

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Increased hours of employment.

9. Members of the control group under the previous program are entitled to a 10 month grace period beginning October 1, 1997.

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

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

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

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

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

SUBