in calculating Food Stamp benefits entitlement (Division's Final Decision). *Camden Cty. Bd. of Social Services v. J.S.*, 5 N.J.A.R. 501 (1982). *Ocean Cty. Bd. of Social Services v. L.G.*, 4 N.J.A.R. 216 (1982).

Public assistance DFYS grant properly classified as unearned income in determination of net Food Stamp income. *M.D. v. Passaic Cty. Bd. of Social Services*, 3 N.J.A.R. 366 (1981).

Eligibility determination must include costs of producing income from applicant-owned apartment house. *Essex Cty. Welfare Bd. v. "W.C."*, 1 N.J.A.R. 36 (1979).

Cost of producing income from rental units to be deducted from gross rental income in determining eligibility for participation in Food Stamp Program. *Essex County Welfare Board v. "W.C."*, 1 N.J.A.R. 36, (1979).

Income from rental property. *Essex County Welfare Board v. "W.C."*, 1 N.J.A.R. 36, (1979).

#### 10:87-5.6 Income of excluded individuals

(a) Income of individual excluded for intentional program violation or refusal to comply with a work registration requirement: The earned or unearned income of an individual disqualified from the household for intentional program violation as set forth in N.J.A.C. 10:87-11 or who refuses to comply with a work registration requirement shall continue to be attributed in its entirety to the remaining household members (see N.J.A.C. 10:87-7.14(b)).

(b) Income of individual excluded for other causes: The earned or unearned income of individuals excluded from the household for failing to comply with the requirement to provide a Social Security number (see N.J.A.C. 10:87-20.1(h)) or for being an ineligible alien (see N.J.A.C. 10:87-3.8(a) et seq. for listing of eligible aliens) or for having questionable citizenship status (see N.J.A.C. 10:87-2.21(b)) shall continue to be counted as income, less the pro rata share for that individual, to the remaining household members. Procedures for calculating this pro rata share are described in N.J.A.C. 10:87-7.14.

Amended by R.1981 d.87, effective April 9, 1981.

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

Delete "or for failure . . . N.J.A.C. 10:87-3.20(e)."

Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, effective March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

"Disqualified" changed to "excluded" individuals; distinction made between intentional program violation and other causes for exclusion. Amended by R.1989 d.121, effective February 21, 1989.

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

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

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

In (b): revised N.J.A.C. references to conform with recodification.

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (a): added phrase "... or refusal to comply with a work registration requirement ...".

### 10:87-5.7 Special income situations

(a) Moneys used for restitution of overpayments: Moneys withheld from earned income, or other income source, or moneys received from any income source (except as specified in (b) below) which are voluntarily or involuntarily returned to repay a prior overpayment that is not excludable under N.J.A.C. 10:87-5.9 shall not be counted as income. Moneys withheld from an assistance grant to repay a prior overpayment that is the result of an inadvertent client error or agency error shall not be counted as income.

(b) Moneys used for recovery of overpayments caused by intentional noncompliance with requirements of other programs: Moneys withheld from a Federal, State, or local assistance grant such as WFNJ or SSI, for the purpose of recovering a prior overpayment which resulted from recipient fraud or intentional failure to comply with the other program's requirements, shall be included as income.

1. For the purposes of this provision, intentional non-compliance shall be defined as follows:

i. WFNJ and SSI programs: In the WFNJ and SSI programs, intentional noncompliance shall be an action determined to be fraud pursuant to a judicial or administrative determination.

ii. Other means-tested programs: For all other programs, intentional noncompliance shall be determined by such other program in accordance with that program's governing regulations and procedures.

(c) Benefit determination in cases with recovery due to fraud or intentional noncompliance: The CWA shall ensure that there is no increase in food stamp benefits to households on which a penalty resulting in a decrease in assistance payments has been imposed for fraud or intentional failure to comply with a Federal, State, or local welfare program such as SSI or WFNJ. Procedures for determining food stamp benefits when there is such a decrease in assistance are as follows:

1. When a recipient's benefits under a Federal, State, or local assistance program are decreased to recover a prior overpayment caused by fraud or intentional non-compliance, the CWA shall identify that portion of the recovery which is due to intentional noncompliance.

i. For AFDC, SSI and GA, the first collections after the judicial determination of fraud shall be considered the amount of recovery for fraud.

ii. For other programs, the penalty shall be that portion of the decrease attributed to the repayment of benefits overissued as a result of the household's intentional noncompliance.

iii. The Social Security Administration (SSA) does not provide the recipient of SSI with written notification as to whether the overpayment was due to unintentional or intentional causes. For most SSI overpayment recoveries, the nature of the recovery cannot be ascertained and, therefore, would not be available to the CWA. The CWA shall not count the amount of the SSI overpayment recovery in computing the Food Stamp benefit unless readily available reliable information verifies that an SSI overpayment recovery was due to recipient fraud or intentional failure to comply with program regulations.

2. The CWA shall count the amount of the recovery as income in calculating the food benefit.

(d) Child support under Title IV-D shall be treated as follows:

1. Title IV-D child support payments shall be excluded from the food stamp eligibility determination and benefit calculation process, provided that those payments shall be assigned to the CWA. Note that this income exclusion shall not apply, however, to child support payments which are not assigned to the CWA. Child support which the household is not required to remit to the CWA shall be considered as unearned income for food stamp purposes.

2. Disregarded child support payments: An amount up to the first \$50.00 per month of child support payments received for an WFNJ family through the child support and paternity (Title IV-D) process is disregarded in the WFNJ program and is paid to the WFNJ family in the form of disregarded child support (DCS) payments. The amount of the DCS payment shall be counted as unearned income for food stamp purposes in accordance with N.J.A.C. 10:87-5.5(a)5, as are any child support payments received directly by a food stamp household. DCS payments which are intended for a prior month shall be excluded under N.J.A.C. 10:87-5.9(a)13.

(e) Rules for failure to comply with public assistance (PA) program requirements ("The Riverbend Rule") are as follows:

1. A CWA shall not increase food stamp benefits when a household's benefits received under another means-

tested PA program have been decreased (reduced, suspended or terminated) due to a failure to comply with a requirement of that PA program. In New Jersey, those programs would be the TANF and GA components of WFNJ, and the SSI program.

2. The Riverside Rule shall not apply to individuals who fail to comply with a PA program requirement at the time of application and, thus, are never issued a PA benefit.

3. The PA amount to be considered as income is the difference between the pre and post-sanction amounts. This amount shall be used for food stamp purposes until the sanction is removed. The amount shall be added to the PA benefit amount actually received by the household to compute food stamp benefits. In no event, however, shall the amount of the Riverside Rule income penalty exceed the amount of PA the household would have received had the noncompliant individual not been removed from the household.

4. With one exception, the Riverside Rule shall be applied when PA decreases due to noncompliance. The Riverside Rule shall be applied even in situations where the PA requirement is not comparable to a food stamp requirement, or where the household is exempt from food stamp work registration. The Riverside Rule shall be applied even when a household may also be subject to a penalty under the Food Stamp Program.

i. There is only one situation where the Riverside Rule shall not be applied. If a food stamp household is going to be sanctioned for an infraction of a WFNJ work requirement, and that infraction requires imposition of a food stamp sanction under N.J.A.C. 10:87-10.7(b)10i, then the food stamp sanction is imposed, and the Riverside Rule does not apply.

5. The Riverside Rule shall be applied during the full period of the PA sanction. This would apply even if the household voluntarily withdraws from the PA program.

6. In the event that the Riverside Rule is invoked and the household's PA is terminated, the Riverside Rule penalty shall apply for three months after the termination of PA benefits.

7. In multi-person households, if the individual who committed the act of noncompliance leaves the household residence, the Riverside Rule penalty shall continue to apply to the noncompliant individual until the sanction period expires. The Riverside Rule penalty shall not be applied to any remaining household members.

8. The Riverside Rule penalty shall also apply to individuals who had their PA benefits terminated, and then subsequently apply for nonpublic assistance (NPA) food stamp benefits. In that case, the amount of the PA sanction shall be treated as unearned income for three months after the PA program termination in determining the household's NPA food stamp benefit.

9. If the CWA is not successful in obtaining the necessary cooperation from the Social Security Administration or a municipal welfare agency to enable it to comply with the requirements of this provision, the CWA shall not be held responsible for noncompliance as long as the CWA has made a good faith effort to obtain information regarding a noncompliance. Attempts to obtain information from the appropriate agency shall be documented in the case record.

Emergency amendment, R.1985 d.178, effective March 25, 1985 (operative April 1, 1985, expiration date May 24, 1985).

See: 17 N.J.R. 986(a).

Readopted by R.1985 d.313, effective May 28, 1985.

See: 17 N.J.R. 986(a), 17 N.J.R. 1567(a).

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

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

Substantially amended.

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

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

In (b) and (c), substituted references to WFNJ for references to AFDC and GA throughout; in (b)1, substituted a reference to administrative determination for a reference to determination; in (c)1, added iii; rewrote (d); and added (e).

#### 10:87-5.8 Income exclusions

Income which is classified as an exclusion shall not be considered for purposes of determining net or gross food stamp income.

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

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

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

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

Substituted a reference to gross food stamp income for a reference to food stamp income.

#### 10:87-5.9 Identification of income exclusions

(a) Only the following shall be excluded from household income; no other income shall be excluded.

1. Nonmonetary gain or benefit: Any gain or benefit which is not in the form of money payable directly to the household shall be excluded including:

i. In-kind benefits: Nonmonetary or in-kind benefits such as meals, clothing, public housing or produce from a garden;

2. Vendor payments: A payment made in money on behalf of a household shall be considered a vendor payment when a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. For example, if a relative or friend who is not a household member pays the household's rent directly to the landlord, the payment is considered a vendor payment and is not counted as income to the household.

**Case Notes**

Eligibility determination must include costs of producing income from applicant-owned apartment house. *Essex Cty. Welfare Bd. v. "W.C."*, 1 N.J.A.R. 36 (1979).

**10:87-6.4 Ineligibility subsequent to month of application**

As a result of anticipated changes, a household may be eligible for the month of application but ineligible in the subsequent month. Such households shall be entitled to benefits for the month of application even if the processing of its application results in benefits being issued in a subsequent month.

**10:87-6.5 Ineligibility for month of application**

(a) A household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. The same application shall be used for both the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in N.J.A.C. 10:87-2.30 and 2.31.

(b) Eligible for month of application but entitled to benefits: Eligible households may have their initial month's allotment prorated to zero, but be entitled to some benefits in subsequent months. The CWA must certify the household beginning with the month of application.

(c) Eligible for month of application but disqualified on an ongoing basis: A household's gross income could be low enough to make it eligible while its net income could be high enough to disqualify it on an ongoing basis. The CWA shall deny these households participation on the grounds that their net income exceeds the level below which benefits are issued.

As amended on an emergency basis, R.1981 d.398, effective September 30, 1981 (operative October 1, 1981), expired November 30, 1981. Readopted, R.1981 d.517, effective December 31, 1981.

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

(a) 1 and 2 added.

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

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

Substantially amended.

**10:87-6.6 Varying allotments**

As a result of anticipated changes, the household's allotment for the application month may differ from its allotment in subsequent months. The CWA must establish a certification period for the longest possible period over which changes in the household's circumstances can be reasonably anticipated. The household's allotment shall vary on a monthly basis within the certification period, to reflect changes anticipated at the time of certification, unless the household elects the averaging techniques in N.J.A.C. 10:87-6.9(f).

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

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

Substantially amended.

**10:87-6.7 Determining resources and income**

The procedures contained in N.J.A.C. 10:87-6.8 and 6.9 shall be used to determine financial eligibility and benefit levels (see also N.J.A.C. 10:87-7 for households with special income circumstances).

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

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

Substantially amended.

**Case Notes**

Division of Public Welfare is required to promptly correct any underpayments to current AFDC recipients; said payments are retroactive to the date the incorrect action was taken under former N.J.A.C. 10:82-2.19. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

**10:87-6.8 Resources**

The household's resources at the time the application is filed shall be used to determine whether or not they exceed the maximums prescribed at N.J.A.C. 10:87-4.13.

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

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

Substituted "prescribed at" for "described in".

**10:87-6.9 Income determination**

(a) For the purposes of determining the household's eligibility and basis of issuance, the CWA shall consider the income already received by the household during the certification period and any anticipated income that the household and the CWA are reasonably certain will be received during the remainder of the certification period. Income from a new source anticipated after application shall not be counted if the household is destitute (see N.J.A.C. 10:87-6.16 through 6.18).

(b) Uncertain income: If the amount of income which will be received, or when it will be received, is uncertain, that portion of the household's income which is uncertain shall not be counted by the CWA. For example, a household anticipating income from a new source, such as a new job or public assistance benefits recently applied for, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the CWA unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. Households shall be advised to report all changes in gross monthly income in accordance with N.J.A.C. 10:87-9.5(b).

1. Exact amount unknown: If the exact amount of the income is not known, the portion that can be anticipated with reasonable certainty shall be considered income.

2. Fluctuating income: In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to average income in accordance with (f) below.

(c) Anticipated income: Income received during the most recent 30-day period shall be used as an indicator of anticipated income. However, the CWA shall not use past income as an indicator of income anticipated for the certification if changes in income have occurred or can be anticipated.

1. Longer period for anticipating income: If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the CWA and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income.

2. Seasonal fluctuations: If the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The CWA shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year.

3. Changes have occurred or can be anticipated: In no event shall the CWA automatically attribute to the household the amounts of any past income. The CWA shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

4. For the purpose of determining countable energy assistance payments, the CWA shall consider similar assistance received by the household in the previous certification period, and project those monthly amounts over the next certification period. If the CWA cannot be reasonably certain that the household will receive those moneys, then those funds shall not be counted. The CWA shall also ascertain that the household's anticipated utility expenses, during any one month of the forthcoming certification period, will exceed the amount of excluded energy assistance.

(d) Income only in month received: Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged in accordance with (f) below.

1. Conversion to monthly income: Whenever a full month's income is anticipated but is received on a weekly or bi-weekly basis, the CWA shall convert the income to a monthly amount by multiplying weekly amounts by 4.333 and bi-weekly amounts by 2.167.

2. Nonrecurring lump-sum payments: Non-recurring lump-sum payments shall be counted as a resource starting in the month received and shall not be counted as income (see N.J.A.C. 10:87-4.3 and N.J.A.C. 10:87-5.9(a)10).

3. Wages held by employer: Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of the law, shall not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or that it will receive income from wages that were previously held by the employer as a general practice and that were, therefore, not previously counted as income by the CWA.

4. Advances on wages: Advances on wages shall count as income only if the household anticipates that it will ask for and receive such an advance. Such advances on wages shall count as income in the month received only if reasonably anticipated.

5. Fluctuations caused by mailing cycles: Households receiving income on a recurring monthly or semi-monthly basis shall not have their monthly income varied merely because of changes in mailing cycles or pay dates or because weekends or holidays cause additional payments to be received in a month.

(e) Averaging self-employment or contract income: Households which, by contract or self-employment, derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farmworkers or to destitute households. The procedures for averaging self-employed income are described in N.J.A.C. 10:87-7.2.

(f) Averaging fluctuating income: Households, except destitute households, may elect to have income averaged. Income shall not be averaged for a destitute household since averaging would result in assigning to the month of application income from future periods that is not available to the destitute household for its current food needs.

1. Income averaging procedure: To average income, the CWA shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income from the two known months may be averaged and projected over a certification period of longer than two months.

(g) Averaging educational income: Households receiving earned and unearned educational income shall have such income, after exclusions, averaged over the period for which it was intended to cover. The CWA shall apply countable educational income beginning with the first month in which the student expects to receive those funds. In the event that the student cannot anticipate, with reasonable certainty, when he or she will receive the student income, then receipt of that income shall be treated and processed as a client reportable change, as per N.J.A.C. 10:87-9.5(b) and (c).

(h) With certain exceptions required by Federal statute, any Disregarded Child Support (DCS) payment (see N.J.A.C. 10:87-5.7(a)2) which is issued to a household in a particular month shall be utilized to calculate the following month's food stamp benefit. With the exception of those categories listed in (h)1 through 4 below, retrospective budgeting of DCS payments shall be utilized at all times, including during initial application and recertification. The exceptions, which require that DCS payments be treated prospectively, are as follows:

1. Migrant or seasonal farmworker households;
2. Households in which all members are homeless individuals;
3. Households with no earned income in which all adult members are elderly or disabled; and
4. Households residing on Indian reservations.

Amended by R.1979 d.459, January 1, 1980.

See: 12 N.J.R. 40(c).

(a)3i: Changed "2.26" to "2.167".

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

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

(a)3ii: "N.J.A.C. . . . 10:87-5.9(a)10 was (a)9".

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

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

Substantially amended.

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (c), added 4. In (g), describes student income for purpose of determining food stamp eligibility and level of benefit.

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

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

In (d), rewrote 5; in (g), rewrote the first sentence, and substituted a reference to educational income for a reference to grants, loans and other scholarships in the second sentence; and added (h).

### 10:87-6.10 Determining deductions

Deductible expenses include only certain costs of dependent care, child support payments, shelter and medical costs as described in N.J.A.C. 10:87-5.10.

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

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

Added "and medical costs".

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

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

Inserted a reference to child support payments.

### 10:87-6.11 Disallowed expenses

(a) The following shall not be included in the determination of deductions:

1. Expense covered by excluded income: An expense covered by an excluded reimbursement or vendor payment (see N.J.A.C. 10:87-5.9) except an energy assistance vendor payment made under the Low Income Home Energy Assistance Act (LIHEAA), shall not be deductible. For example, that portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost. However, that portion of an allowable medical expense which is not reimbursable shall be included as part of the household's medical expenses. Households entitled to the medical deduction shall have the nonreimbursable portion considered at the time the amount of reimbursement is received or can otherwise be verified.

2. Expenses shall not be deductible if the household provides compensation for the service through an in-kind benefit or if another household member provides the service. For example, a dependent care deduction shall not be allowed if compensation for the care is provided in the form of an in-kind benefit such as food. Expenses shall only be deductible if the service is provided by someone outside of the household and the household makes a money payment for the service.

3. When a public housing authority directly receives a household's HUD utility allowance and applies it toward the household's rent (see N.J.A.C. 10:87-5.9(a)3i), the "net" rent that the household is obligated to pay shall be considered the rental expense for food stamp purposes.

4. Any educational expense, in whole or part, covered by educational income which has been excluded in accordance with N.J.A.C. 10:87-5.11, shall not be deductible.

5. A dependent care expense which is reimbursed or paid for by the Child Care and Development Fund or the Transitional Child Care Program shall not be deductible.

As amended, R.1979 d.459, effective January 1, 1980.

See: 12 N.J.R. 40(c).

(a)1: Added third and fourth sentences.

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

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

Substantially amended.

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

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

In (a), added 3 through 5.

### 10:87-6.12 Billed expenses

(a) Except as provided in N.J.A.C. 10:87-6.13, a deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter costs, even if the household has not yet paid the expense.

(b) Amounts carried forward: Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

(c) The child support payment shall be budgeted in accordance with N.J.A.C. 10:87-6.13(d).

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Amended by R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).  
Added (c).

#### 10:87-6.13 Averaging expenses

(a) Households may elect to have fluctuating expenses averaged. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. For example, if a household receives a single bill in February which covers a three-month supply of fuel oil, the bill may be averaged over February, March and April.

(b) One-time only expenses: The household may elect to have a one-time only expense, such as an installation charge for utilities, averaged over the entire certification period in which it is billed. Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin with the month the change becomes effective. The CWA worker shall explain to the household the advantages of averaging the expense or treating it as a one-time deduction.

(c) If a household provides adequate verification at the time of certification, the household may elect to have a medical expense averaged over the entire certification period. If a new medical expense is reported during the certification period, the household may elect to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. If the reported expense is incurred in the last month of the certification period, it may also be averaged over the following certification period.

(d) For the purpose of determining a household's child support deduction, the CWA shall anticipate the household's child support payments for the certification period, including anticipated payments on arrearages, and then arrive at an average deduction amount to apply for each month of the certification period. The average may be adjusted during the certification period to reflect any changes that are reported by the household, or which otherwise become known to the CWA. At recertification, the CWA shall obtain updated information on which to base a new average for the new certification period.

As amended, R.1979 d.459, effective January 1, 1980.  
See: 12 N.J.R. 40(c).

(b): Added second and third sentences.  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Amended by R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).  
Added (c) and (d).

#### 10:87-6.14 Anticipating expenses

(a) The CWA shall calculate a household's expenses based on expenses for which the household expects to be billed during the certification period. Anticipation of the expense shall be based on the most recent month's bills, unless the household is reasonably certain a change will occur.

(b) Updating utility bills: When the household is not claiming a utility allowance, the CWA may anticipate changes during the certification period based on last year's bills updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household.

(c) Past expenses: The CWA shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period.

(d) Conversion of deductions: The income conversion procedures in N.J.A.C. 10:87-6.9(d)1 shall also apply to expenses billed on a weekly or biweekly basis.

As amended, R.1979 d.459, effective January 1, 1980.  
See: 12 N.J.R. 40(c).  
Added subsection (d).

As amended, R.1983 d.72, effective February 28, 1983.  
See: 15 N.J.R. 97(a), 15 N.J.R. 444(a).

Originally filed as an emergency adoption (R.1982 d.503) on December 30, 1982. Readopted as R.1983 d.72. The word standard changed to allowance.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

#### 10:87-6.15 Anticipating medical expenses

(a) A household eligible for the excess medical deduction shall be allowed, at the time of certification, to report and verify medical expenses which its qualified members expect to incur during the certification period.

(b) If a household reports an anticipated medical expense at the time of certification, but is unable to provide any verification to substantiate that anticipated expense, the household shall be told that the expense will be allowed when the verification is provided during the certification period.

1. The FSP-33, Notice of Required Verification, shall be used to advise the household of the information which is needed (see N.J.A.C. 10:87-2.23(d)3).

(c) If the household can provide verification as to the reasonableness of the anticipated expense, then the expense will be allowed beginning at the time of certification.

1. Reporting requirements of the treatment center: The treatment center shall notify the CWA of changes in the household's income or other household circumstances and of when the addict or alcoholic leaves the treatment center. The treatment center shall return to the CWA a household's ATP or coupons received after the household has left the center.

2. Reporting requirements of the group living arrangement facility: If the group living arrangement facility is acting in the capacity of an authorized representative, the facility shall notify the CWA of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement. The facility shall return a household's ATP or coupons to the CWA if they are received after the household has left the group living arrangement.

i. Residents who have applied on their own behalf: If the resident has made application on his/her own behalf, the household is responsible for reporting changes to the CWA.

(e) Responsibilities upon a resident's leaving: When a resident of an addict or alcoholic treatment center or group living arrangement facility leaves the treatment center or group living facility, the following provisions shall apply:

1. The treatment center/group living facility shall provide residents with their ID card and any untransacted ATP cards or coupons issued for that household when the household leaves the center or facility.

2. The treatment center/group living facility must return to a departing household its full allotment of food coupons if already issued and no coupons were spent on behalf of that individual household.

i. If a household, for whom the center/facility is acting as an authorized representative, leaves the treatment center/group living arrangement prior to the 16th day of the month and any portion of the coupons have been spent on behalf of the individual, the treatment center/group living arrangement shall provide the household with one-half of its monthly coupon allotment. If the household leaves after the 16th day of the month and the coupons have already been used, the household does not receive any coupons.

ii. If a group of residents in a group living arrangement have been certified as one household, and have returned the coupons to the facility to use, the department resident(s) shall be given a pro rata share of one-half of the household's monthly coupon allotment if leaving prior to the 16th day of the month. If the household leaves after the 16th day of the month and the coupons have already been used, the household does not receive any coupons.

3. Such treatment centers/group living facilities must return to the CWA, at the end of each month, any coupons not provided to departing residents.

4. Treatment centers/group living facilities shall not act as authorized representatives for any household that has left the center/facility.

5. The treatment center/group living facility shall, if possible, provide the household with a Change Report Form to report, to the CWA, the individual's new address and other circumstances after leaving the center/facility, and shall advise the household to return the form to the appropriate office of the CWA within 10 days.

(f) Fraud and misrepresentation: The organization, institution, treatment center or group living facility is responsible for any misrepresentation or IPV which it knowingly commits in the certification of center or facility residents. As an authorized representative, the organization, institution, treatment center, or group living facility must be knowledgeable about the household's circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The organization, institution, treatment center or group living facility acting in the capacity of an authorized representative is strictly liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center or group living facility. A resident or a group of residents of a facility who applied and were certified on their own behalf, are liable for any overissuance.

(g) Penalties and disqualifications: The organization, institution, treatment center, or group living facility may be penalized or disqualified by FNS if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. The CWA shall promptly notify DEA when it has reason to believe that an organization, institution, treatment center, or group living facility is misusing coupons in its possession. DEA will forward the report to FNS. However, the CWA shall not take any action against the organization, institution, treatment center, or group living facility prior to FNS action.

(h) Claims for overissuance: The CWA shall establish a claim against the treatment center or group living arrangement facility for overissuance of food coupons held on behalf of resident clients if any overissuances are discovered during an investigation or hearing procedure for redemption violations.

Amended by, R.1980 d.117, effective March 19, 1980.  
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a): In first sentence, deleted "s" in "Narcotics", deleted "FNS-authorized" after "participate in".

(e): Added requirement to return untransacted ATP cards.  
Amended by, R.1982 d.473, effective January 3, 1983.  
See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Substantial amendment regarding group living arrangements.  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.  
Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Deleted (i): "disqualified treatment or group living arrangement facility" regarding food stamp eligibility.

**10:87-7.17 Residents of shelters for battered women and their children**

(a) Residents of shelters for battered women and their children shall apply as separate households and shall be certified solely on the basis of their income and resources, and the expenses for which they are responsible. Such households shall be certified without regard to the income, resources, and expenses of their former household.

(b) Jointly held resources shall be considered inaccessible if such resources meet the provisions of N.J.A.C. 10:87-4.4(c).

(c) Room payments to the shelter shall be considered as shelter expenses.

(d) Any shelter residents eligible for expedited service shall be handled in accordance with the provisions of N.J.A.C. 10:87-2.32-2.35.

(e) CWA responsibilities: The CWA shall take prompt action to ensure that the shelter resident's former household's eligibility or allotment reflects the change in the former household's composition. Such action shall include either shortening the certification period by issuing a notice of expiration to the shelter resident's former household or acting on the reported change by issuing a notice of adverse action. (See N.J.A.C. 10:87-9.5.)

As amended, R.1981 d.97, effective April 9, 1981.

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

(a): "Students" was "tax dependents", "N.J.A.C. 10:87-2.3(a)5" was "3.22".

R.1982 d.474, effective January 3, 1983.

See: 14 N.J.R. 1081(b), 15 N.J.R. 35(a).

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

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

**10:87-7.18 Deeming of income and resources of alien sponsors**

(a) Portions of the gross income and resources of an alien's sponsor (and the sponsor's spouse if living together regardless of whether or not they were married at the time the affidavit of support was signed) shall be deemed available to the alien for a period of three years following the date established by the Immigration and Naturalization Service as the date the alien was admitted for permanent residence.

1. Aliens admitted for permanent residence: The deeming of income and resources of a sponsor applies only to an alien lawfully admitted for permanent residence as an immigrant as defined in sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act and for which a sponsor signed an affidavit of support or similar statement as a condition of the alien's entry into the United States as a lawful permanent resident on or after February 1, 1983.

2. Deeming rules inapplicable: Deeming does not apply to the following aliens:

i. Any alien participating in the Food Stamp Program as a member of the sponsor's household or whose sponsor is participating in the Food Stamp Program separate and apart from the alien;

ii. Any alien sponsored by a group or organization instead of an individual; or

iii. Any alien not required to have a sponsor under the Immigration and Nationality Act, such as, but not limited to, a refugee, a parolee, an alien granted asylum, or a Cuban or Haitian entrant.

(b) Deeming of income: To determine the amount of income deemed available to the alien:

1. Compute the total gross monthly earned income of the sponsor (and sponsor's spouse if applicable) at the time the household containing the sponsored alien applies or is recertified for food stamp participation and multiply by 80 percent.

2. Add the monthly unearned income of the sponsor (and the sponsor's spouse if applicable) at the time the household containing the sponsored alien applies or is recertified for food stamp participation.

3. Subtract the monthly gross income eligibility limit (N.J.A.C. 10:87-12.4) for a household equal in size to the sponsor, the sponsor's spouse and any other person who is claimed or could be claimed by the sponsor or sponsor's spouse as a dependent for Federal income tax purposes.

i. For a sponsor which has executed the revised affidavit of support which became effective in December 1997, the full amount of income and resources of the sponsor and the sponsor's spouse shall be treated as available to the alien until he or she either becomes a citizen, or has worked 40 qualifying quarters of Social Security coverage.

4. The remaining amount shall be counted as unearned income in determining eligibility and benefit level for the household containing a sponsored alien whether or not the monies are actually available to the household.

5. If the alien has already reported his or her sponsor's gross income in accordance with AFDC sponsored alien rules, that income amount shall be used for food stamp deeming purposes. However, allowable reductions to be applied to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the alien shall be limited to those stated in (b)1 and 3 above.

6. Actual money paid to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount deemed to the alien under this section. Only the amount paid that actually exceeds the amount deemed would be considered additional income to the alien.

(c) Deeming of resources: To determine the amount of resources deemed available to the alien:

1. Determine the total amount of resources of the sponsor (and sponsor's spouse if applicable) in accordance with N.J.A.C. 10:87-4 and reduce the amount by \$1,500. The remainder shall be deemed available to the household which contains the sponsored alien.

i. For a sponsor which has executed the revised affidavit of support which became effective in December 1997, the full amount of income and resources of the sponsor and the sponsor's spouse shall be treated as available to the alien until he or she either becomes a citizen, or has worked 40 qualifying quarters of Social Security coverage.

2. The amount of income and resources deemed to the sponsored alien in accordance with N.J.A.C. 10:87-7.18(b) shall be considered in determining the eligibility and benefit level of the household in which the alien is a member.

(d) Multiple sponsorship: If a sponsored alien can demonstrate that his or her sponsor also sponsors other aliens, the amount of income deemed available in (b) above and the amount of resources deemed available in (c) above shall be divided among the aliens sponsored and that amount shall be used to determine eligibility and benefit level of the household containing the sponsored alien.

(e) Change in sponsor: If the alien changes sponsors within a certification period, the deemed income and resources shall be recalculated based on information on the new sponsor as soon as possible. In the event that an alien loses his or her sponsor during the three-year limit on the sponsored alien provisions and does not obtain another, the deemed income and resources of the previous sponsor shall continue to be attributed to the alien until such time as the alien obtains another sponsor or until the three-year period for applying the sponsored alien provisions expires. However, should the alien's sponsor become deceased, the deemed income and resources of the sponsor shall no longer be attributed to the alien.

(f) Verification: The sponsored alien and his or her spouse are responsible for providing the CWA with any information necessary to determine the income and resources of the alien's sponsor and the sponsor's spouse. The alien and his or her spouse shall also be responsible for demonstrating to the CWA that the sponsor also sponsors other aliens, how many, and for obtaining any necessary cooperation from the sponsor.

1. The alien and his or her spouse shall be responsible for obtaining the cooperation of the sponsor for a period of three years from the alien's date of entry or admission as a lawful permanent resident and for providing information and/or required documentation necessary to calculate deemed income and resources at the time of application or recertification for participation in the Food Stamp

Program. Reporting changes in sponsor income, employment, and for providing the names or other identifying factors of other sponsored aliens by the sponsor or the sponsor becoming deceased shall be the responsibility of the sponsored alien and shall be handled in accordance with the timeliness standards of N.J.A.C. 10:87-9.1 through 9.5.

2. The CWA shall obtain from the alien or alien's spouse the following information:

i. The income and resources of alien's sponsor and the sponsor's spouse (if living with the spouse);

ii. The names and alien registration number of other aliens for whom the sponsor has signed an affidavit of support or similar agreement;

iii. The provision of the Immigration and Nationality Act under which the alien was admitted;

iv. The date of the alien's entry or admission as a lawful permanent resident as established by INS;

v. The alien's date of birth, place of birth, and alien registration number;

vi. The number of dependents who are claimed or could be claimed for Federal income tax purposes of the sponsor and the sponsor's spouse;

vii. The name, address, and phone number of the alien's sponsor.

2. The CWA shall verify the information obtained pursuant to (f)1i and ii above. The CWA shall verify the information which the CWA determines is questionable and which affects household eligibility and benefit level in accordance with procedures established at N.J.A.C. 10:87-2.21(a)8 for verifying questionable information.

3. The CWA shall verify the information obtained pursuant to (f) above. The CWA shall verify the information which the CWA determines is questionable and which affects household eligibility and benefit level in accordance with procedures established at N.J.A.C. 10:87-2.21 for verifying questionable information.

4. If information necessary to carry out these deeming provisions is not received or verified on a timely basis, the sponsored alien and his or her spouse shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined.

i. The income and resources of the ineligible alien and his or her spouse (excluding the deemed income and resources of the alien's sponsor and the sponsor's spouse) shall be considered available in determining the eligibility and benefit level of remaining household members.

ii. If a sponsored alien refuses to cooperate in providing or verifying needed information, other adult

members of the alien household shall be responsible for providing/verifying the required documentation. If the same sponsor is responsible for the entire alien household, they shall remain ineligible until such time that the needed sponsor information is provided and/or verified.

iii. If information or verification is subsequently received, the CWA shall act on the information as a reported change in household membership in accordance with the timeliness standards in N.J.A.C. 10:87-9.5(b)2.

(g) Claims for overissuance:

1. Liability for overissuance: Any sponsor of an alien and the alien shall be jointly and severally liable for repayment of any overissuance of coupons as a result of incorrect information provided by the sponsor. However, if the alien's sponsor had good cause and was without fault for supplying the incorrect information, the alien's household shall be solely liable for repayment of the overissuance.

i. For the purpose of this section, "good cause" shall include but is not limited to circumstances in which the sponsor did not knowingly or willfully provide incorrect information.

ii. For the purpose of this section, "without fault" shall include but is not limited to circumstances in which the alien misrepresented or misstated the financial status of the sponsor.

2. Claims against the household and sponsor: Where the sponsor did not have good cause, the CWA shall decide whether to establish a claim for the overissuance against the sponsor or the alien's household, or both. The CWA may choose to establish claims against both parties at the same time or establish a claim against the party it deems most likely to repay first. If a claim is established against the alien's sponsor first, the CWA shall ensure that a claim is established against the alien's household whenever the sponsor fails to respond to the CWA's demand letter within 30 days of receipt. The CWA shall return to the alien's sponsor and/or the alien's household any amount repaid in excess of the total amount of claim.

3. Claims against sponsors: The CWA shall initiate collection against a sponsor by sending a written demand letter which informs the sponsor of the amount owed, the reason for the claim, how the claim may be repaid, and that the sponsor will not be held liable if he or she can demonstrate that he or she was not at fault or had good cause for providing incorrect information. The CWA shall follow the demand letter with a personal contact if possible. The sponsor is entitled to a fair hearing, either to contest a determination that the sponsor was at fault where it was determined that incorrect information has been provided or as to contest the amount of the claim.

i. The CWA may pursue other means of collection if the sponsor fails to respond to the demand letter.

ii. The CWA may terminate collection action against the sponsor at any time if it can document that the sponsor cannot be located or that the cost of further collection is likely to exceed the amount that can be recovered.

iii. If the sponsor responds to the demand letter and is financially able to pay the claim at one time, the CWA shall collect a lump sum cash payment. If the sponsor is not financially able to repay the claim at one time, a repayment schedule may be negotiated as long as the payments are provided in regular installments. Funds collected shall be forwarded to DEA in accordance with N.J.A.C. 10:87-11.31(d).

4. Claims against alien households: Prior to initiating collection action against the household of a sponsored alien for repayment of an overissuance caused by incorrect information having been supplied concerning the alien's sponsor or sponsor's spouse, the CWA shall determine whether such incorrect information was supplied due to inadvertent household error, or an act of intentional program violations on the part of the alien. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.

i. If sufficient documentary evidence exists to substantiate that the incorrect information concerning the alien's sponsor or sponsor's spouse was provided due to intentional program violation on the part of the alien, the CWA shall pursue the case in accordance with the procedures specified in N.J.A.C. 10:87-11.29 for intentional program violations. The claim against the alien's household shall be handled as an inadvertent household error claim prior to the determination of intentional program violation by an administrative law judge or a court of appropriate jurisdiction.

ii. If the CWA determines that the incorrect information was supplied due to misunderstanding or unintended error on the part of the sponsored alien, the claim shall be handled as an inadvertent household error claim in accordance with the procedures specified in N.J.A.C. 10:87-11.26. These actions shall be taken regardless of the current eligibility of the sponsored alien or the alien's household.

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

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

Originally adopted as an Emergency Rule, R.1983 d.38, effective January 31, 1983.

Pursuant to the Federal Omnibus Budget Reconciliation Act of 1982 and Commodity Distribution Amendments of 1981.

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

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

Substantially amended.

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

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

In (f)3: revised N.J.A.C. reference.

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

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

In (b)3, added i; and in (c)1, added i.

#### Case Notes

Food stamp applicant had to disclose sponsor information for alien wife. *L.F. v. Essex County Division of Welfare*, 92 N.J.A.R.2d (DEA) 20.

#### 10:87-7.19 Homeless Food Stamp households and homeless meal providers

(a) Homeless Food Stamp households shall be permitted to use their food stamp benefits to purchase prepared meals from approved homeless meal providers (see N.J.A.C. 10:87-2.7 and 2.10).

(b) Homeless meal providers are public or private non-profit organizations as defined by the IRS, that apply for and qualify as retail food stores to accept food stamps from homeless food stamp recipients. The homeless meal provider shall be responsible for obtaining written approval from the New Jersey Division of Economic Assistance, for submission to the Food and Nutrition Service (FNS) prior to obtaining final authorization to accept food stamps. Homeless meal providers serving meals which consist solely of donated foods shall not be eligible for food stamp coupon redemption authorization. The Food and Nutrition Service reserves the right to limit participation of homeless meal providers when evidence obtained indicates that participation of the provider indicates possible damage to the integrity of the Food Stamp Program.

New Rule, R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

#### 10:87-7.20 Day care providers

For food stamp recipients who derive income from the provision of day care, CWAs shall deduct from the day care income earned by the recipient, as a cost of doing business, any actual documented costs of providing meals.

New Rule, R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

## SUBCHAPTER 8. FAIR HEARINGS

### 10:87-8.1 General provisions

(a) The conduct of fair hearings shall be governed by the Uniform Administrative Procedure Rules contained in N.J.A.C. 1:1 and Public Welfare Hearings contained in N.J.A.C. 1:10. If any rule in this subchapter is inconsistent with those rules, N.J.A.C. 1:1 and 1:10 shall take precedence.

(b) Any household which is dissatisfied with any CWA action or inaction, affecting the household's participation in the Program shall be advised of its fair hearing rights and be

given an opportunity to receive a fair hearing. The household shall also be advised of available legal services.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Added (a), made existing text (b).

### 10:87-8.2 CWA responsibility to provide fair hearing information

The CWA shall make Form FSP-196, "Fair Hearings in the Food Stamp Program", available to any interested party upon request.

Amended by R.1985 d.180, effective April 15, 1985 (operative May 1, 1985).  
See: 17 N.J.R. 167(a), 17 N.J.R. 969(a).  
Old text deleted and new text substituted.

### 10:87-8.2A Fair hearing based on Federal changes

Fair hearings will be denied those households which are merely disputing the fact that a federally mandated reduction, suspension, or cancellation was ordered. If the request for a fair hearing is based on a household's belief that its benefit level was computed incorrectly or that regulations were misapplied or misinterpreted, the household shall be given an opportunity to receive a fair hearing (see N.J.A.C. 10:87-8.9(b)). Since the reduction, suspension or cancellation would be necessary to avoid an expenditure of funds beyond those appropriated by Congress, households do not have a right to a continuation of benefits pending the fair hearing. The household may receive retroactive benefits in an appropriate amount if it is determined that its benefits were reduced by more than the amount by which the CWA was directed to reduce benefits. CWAs will only refer those requests which qualify for a fair hearing to the Bureau of Administrative Review and Appeals (BARA).

R.1984 d.64, effective February 26, 1981.  
See: 13 N.J.R. 226(b).  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Substantially amended.

### 10:87-8.3 Request for fair hearing

Any clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or which indicates a desire to present the case to a high authority shall be construed as a request for a fair hearing.

### 10:87-8.4 Right to request a fair hearing

(a) The right to request a fair hearing shall not be limited or interfered with in any way.

1. Informal efforts to effect an adjustment: Informal efforts to effect an adjustment may be made through field contacts, office interviews with supervisory personnel, consultation with the State DEA Field Representative, etc. In no event, however, shall such informal efforts be considered prerequisite to a fair hearing, nor shall they

delay, replace, interfere with or otherwise impede the processing of a fair hearing which has been requested by the household.

2. Agency conference: The CWA shall offer agency conferences to households which wish to contest a denial of expedited service under the procedures in N.J.A.C. 10:87-2.32 through 2.35. The CWA shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process.

i. Attendance: The agency conference may be attended by the eligibility worker responsible for the agency action, and shall be attended by an eligibility supervisor (other than the supervisor of the eligibility worker responsible for the action) and/or the agency director, and by the household and/or its representative.

ii. Scheduling: An agency conference for households contesting a denial of expedited service shall be scheduled within two working days of the date the household contests the action of the CWA, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

iii. Informal resolution: An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless the household makes a written withdrawal of its request for a hearing.

(b) CWAs shall conduct pre-hearing settlement conferences concerning Food Stamp Program appeals, except for IPV issues in accordance with the following procedures:

1. The CWA shall contact the appellant to schedule a Pre-Hearing Settlement Conference (PHSC) within five working days as soon as the CWA receives and forwards the fair hearing request to the Division of Economic Assistance (DEA). If the Fair Hearing request is made directly to DEA, the CWA will initiate the procedure upon notification of the request by DEA but not later than one day from receipt of the request.

2. The CWA Fair Hearing Liaison shall preside over the pre-hearing settlement conference and act as a mediator between the appellant and other appropriate CWA staff.

3. The CWA shall report the disposition of each food stamp hearing request to the Division of Economic Assistance, Bureau of Administrative Review and Appeals (BARA) with an information copy to the Office of Administrative Law. The report shall contain at a minimum, but not be limited to, the following information:

- i. The contested issues;
- ii. The scheduled time, date and location of a pre-hearing settlement conference;

iii. The verbal or written acceptance or declination by the appellant to attend a pre-hearing settlement conference;

iv. Whether or not a settlement was reached; and

v. Terms of the settlement or basis for the appellant's decision to withdraw. The report must be co-signed by the appellant and the mediator or other CWA official.

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

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

Added (b).

#### 10:87-8.5 Time period for request of a hearing

A household may request a hearing on any action by CWA or loss of benefits which occurred in the prior 90 days. In addition, at any time within a certification period, a household may request a fair hearing to dispute its current level of benefits.

#### 10:87-8.6 Processing fair hearing requests

(a) To assure orderly and expeditious processing of complaints and fair hearing requests, the CWA and Division of Family Development (DFD) shall proceed in the following manner:

1. CWA responsibilities: The CWA shall designate a staff member to act as a fair hearing liaison between itself and the DEA. Upon receipt of a request for a fair hearing, and no later than one working day following receipt of the request, the liaison shall notify the DEA of the request, the issues to be resolved, and such other information as may be necessary to process the case.

2. Administrative responsibilities of CWA liaison: The CWA liaison's duties shall include, but not be limited to, the following:

i. Establishing a system: The liaison shall establish a system to insure that every written request for a hearing which is received by the CWA is stamped with the date of receipt and forwarded to the Division of Economic Assistance within one working day of the date of the request.

ii. Review requests: The liaison shall review incoming requests for possible corrective action prior to a hearing.

iii. Arranging staff participation: The liaison shall identify, and arrange for participation of CWA staff who may be essential to the hearing. The liaison shall also assemble all records relevant to the hearing and arrange for an interpreter if the household does not speak English.

(f) If a household receives WFNJ and will be certified for food stamps more than once in a 12-month period, the CWA may choose to conduct a face-to-face interview with that household only once during that period. The face-to-face interview shall be conducted at the same time that the household receives a face-to-face interview for WFNJ purposes. At any other recertification during that yearly period, the CWA may interview the household by telephone, conduct a home visit, or recertify the household by mail.

(g) The CWA may schedule the interview prior to the application filing date, provided that the household's application is not denied at the time for failure to appear for the interview. The CWA shall schedule the interview on or after the date the application was filed if the interview has not been previously scheduled, or the household has failed to appear for any interviews scheduled prior to this time and has requested another interview. CWAs shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires.

(h) Information provided by the household shall be verified in accordance with N.J.A.C. 10:87-2.20 and 2.21. The CWA shall provide the household a notice of required verification as provided in N.J.A.C. 10:87-2.23(d)3, and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 calendar days to provide required verification information. Any household whose eligibility is not determined by the end of its current certification period due to the time period allowed for submitting any missing verification shall receive an opportunity to participate, if eligible, within five working days after the household submits the missing verification.

(i) Households reporting required changes in circumstances that are either certified for one month, or are certified in the second month of a two-month certification period, shall have 15 days from the date the NOE is received to file a timely application for recertification.

(j) Other households reporting required changes in circumstances that submit applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification.

(k) For households consisting only of SSI applications or recipients who apply for food stamp recertification at SSA offices in accordance with N.J.A.C. 10:87-2.37, an application shall be considered filed for normal processing purposes when the signed application is received by the SSA.

As amended, R.1981 d.64, effective February 26, 1981.  
See: 13 N.J.R. 226(b).

"A Federally mandated . . . procedures" added.  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Repealed old text and substituted new.  
Repeal and New Rule, R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).  
Section was "Recertification".

### 10:87-9.2 Recertification application processing

(a) Households that were certified for two months in the second month of the certification period and have met all required application procedures shall be notified of their eligibility or ineligibility. Eligible households shall be provided an opportunity to receive benefits no later than 30 calendar days after the date the household received its last allotment.

(b) Other households that have met all application requirements shall be notified of their eligibility or ineligibility by the end of their current certification period. In addition, the CWA shall provide households that are determined eligible an opportunity to participate by the household's normal issuance cycle in the month following the end of its current certification period.

(c) Delays in recertification application processing shall be handled as follows:

1. Households which have submitted an application for recertification in a timely manner but, due to CWA error, are not determined eligible in sufficient time to provide for issuance of benefits by the household's next normal issuance date shall receive an immediate opportunity to participate upon being determined eligible, and the allotment shall not be prorated.

2. If the household was unable to participate for the month following the expiration of the certification period because of CWA error, the household is entitled to restored benefits.

3. If a household does not submit a new application by the end of the certification period, the CWA shall close the case without further action.

4. If a recertification form is submitted after the end of the certification period, it shall be treated the same as an application for initial certification.

5. A household which submits an application by the filing deadline but neither appears for an interview scheduled after the application has been filed, nor submits verification within the required time frame, shall lose its right to uninterrupted benefits. The CWA shall deny the household's recertification application at the end of the last month of the current certification period. The CWA may, on a county-wide basis, either require households to submit new applications to continue benefits or reinstate the households without requiring new applications if the households have been interviewed and have provided the required verification information within 30 days after the applications have been denied.

(d) A CWA is not required to apply the expedited service provisions of N.J.A.C. 10:87-2.32 at recertification if the household applies for recertification before the end of its current certification period.

As amended, R.1984 d.17, effective February 6, 1984.  
See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Language added concerning timely completion of redetermination.  
Amended by R.1989 d.121, effective February 21, 1989.

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

Substantially amended.

Repeal and New Rule, R.1998 d.498, effective October 5, 1998.

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

Section was "CWA action on timely application for recertification".

### 10:87-9.3 Notice of eligibility

(a) Every applicant household found eligible shall be provided with a written notice of eligibility as described in the following items as soon as a determination is made but no later than 30 days after the date of the initial application. The notice shall inform the household of the amount of the allotment. The household shall also be advised of variations in the benefit level based on changes anticipated (if any) at the time of certification. If the initial allotment contains benefits for both the month of application and the current month's benefits, the notice shall explain that the initial allotment includes more than one month's benefits, and shall indicate the allotment amount for the remainder of the certification period. The notice shall also inform the household of beginning and ending dates of the certification period.

(b) Expedited applications: In cases where a household's application is approved on an expedited basis without verification, as provided in N.J.A.C. 10:87-2.32 through 2.35, the notice shall explain that the household must provide the verification that was waived. The notice shall also explain the special conditions of the longer certification period, as discussed in N.J.A.C. 10:87-2.34(a)3 and the consequences of failure to provide the postponed verification.

(c) PA households: For those PA households assigned definite certification periods in accordance with N.J.A.C. 10:87-6.22, the notice shall state that the certification will expire the month following the month the household's AFDC redetermination is due.

As amended, R.1979 d.422, effective October 18, 1979.

See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

As amended, R.1984 d.17, effective February 6, 1984.

See: 15 N.J.R. 1821(a), 16 N.J.R. 246(a).

Indefinite changed to definite certification periods.

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

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

Substantially amended.

### 10:87-9.4 Recertification/denial notice

(a) The CWA shall provide households that have filed an application by the 15th of the last month of their certification period with either a notice of eligibility or a notice of denial by the end of the current certification period. The CWA shall provide households that have received a notice of expiration at the time of certification and have timely reapplied, with either a notice of eligibility or a notice of denial not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(b) If an application is denied, the CWA shall provide the household with written notice explaining the basis for the denial. This requirement shall be accomplished by use of the "Adverse Action Notice". The notice shall be sent as soon as possible, but not later than 30 days following the date the application was filed.

(c) If, by the 30th day, the CWA cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application. The CWA shall follow the procedures at N.J.A.C. 10:87-2.31(e).

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

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

This section originally consisted of three sections 9.4 "Recertification: notice" which is now (a); 9.5 "Notice of denial" which is now (b) and 9.6 "Notice of pending status" which is now (c).

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

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

Rewrote (c).

### 10:87-9.5 Changes

(a) When changes occur within the certification period which affect a household's eligibility or coupon allotment, action must be taken to adjust the household's eligibility.

(b) Household responsibilities:

1. Changes to be reported: Certified households are required to report the following changes within 10 days of the date the change becomes known to the household:

i. Households shall report changes in gross earned income only if the change involves a change in source of income, hourly rate or salary, or in employment status from full-time to part-time or vice versa.

ii. Households shall report changes in the source of unearned, or in the amount of gross unearned income of more than \$25.00, except changes in either the WFNJ/TANF grant, or the WFNJ/GA grant where the CWA is administering the WFNJ/GA program for the locality in which the recipient resides.

iii. Household composition: All changes in household composition, such as the addition or loss of a household member (see N.J.A.C. 10:87-2.2 and 2.3);

iv. Residence: Changes in residence and the resulting change in shelter costs;

v. Acquisition of vehicle: The acquisition of a licensed vehicle not fully excludable under N.J.A.C. 10:87-4.72(a)1; and

vi. Liquid resources: When cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed a total of \$2,000, or \$3,000 for households with members 60 years of age and older.

vii. All households are required to report changes in legal obligation including, but not limited to, changes such as a child reaching an age limit at which child support is no longer legally obligated, or a change in the legally obligated amount. Households are not required to report changes in the amount of child support it pays.

2. Method of reporting: The change may be reported in person, by telephone or by mail. The CWA shall document the date a change is reported, which shall be the date the CWA receives a report form or is advised of the change over the telephone or by a personal visit. PA households which report a change in circumstances shall be considered to have reported the change for food stamp purposes. CWAs shall provide households with either a toll-free telephone number, a number at which collect telephone calls will be accepted, or a number within each household's local calling area which recipients may utilize to either obtain information or report changes. Those telephone numbers shall be identified on the Change Report Forms and Notices of Adverse Action which the CWAs issue.

3. Failure to report: If the CWA discovers that the household failed to report a change as required by (b)1 above and as a result, received benefits to which it was not entitled, the CWA shall file a claim against the household in accordance with N.J.A.C. 10:87-11.23 et seq. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household which it is not required to report per (b) above. Individuals shall not be terminated for failing to report a change, unless the individual is disqualified in accordance with the intentional program disqualification procedure specified in N.J.A.C. 10:87-11.1 and 2.

4. Households may, but are not required to, report any changes in medical expenses which occur subsequent to certification. If a household voluntarily reports a change in medical expenses and provides necessary verification, the change shall be acted upon in accordance with the provisions in N.J.A.C. 10:87-9.5(c)2 for both increases and decreases in benefits.

i. If the household reports a change which would increase benefits, but does not provide verification to substantiate the reported change, then the change shall not be acted upon until such verification is provided.

ii. If, during the certification period, the CWA becomes aware of a change in medical expenses from a source other than the household, the CWA shall act on the change if verification is available from the source, and the CWA can act on it without contacting the household for additional information or verification. If the change would require the CWA to contact the household, the CWA shall not act on the change during the certification period.

(c) CWA responsibilities: The CWA shall not impose any food stamp reporting requirement on household except as noted above. Neither shall the CWA treat the submission of the report of change as a waiver of the household's right to a notice of an adverse action.

1. Change report form: A change report form and FCAL Explanation Sheet FSP-933 shall be provided to newly certified households at the time of certification, at recertification if the household needs a new form; and a new form shall be sent to the household whenever a change report form is returned by the household. The CWA shall provide a stamped self-addressed envelope with the form. Although households should be encouraged to complete and return the change form when a change is being reported, changes reported over the telephone or in person by the household shall be acted on in the same manner as those reported on the change report form.

2. Action on reported change: The CWA shall advise the household of its responsibilities to report changes within the required time period. The CWA is required to take prompt action on all changes reported by the household to determine if the change affects the household's eligibility or allotment. Even if there is no change in allotment, the CWA shall document the change in the case record, provide another change report form to the household, and notify the household of the receipt of the change report and effect of the change, if any, on its benefits. Restoration of lost benefits shall be provided to any household if the CWA fails to take action on a change which increases benefits within the time limits specified below.

i. Changes which increase benefits: For changes which result in an increase in a household's benefits, other than changes described in ii below, the CWA shall make the change effective not later than the first allotment following the 10th day after the date the change was reported to the CWA. For example, a \$30.00 decrease in income reported on the 15th day of May would increase the household's June allotment. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's allotment would have to be increased by July.

ii. Changes which increase benefits and require issuance of a supplementary ATP: For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50.00 or more in the household's gross monthly income, the CWA shall make the changes effective no later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Therefore, if the change is reported after the 20th of a month and it is too late for the CWA to adjust the following month's allotment, the CWA shall issue a supplementary ATP by the 10th day of the following month.

(1) Changes which must be effective at next recertification: When a household's circumstances change and it becomes entitled to a different income eligibility standard, the CWA shall apply the different standard at the next recertification or whenever the CWA changes the household's eligibility, benefit level, or certification period, whichever occurs first.

(2) Verification: Verification required by N.J.A.C. 10:87-2.20 through 2.23, must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits will revert to the original benefit level. In cases where the CWA has determined that a household has refused to cooperate, as defined in N.J.A.C. 10:87-2.14 through 2.17, the CWA shall terminate the household's eligibility. The CWA shall issue a supplementary ATP by the 10th day of the following month. If the CWA increases a household's benefits to reflect a reported change but subsequent verification indicates that the household was entitled to fewer benefits, the CWA shall establish a claim.

iii. Changes that reduce benefits: If the household's benefit level decreases or the household becomes ineligible as a result of the change, the CWA shall issue a notice of adverse action within 10 days of the date the change was reported, unless one of the exemptions to the notice of adverse action in (g) and (h) below applies. The decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested. Verification required by N.J.A.C. 10:87-2.20 through 2.23, must be obtained prior to recertification.

3. Mass changes: Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include annual adjustments to the net income eligibility standards and the shelter/dependent care deduction; adjustments to the maximum coupon allotment and standard deduction; seasonal adjustments to the utility standard; periodic cost-of-living adjustments to Social Security, SSI and other Federal benefits; federally mandated reductions, suspensions, or cancellations of food stamp benefits; periodic adjustments to AFDC and other changes in the eligibility criteria based on legislative or regulatory actions.

(d) Food stamp program changes: These include Federal adjustments to eligibility standards, allotments and deductions; federally mandated reductions, suspensions, or cancellations of food stamp benefits, and State adjustments to utility standards. These adjustments shall go into effect for all households at a specific point in time. Adjustments to the maximum coupon allotment, shelter/dependent care deduction and the standard deduction shall be effective for all issuances in October. Annual adjustment to the income eligibility standards shall be effective for all October issuances. Adverse action notices are not required for such changes. However, prior publicity of adjustments shall be made through news media, by placing posters in certification offices, issuance locations or sites frequented by certified households, or by issuing general notices mailed to households.

1. Utility standard changes: Households whose certification periods overlap a seasonal variation in the utility standard shall be advised at the time of initial certification when the adjustment will occur and what the variation in the benefit level will be, if known.

(e) Mass changes in AFDC: When the State makes an overall adjustment to AFDC payments, corresponding adjustments in the household's food stamp benefits shall be handled as a mass change. When the CWA has at least 30 days advance knowledge of the amount of the AFDC adjustment, the CWA shall recompute food stamp benefits to be effective in the same month as the AFDC change. If the CWA does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the AFDC change was made.

1. Notice not required: A notice of adverse action is not required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the PA grant. However, the CWA shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed.

(f) DEA shall establish procedures for making mass changes to reflect COLAs in benefits and any other mass changes under RSDI, SSI, and other programs where COLA information is readily available and applicable to a majority of those program's beneficiaries. Households on retrospective budgeting but not monthly reporting shall have the change reflected in accordance with current procedures. MR households shall report the change only on the appropriate monthly report. Non-MR households are not responsible for reporting these changes. The CWA shall be responsible for automatically adjusting the household's benefit level and the change shall be reflected no later than the second allotment issued after the month in which the change becomes effective for non-MR reporting households.

(g) Households shall be notified whenever their benefits are altered as a result of changes in the AFDC benefits or whenever the food stamp certification period is shortened to reflect changes in the household's circumstances. The household's certification period shall not end any earlier than the month following the month in which the CWA determines that the certification period should be shortened, allowing adequate time to send a notice of expiration and for the household to timely reapply. If the AFDC benefits are terminated but the household is still eligible for food stamp benefits, members of the household shall be advised of food stamp work registration requirements, if applicable, as their work requirement under Title IV of the Social Security Act exemption no longer applies.

(h) Whenever a change results in the reduction or termination of a household's AFDC benefits within its food stamp certification period, and the CWA has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the CWA shall:

1. Issue a single notice of adverse action for both the AFDC and food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to AFDC procedures and timeliness standards. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective in accordance with the procedures specified in (c) above.

2. If the household's food stamp benefits will be increased as a result of the reduction or termination of AFDC benefits, the CWA shall issue the PA notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its AFDC benefits are continued, the household's food stamp benefits shall continue on the previous basis. If the household does not appeal, the CWA shall make the change effective in accordance with the procedures specified in (c) above, except that the time limits for the CWA to act on changes which increase a household's benefits shall be calculated from the date the PA notice of adverse action period expires.

(i) Whenever a change results in the termination of a household's AFDC benefits within its food stamp certification period, and the CWA does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for public assistance, and the CWA does not have any information on the income of the new household member), the CWA shall not terminate the household's food stamp benefits but take the following action:

1. Where a PA notice of adverse action has been sent, the CWA shall wait until the household's notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its AFDC benefits are continued pending the appeal, the household's food stamp benefits shall be continued on the same basis.

2. If a PA notice of adverse action is not required, or the household decides not to request a fair hearing and

continuation of its AFDC benefits, the CWA shall send the household a notice of expiration which informs the household that its certification period will expire at the end of the month following the month the notice of expiration is sent and that it must reapply if it wishes to continue to participate. The notice of expiration shall also explain to the household that its certification period is expiring because of changes in its circumstances which may affect its food stamp eligibility and benefit level.

(j) Notice of adverse action: Prior to any action to reduce or terminate a household's benefits within the certification period, the CWA shall, provide the household timely and adequate advance notice before the adverse action is taken.

1. Timing of the notice: The notice of adverse action will be considered timely provided it is mailed at least 10 days prior to the date upon which the action becomes effective.

(k) Changes not requiring advance notice: Individual notices of adverse action are not required when:

1. Mass change: The State initiates a mass change as described in (f), (g) and (h) above.

2. Notice of death: The CWA determines, based on reliable information, that all members of a household have died.

3. Move from project area: The CWA determines, based on reliable information, that the household has moved from the county.

4. Completion of restoration of lost benefits: The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of the date increased allotment would terminate.

5. Anticipated changes in the monthly allotment: The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.

6. Disqualification for intentional program violation: A household member is disqualified for intentional program violation in accordance with N.J.A.C. 10:87-11.1 et seq. or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member, provided that the CWA had previously instructed the household of its fair hearing rights, the date that allotment reduction would become effective, and the allotment which the household would receive after allotment reduction had begun. The notice requirements for individuals or households affected by intentional program violation disqualifications are explained in N.J.A.C. 10:87-7.14(d) and 11.1 et seq.

7. Benefit reduction upon approval of the household's AFDC grant application: The household jointly applied

for AFDC and food stamp benefits and has been receiving food stamp benefits pending the approval of the AFDC grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the AFDC grant.

8. Benefit reduction to the original benefit level due to lack of verification: The household has received an increased allotment pending verification of a reported change. If the household does not provide verification prior to the next issuance of its food stamp allotment, the household's allotment will revert to the original allotment.

9. Disqualified drug/alcoholic treatment center or group living arrangement facility: Residents of a treatment center or group living arrangement which lost its certification from the appropriate State agency.

10. Converting household from cash and/or food stamp coupon repayment to benefit reduction: The household's food stamp allotment is reduced to repay a claim as a result of failure to make agreed upon installment payments in cash and/or food stamp coupons (see N.J.A.C. 10:87-11.31(c)3).

11. The household voluntarily requests in writing, or in the presence of a caseworker that its participation in the Food Stamp program be terminated. The CWA shall respond to all non-written requests by sending the household a letter confirming the voluntary withdrawal. Households provided written confirmation of voluntary withdrawal from the Food Stamp program may request a fair hearing.

12. The CWA determines, based on reliable information that the household is departing from the county of current residence prior to the next issuance and therefore will not be able to obtain and negotiate its next allotment. While the CWA may inform the household before its next issuance date, they shall not delay terminating the household's participation in order to provide advance notice.

13. The CWA initiates recoupment of a claim against a household which has previously received a notice of adverse action with respect to such claim.

(l) A CWA may, at its option, send a household an adequate (but not timely) adverse action notice (see N.J.A.C. 10:87-9.5(j)) when the household's address is unknown, and mail directed to that address has been returned by the post office indicating no known forwarding address. If the CWA takes this option, it shall be documented in the case record.

Amended by R.1979 d.459, effective January 1, 1980.  
See: 12 N.J.R. 40(c).

(a)1i: Added (6).  
Amended by R.1980 d.117, effective March 19, 1980.  
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(a)2ii: In third sentence, added "receipt of the change report and the"; added subparagraph (1) and renumbered (1)-(2) as (2)-(3).

(c): Added paragraph 8.  
Amended by R.1981 d.64, effective January 26, 1981.

See: 13 N.J.R. 226(b).

Substantially amended.  
Amended on an emergency basis, R.1981 d.398, eff. September 30, 1982 (oper. October 1, 1981), exp. November 30, 1981. See: 13 N.J.R. 769(a). Readopted, R.1981 d.517, eff. December 31, 1981. See: 13 N.J.R. 769(a), 14 N.J.R. 103(a).

(a)2ii 2(B) added and existing (B) renumbered as (C).  
Amended by R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).  
Treatment of disqualified facilities enumerated.  
Amended by R.1983 d.223, effective May 31, 1983.

See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).  
Originally adopted as an Emergency Rule, R.1983 d.116, eff. March 31, 1983, operative April 1, 1983. The amendment is pursuant to the Food Stamp Act Amendment of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

"Fraud" replaced by "intentional program violation"; reduction of benefit due to household failure to repay.

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

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

"CWA" substituted for "State agency". (a)11 added.  
Amended by R.1989 d.121, effective February 21, 1989.

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

Substantially amended.

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

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

Stylistic revisions to text.

In (k)9: deleted language regarding FNS disqualification.

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

At (b)2: added new text regarding CWA's provision of telephone number for households.

At (c)2ii(3): added text regarding a supplementary ATP.

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

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

Rewrote (b); in (c)2ii, deleted a former (1), and recodified former (2) and (3) as (1) and (2); in (k), added ", provided that the CWA had previously instructed the household of its fair hearing rights, the date that allotment reduction would become effective, and the allotment which the household would receive after allotment reduction had begun" at the end of the first sentence of 6, and added 13; and added (l).

#### 10:87-9.6 Identification (ID) cards

(a) The CWA shall issue an ID card to each certified household as proof of program eligibility. The ID shall be issued in the name of the household member to whom the ATP is issued. That household member and any authorized representative shall sign the card. If the household does not name an authorized representative, the CWA shall indicate on the ID that no designation was made.

(b) Limited issuance: The CWA shall limit issuance of ID cards to the time of initial certification, with replacements made only in instances of loss, mutilation, destruction, or changes in persons authorized to obtain or use coupons.

(c) Expiration date: The CWA shall place an expiration date only on those ID's issued to households that have been certified for delivered meals for a temporary period.

(d) Special designations: Specially marked ID cards shall be issued as follows:

1. Delivered meals: Any household eligible for and interested in using delivered meal services shall receive an ID card marked with letter "M".

Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (e): added individuals exempt from work registration not included in base of eligibles.

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

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

Section was "Employment and training program performance standards".

#### 10:87-10.4 Work registration

(a) Each household member who is not exempt in accordance with the provisions of N.J.A.C. 10:87-10.7 shall be registered for employment by the CWA at time of application, and at least once every 12 months after initial registration, as a condition of eligibility for participation in the Food Stamp Program.

(b) Registrants who move out of the area shall reregister at their new location.

(c) The registration form need not be completed by the member required to register.

(d) The CWA shall provide work registration forms to the applicant or the household's authorized representative for each household member required to register for employment and permit the applicant or authorized representative to complete the form. Household members are considered to have registered when a completed work registration form is submitted to the CWA.

(e) The employment and training components to which participants will be referred may be limited by the availability of administrative funds provided by USDA.

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

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

This section was originally "Forms used in fiscal operations". The original text was repealed and the new section was recodified from 3.15.

#### 10:87-10.5 Appropriate Food Stamp Employment and Training Program Office (FSETP) defined

For the purposes of Food Stamp Program work registration and work and training requirements, the "appropriate" Food Stamp Employment and Training Program Office (FSETP) shall be defined as that FSETP or its designee having jurisdiction in the area in which a registrant resides.

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

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

This section was originally "Documents (computer printouts) used in the FSCO" and it was repealed. The new section was recodified from 3.16.

#### 10:87-10.6 Registration procedure

(a) The CWA shall register for work each household member not exempted by the provisions of N.J.A.C. 10:87-10.7 regardless of whether or not the geographic area where the member resides is participating in the Food Stamp Employment and Training Program (ETP). In addition, exempt food stamp participants who voluntarily elect

to participate in ETP shall be work registered as a volunteer.

1. The Food Stamp ETP is a work experience, work training or job search program designed to help food stamp recipients move promptly into unsubsidized employment. The New Jersey Department of Labor (DOL) (or agencies subcontracted by DOL) is responsible for administering ETP.

(b) Upon reaching a determination that an applicant or a household member of the applicant's household is required to register, the CWA shall explain to the applicant the pertinent work requirements, the rights and responsibilities of work registered household members, and the consequences of failure to comply.

1. The CWA shall also provide, either by mail or in person, to each work registrant in the household, a written statement of the pertinent work requirements, rights and responsibilities of work registered household members, and consequences of failure to comply. A notice shall also be provided when a previously exempt member or new household member becomes subject to a work requirement, and at time of recertification.

(c) The CWA shall permit the applicant or the household's authorized representative to complete a work registration form for each household member required to register for work.

(d) Household members are considered to have registered when an identifiable work registration form is submitted to the CWA.

(e) Registration shall be accomplished through the execution of a work registration form. The certification worker shall review the registration form for completeness, retain a copy in the case record, and forward the original to the appropriate FSETP office in accordance with DFD instructions. If the certification worker is aware that any registrant is exempt from work registration, including migrant or seasonal farm workers away from their usual place of residence, and following the work stream, it shall be reflected on the work registration form. The CWA shall forward work registration forms to the DOL office not later than five days after the date of certification.

(f) Frequency of registration: Each nonexempt person shall be required to register at the time of application and at least once every 12 months thereafter. Reregistration shall be accomplished by the return of a completed work registration form to the CWA which shall retain a copy in the case record and forward the original to the appropriate DOL office in accordance with (e) above.

(g) Changes to be reported to DOL: The CWA shall be responsible for notifying the appropriate DOL office via an information report form of those work registrants who become exempt from the work registration requirements

subsequent to registration, are no longer certified for participation in the program, or move from the area. Such notification shall be provided to the appropriate DOL office within a reasonable time period but not to exceed 30 days from the date the change becomes known to the CWA.

(h) Determination of work registration in case of DOL/CWA disagreement: In the event that DOL disagrees with the CWA determination that the individual is required to register for work, DOL may request a reconsideration of the individual's nonexempt status. The CWA must respond to the reconsideration request within 30 days and DOL must accept the response as final.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

This original section was "Miscellaneous fiscal operational instructions" which was repealed. The new section was recodified from 3.17. Amended by R.1993 d.62, effective February 1, 1993.

See: 24 N.J.R. 3207(b), 25 N.J.R. 584(a).

In (h): deleted deregistration if CWA fails to respond within 30 days. Amended by R.1998 d.498, effective October 5, 1998.

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

Rewrote (a); in (c), substituted "work" for "employment in accordance with (a) above" at the end; in (e) through (h), substituted references to DOL for references to FSETP throughout; and in (e), substituted a reference to work registration for a reference to E&T requirements in the second sentence.

#### 10:87-10.7 Exemptions from the work registration requirement

(a) Exemptions to the work registration requirement shall be determined when the household applies or reapplies for benefits, when there is a change in the employment status of any member of the household, and/or when the 12 month registration period is initiated or renewed. The applicant shall cooperate fully with regard to the establishment of his or her exemption from the work registration requirement. If an applicant fails to cooperate in the determination of his or her exempt status, the county welfare agency shall require the applicant to complete a work registration form.

(b) The following persons shall be exempt from the work registration requirement:

1. Persons under 16 and over 60: Program participants or applicants who are under 16 years of age or aged 60 years or over shall be exempt. If a child has its 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption. A person age 16 or 17 who is not the head of household and who is attending school, or enrolled in an ETP on at least a half-time basis, is exempt.

2. Essential persons: The following shall be exempt from work registration as essential persons:

i. Responsible for care of child under six or incapacitated person: One parent or other household member who has responsibility for the care of a dependent child under six years of age, or who cares for an incapacitated person, shall be exempt. If the child has its sixth birthday within a certification period, the individual responsible for the care of the child shall fulfill the work requirement as part of the next scheduled redetermination process, unless the individual qualifies for another exemption.

3. Students: Persons enrolled at least half-time (as defined by the institution or programs in which they are enrolled) in any school or training program or institution of higher education which is recognized by any Federal, State, or local government agency shall be exempt.

i. Semester breaks and vacations: Once a student enrolls in an institution of higher education, such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term, excluding summer school.

ii. Correspondence courses: Persons enrolled in correspondence courses, where physical attendance is not regularly required, shall not be considered students for the purposes of (b)3 above.

4. Incapacitated adults: Adults who are physically or mentally unfit for employment shall be exempt. If a mental or physical disability is claimed and the disability is not evident, verification shall be required.

i. Evidence of incapacity: The following shall be considered evidence of incapacity:

(1) Certain SSI benefits: Current eligibility for SSI benefits for the blind or disabled, with the exception of "essential persons" (as defined by SSA);

(2) Disability benefits: Current receipt of temporary or permanent disability benefits issued by governmental or private sources;

(3) Medical verification: A statement from a physician or licensed or certified psychologist which substantiates the applicant's claim of disability; (the certification worker may obtain such medical verification in writing or by telephone);

ii. Documentation of incapacity: The certification worker shall document all facts relevant to, and verification methods utilized, in the determination of incapacity.

5. Employed persons: Persons who are employed or self-employed at least 30 hours per week or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours shall be exempt. This shall include migrant and seasonal farm workers who are under contract or similar written agreement with an employer or crew chief to begin employment within 30 days, although this shall not prevent individuals from seeking additional services from FSETP.

i. Non-gainful employment: Persons engaged in hobbies or volunteer work or any other activity which cannot, because of the minimal amount of monies received from such activity, be considered gainful employment, shall not be exempt from work registration, regardless of the amount of time spent in such activity.

6. Certain addicts and alcoholics: A narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in a drug or alcoholic treatment and rehabilitation program, which has been certified as such by the New Jersey Department of Health, shall be exempt.

i. Verification of program participation: Prior to certification, the regular participation of an addict or alcoholic in such a program shall be verified with the appropriate organization or center.

ii. Verification of center certification: An approved center shall be in possession of a letter from the New Jersey Department of Health, verifying certification by that agency.

7. Persons subject to and in compliance with a WFNJ/TANF work or training activity are exempt from food stamp work registration and participation in FSETP.

i. Persons failing to comply with a WFNJ/TANF requirement comparable to a food stamp work registration or FSETP shall be treated as though they had failed to comply with the corresponding food stamp FSETP requirement. If the CWA determines that the WFNJ/TANF requirement is comparable, the individual, or household (if the individual who committed the violation is head of household) shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-10.21. The CWA shall provide a notice of adverse action within 10 days after learning of the noncompliance with the WFNJ/TANF requirement.

ii. An individual or household shall not be disqualified if the non-complying member meets one of the exemption criteria at N.J.A.C. 10:87-10.7 other than the exemptions at (b)8 above (exemption due to receipt of UIB) or (b)10 (exemption due to compliance with a WFNJ/TANF work or training requirement).

iii. Household members who fail to comply with a noncomparable WFNJ/TANF requirement shall lose their exemption under this section and shall register for work if otherwise required to register in accordance with (a) above.

iv. Households with a member who fails to comply with a WFNJ/TANF work or training requirement, but who are exempt from food stamp work registration, are subject to the provisions of the Riverside Rule (N.J.A.C. 10:87-5.7(e)).

8. Recipients of unemployment compensation: Persons in receipt of unemployment compensation and persons who have applied for, but have not yet begun receiving unemployment compensation shall be exempt.

i. Failure to comply: Persons failing to comply with an unemployment compensation requirement comparable to a food stamp work registration or employment and training requirement shall be treated as though they had failed to comply with the corresponding food stamp requirement. If the CWA determines that the unemployment compensation requirement is comparable, the individual, or household (if the individual who committed the violation is head of household) shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-10.21. The CWA shall provide a notice of adverse action within 10 days after learning of the noncompliance with the unemployment compensation requirement.

ii. An individual or household shall not be disqualified if the noncomplying member meets one of the exemption criteria at N.J.A.C. 10:87-10.7 other than the exemptions at (b)8 (exemption due to receipt of UIB) or (b)10 below (exemption due to compliance with a Title IV (AFDC) work or training requirement).

iii. Household members who fail to comply with a noncomparable unemployment compensation requirement shall lose their exemption under this section and must register for work if otherwise required to register in accordance with (a) above.

9. Jointly processed households: Household members who are entitled to joint processing shall be exempt from work registration until they are determined eligible for SSI and therefore exempt from work registration in accordance with N.J.A.C. 10:87-(b)4 above. If ineligible for SSI and where applicable, a determination of such an individual's work registration status will then be made through recertification procedures.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

The original section was "document library" and was repealed. The new section was recodified from 3.18 (a)-(b).

Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (b)7: clarified exemption for General Assistance and REACH work or training participants.

In (7): Deleted i. and ii. and added new text at 7 i-iv., clarifying GA and REACH recipients' exemption from food stamp work registration requirement.

Amended by R.1998 d.498, effective October 5, 1998.  
See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (b), deleted a former 4i(4), rewrote 7, and deleted a former 10.

### 10:87-10.8 Persons losing exempt status

(a) Persons losing exempt status due to any change in circumstances that is subject to the reporting requirements of N.J.A.C. 10:87-9.5(a) (such as loss of employment that also results in a loss of income of more than \$25.00 a month, or departure from the household of the sole dependent child for whom an otherwise nonexempt household member was caring) shall register for employment when the change is reported according to the following procedures:

1. The CWA shall be responsible for providing the participant with the work registration form when the change is reported.

2. Participants shall be responsible for returning the work registration form to the CWA within 10 calendar days from the date the work registration form was handed to the household member reporting the change in person, or the date the CWA mailed the work registration form.

3. If the household fails to return the work registration form, the CWA shall issue a notice of adverse action stating that the participant, or if the individual is head of household, the household is being terminated and why, but that the termination can be avoided by returning the work registration form.

(b) Persons who lose their exempt status due to a change in circumstances that is not subject to the reporting requirements of N.J.A.C. 10:87-9.5(a) shall register for employment at the time of the household's next recertification.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

The original section was "program code description" and was repealed. The new section was recodified from 3.18 (c).

#### 10:87-10.9 Work registrant requirements

(a) If a person is not exempt from employment and training requirements, the DOL worker shall be responsible for screening (assessing) that person and, if appropriate, referring him or her to an ETP component within 10 days of the initial assessment. Upon entry into each component, the registrant participant or volunteer shall be told, either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The CWA food stamp office shall take appropriate sanction action within 10 working days after learning of noncompliance.

1. Assessment defined: Assessment is defined as an in-depth evaluation of employability skills coupled with counseling on how and where to search for employment. If combined with work experience, employment search or training, an assessment of this nature could constitute part of an employment and training component.

(b) Work registrants shall:

1. Report, at the direction of the DOL, to an assessment interview and/or to an ETP component;

2. Participate in an employment and training program activity, if assigned;

3. Respond to a request from the DOL or its designee for supplemental information regarding employment status or availability for work;

4. Report to an employer to whom referred by the DOL or designee if the potential employment meets the suitability requirements described in N.J.A.C. 10:87-10.15.

5. Accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable State or Federal minimum wage.

(c) Employment and training programs are as follows:

1. Persons required to register for work and not exempted from placement in an ETP component shall be subject to the employment and training requirements for that individual. Such individuals are referred to as ETP mandatory participants.

2. Employment and training programs may include, but are not limited to, approved:

i. Job search activity (see N.J.A.C. 10:87-10.17 and 18);

ii. Training activity (see N.J.A.C. 10:87-10.19);

iii. Employment activity; or

iv. On-the-job training when approved under JTPA;

v. Other activity that will lead to gainful employment.

3. Failure to comply without good cause with the employment and training requirements shall result in disqualification of the individual, or in the case of non-compliance of the head of household, the entire household shall be disqualified in accordance with the provisions of N.J.A.C. 10:87-10.20.

4. Time spent in an ETP: The number of months a participant spends in an ETP component shall be determined by the DOL. The DOL shall also determine the number of successive components in which a participant may be placed.

i. The minimum level of effort of any work or training component shall provide that compliance by the work registrant shall entail an average of 12 hours of activity per month per participant for two months (or less in a work experience component if the household's benefit divided by the minimum wage is less than this amount).

ii. The time spent by the members of a household collectively each month in an ETP work experience component shall not exceed the number of hours equal to the household's allotment for that month divided by the higher of the applicable State or Federal minimum wage.

iii. The total hours of participation in an ETP component for any household member individually in any month, together with any hours worked for compensation in cash or in kind, shall not exceed 120.

5. Participants in an employment and training program, including volunteers, shall receive a participant allowance provided through the CWA for costs of transportation, or other costs that are reasonably necessary and directly related to participation in the employment and training programs at the flat rate of \$25.00 per month for all participants. Dependent care expenses shall not be reimbursed through the \$25.00 allowance, but shall be reimbursed in accordance with (c)6 below.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Amended by R.1979 d.422, effective October 18, 1979.

See: 11 N.J.R. 379(a), 11 N.J.R. 559(d).

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

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

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

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

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

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

(a)7, other collection action, added.

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

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

(a)3iii(5) added.

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

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

Recodified from 11.29 and substantially amended.

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

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

Added new Subsection (I).

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

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

Rewrote (c) and (d).

### 10:87-11.32 Interstate claims collection

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

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

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

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

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

### 10:87-11.33 CWA reporting requirements for incorrect issuances

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

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

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

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

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

## SUBCHAPTER 12. TABLES

### Subchapter Historical Note

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

### 10:87-12.1 Income deductions

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

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

## Case Notes

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

**10:87-12.5 Food stamp allotment proration**

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

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

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

- i. Subtract the date of application from 31;
- ii. Multiply the result in setup (a)1i above by the full month's benefit; and
- iii. Divide the result in step (a)1ii above by 30.

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

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

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

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

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

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

Increased Gross Income limits.

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

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

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

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

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

Section concerning tax dependency and allowable gross income limits repealed.

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

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

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

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

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

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

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

Proration formula revised to eliminate downward bias.

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

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

In (a), included Federal citation in text.

**10:87-12.6 Monthly coupon allotment**

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

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

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

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

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

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

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

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

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

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

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

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

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

Rounding up prohibited in determining initial month's benefits.

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

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

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

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

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

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

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

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

In (a): added Federal citation in text.

**10:87-12.7 165 percent of poverty level**

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

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

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

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

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

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

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

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

Poverty level income increased.

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

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

Maximum Allowable Income raised.

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

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

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

See: 18 N.J.R. 1490(a).  
 Maximum Allowable Income raised.  
 Readopted Concurrent Proposal R.1986 d.395, effective October 6, 1986.  
 See: 18 N.J.R. 1490(a), 18 N.J.R. 2015(c).  
 Emergency Amendment, R.1987 d.304, effective June 25, 1987 (operative July 1, 1987, expires August 24, 1987).  
 See: 19 N.J.R. 1331(a).  
 Adoption of Concurrent Proposal as R.1987 d.375, effective August 24, 1987.  
 See: 19 N.J.R. 1331(a), 19 N.J.R. 1738(b).  
 Provisions of emergency amendment R.1987 d.304 readopted without change.  
 Emergency amendment, R.1988 d.512, effective September 30, 1988 (operative October 1, 1988, expires November 29, 1988).  
 See: 20 N.J.R. 2592(a).  
 Adoption of concurrent proposal R.1989 d.1, effective November 29, 1988.  
 See: 20 N.J.R. 2592(a), 21 N.J.R. 21(a).  
 Provisions of emergency rule R.1988 d.512 readopted without change.  
 Emergency amendment, R.1989 d.533, effective September 22, 1989 (expires November 21, 1989).  
 See: 21 N.J.R. 3316(a).  
 Maximum allowable income raised to conform to Federal requirements.  
 Adopted concurrent proposal, R.1989 d.606, effective November 21, 1989.  
 See: 21 N.J.R. 3316(a), 21 N.J.R. 3918(b).  
 Provisions of emergency amendment R.1989 d.533 readopted without change.  
 Amended by R.1990 d.437, effective September 4, 1990.  
 See: 22 N.J.R. 1670(a), 22 N.J.R. 2715(a).  
 Deleted (a) and Table VII, replacing with text explaining annual amounts and publication schedule.  
 Public Notice: Maximum allowable income revised to conform to Federal requirements.  
 See: 24 N.J.R. 3769(b).  
 Public Notice: Maximum allowable income, effective October 1, 1993.  
 See: 25 N.J.R. 5365(a).  
 Public Notice: Maximum allowable income, effective October 1, 1994.  
 See: 26 N.J.R. 3901(a).  
 Public Notice: 165 percent of poverty level amounts, effective October 1, 1995.  
 See: 27 N.J.R. 4919(b).  
 Public Notice: 165 percent of poverty level amounts, effective October 1, 1996.  
 See: 28 N.J.R. 4677(b).  
 Public Notice: Income eligibility, deduction, and coupon allotment standards, effective October 1, 1998.  
 See: 30 N.J.R. 3866(a).

#### Case Notes

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

## SUBCHAPTER 13. NEW JERSEY STATE FOOD STAMP PROGRAM

#### Authority

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

#### Source and Effective Date

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

#### Subchapter Historical Note

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

#### 10:87-13.1 Purpose

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

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

#### 10:87-13.2 Eligibility

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

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

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

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

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

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

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

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

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

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

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

8. A noncitizen who is defined as aged, blind or disabled in accordance with Section 1614(a)(1) of the Social Security Act and is considered to be lawfully

admitted for temporary residence pursuant to Section 245A(b)(1) of the Immigration and Nationality Act;

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

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

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

### 10:87-13.3 Ineligible noncitizens

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

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

### 10:87-13.4 Application for citizenship

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

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



2. The term “medically determinable” means an impairment that results from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques to have resulted in functioning so impaired as to render an individual unable to demonstrate an understanding of the English language, or that renders the individual unable to fulfill the requirements for English proficiency, even with reasonable modifications to the methods of determining English proficiency. The definition of “medically determinable” is the same with regards to the exception from the civics knowledge requirement. Loss of cognitive abilities based on the direct effect of the illegal use of drugs is not covered as a disability.

(b) Eligible noncitizens may receive New Jersey State Food Stamp Program benefits until they meet the minimum residency requirements to apply for citizenship; for example, they must have resided continuously within the United States, after being lawfully admitted for permanent residence, for at least three years immediately preceding the date of filing a petition for naturalization if they are married to a United States citizen or, if not, they must have resided continuously within the United States, after being lawfully admitted for permanent residence, for at least five years immediately preceding the date of filing a petition for naturalization, or a longer period only if required by INS rules.

(c) An individual who is required to apply for United States citizenship, but who fails to provide the county agency with documentation which verifies that he or she has made timely application for citizenship, shall be rendered ineligible for the New Jersey State Food Stamp Program.

(d) An individual who applies for United States citizenship, but who subsequently is determined by INS to be inappropriate for such citizenship (with the exception of noncitizens cited in (a)1 above), shall be rendered ineligible for the New Jersey State Food Stamp Program.

#### 10:87-13.5 Calculating eligibility and level of benefit

(a) For the purpose of determining the eligibility and level of benefit for a noncitizen who is eligible for the New Jersey State Food Stamp Program, the county agency shall perform the following:

1. If the noncitizen is eligible for the New Jersey State Food Stamp Program as a one-person food stamp household, then eligibility and level of benefit shall be calculated consistent with the manner in which a one-person household is calculated in the Federal Food Stamp Program (N.J.A.C. 10:87-1 through 12).

2. If the noncitizen is eligible for the New Jersey State Food Stamp Program as a member of a household receiving benefits under the Federal Food Stamp Program, then eligibility and level of benefit shall be determined by including the noncitizen in the household receiving bene-

fits under the Federal Food Stamp Program (N.J.A.C. 10:87-1 through 12).

- i. Any income, resources, and expenses of the non-citizen shall be included in determining the eligibility and level of benefit for the entire food stamp household. (The county agency shall not apply N.J.A.C. 10:87-7.14(c) as it pertains to the deeming of income and expenses.)

(b) If a noncitizen is ineligible for both the Federal and New Jersey State Food Stamp Programs, that individual shall be treated as an excluded household member (see N.J.A.C. 10:87-2.3(c)) in any household with whom he or she resides.

#### 10:87-13.6 Treatment of benefits under New Jersey State Food Stamp Program

(a) Benefits issued under the New Jersey State Food Stamp Program shall be treated as obligations issued by the State of New Jersey.

(b) Any benefits which are recovered by the county agency through claims collection from recipients of benefits of the New Jersey State Food Stamp Program shall be remitted in their entirety to the New Jersey Division of Family Development.

1. Recoveries made from households that received only Federal Food Stamp benefits will be credited solely to the Federal program.

2. Recoveries made for households that received both Federal and State Food Stamp Program benefits will be credited to the Federal and State programs on a pro rata basis.

3. Recoveries made from households that received only New Jersey State Food Stamp Program benefits will be credited to the New Jersey State Food Stamp Program.

## APPENDIX A

### STATE FISCAL MANAGEMENT

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## APPENDIX A—FISCAL MANAGEMENT

### SECTION A

#### Technical requirements and specifications

The Division of Economic Assistance is responsible for designing, implementing and monitoring fiscal management procedures which ensure the security and control of Authorizations to Participate (ATPs) and Food Coupons.

The Bureau of Business Services/Food Stamp Program Fiscal Office (BBS/FSPFO) operating requirements in Appendix A are unique to the State of New Jersey Food Stamp Program fiscal administration. CWAs are encouraged to submit suggestions to improve this Appendix to:

Supervisor

Food Stamp Program Fiscal Office

Bureau of Business Services

Division of Economic Assistance—CN 716

Trenton, N.J. 08625

1. Terms applicable to fiscal operations and their definitions are as follows:

(A) Coupon Issuers (CIs): FSP agents (Bank & Non-bank) that participate in the issuance of food coupons in return for ATP cards.

(B) Current month ATP: Negotiated ATP cards bearing an issuance period that coincide with the current transaction period being reconciled.

(C) Current series coupons and books: March 1975 to the present time. Coupon denominations: \$1.00, \$5.00 and \$10.00. Book Denominations: \$2.00, \$7.00, \$10.00, \$40.00, \$50.00, \$65.00.

(D) Cutoff dates: The dates by which all Family Assistance Management Information System (FAMIS) A and B forms must be submitted to the Office of Telecommunications and Information Services (OTIS) Data Center to be included in the current updating operation.

(E) Expired: A negotiated ATP card that has been redeemed after the expiration date.

(F) Improperly manufactured: Food coupon books that contain printing, cutting or assembling errors.

(G) Locator number: A computer generated number, consisting of 10 digits sequentially assigned to an ATP card, preliminary to the FSP reconciliation operation.

(H) Machine issue: An ATP card printed by computer during a monthly or daily machine issuance cycle.

(I) Manual issue: An ATP prepared manually by the CWA when expedited machine issuance cannot be completed within the prescribed time frame.

(J) Master file: The file maintained at the OTIS Data Center which contains information relating to all NPA/PA cases which are in active status in the computer system. This file forms the basis for machine issuance of ATP cards.

(K) Matched: An ATP card bearing a number which coincides with corresponding data in the Work Record Card File or the Outstanding ATP Card File.

(L) Mutilated: Food coupon books that were properly manufactured but, for a variety of reasons, have become unusable.

(M) O/S File: The information file maintained at the OTIS Data Center that contains all data relating to ATP cards that have not been negotiated for up to six months.

(N) Replacement: An ATP card issued in place of one previously issued (machine or manual) and bearing the same validity period as the original.

(O) Sort: Sequencing of information on computer printouts by the computer program.

(P) Unmatched: An ATP card bearing a number which does not coincide with the corresponding data in the Work Record Card File or the Outstanding ATP Card File.

(Q) Unmatched cancelled: An ATP card bearing a number which was previously cancelled through replacement issue (for example, lost, stolen, mutilated, and so forth).

(R) Work record: The record maintained at the OTIS Data Center which contains information relating to the current month issuance. The updated information contained in the FAMIS A and B forms is used during the reconciliation of ATPs returned by CIs. All data that clears the various edit programs will become integrated into the FAMIS Master File, with the exception of replacement data.

2. Retention of fiscal records: Retention regulations for FSP fiscal records at the CWA are divided into two categories:

(A) Category I: Computer operations source documents: FAMIS A and B source documents used for terminal input are to be retained for a period of three months after terminal entry. Copies of both are to be filed in the case record and must be retained in accordance with the case record retention schedule.

(B) Category II: Computer printouts and ATP cards: All originals of printout documents shall be retained for three years. Authorization to Participate (ATP) cards returned following the reconciliation cycle shall be retained by the CWA for six years from the origination month of each record. The six year retention period is not applicable to ATP cards cancelled by the CWA and never transacted. Destruction of the ATP shall be witnessed by two persons. The CWA is required to maintain a list of the destroyed ATPs for audit purposes.

(C) Approval and destruction: Approval for destruction of documents must be received from the Bureau of Archives and History by completing Form ED-6. Actual destruction through incineration or shredding is mandatory.

NOTE: Category II documents listed above shall not be destroyed if the CWA has been instructed in writing by DPW (or the USDA/FNS) to retain them.

3. Processing of returned books: Upon receipt of an improperly manufactured (see 1(F) above) or mutilated (see 1(L) above) coupon book(s) from a participant, the CWA Fiscal or Food Stamp Supervisor, with the authorization of the CWA Director, shall:

(A) Examine returned books containing printing errors. Ascertain that the proper number of coupons are in the book and there is an actual printing error.

(B) Books with alleged missing coupons should be examined as follows:

(1) Count the stubs at the top, bottom, and middle of the book. Ensure that no portion of the stub of the alleged missing coupon(s) is still in the book. Replacements are not to be issued if the stubs are still in the book, unless authorized by the FSPFO or Food Stamp Supervisor.

(2) Examine the staples (\$65.00 book only) and their position on the book to determine if there are loose or bent staples, indications that the book has been taken apart and restapled, examine the glued end of the book to determine if any evidence of tampering exists, or other indications exist that might reveal that the book contained the correct number of coupons at the time of issuance.

(3) Examine the staples (applicable only to \$65.00 books) and their position on the book. Do not bend or remove the staples while examining the books. The condition and presence or absence of the staples are factors which must be considered by the FSPFO or Food Stamp Supervisor when making a determination.

(4) The condition and presence of glue or staples (\$65.00 book only) are factors which must be considered by the FSPFO or Food Stamp Supervisor when making a determination.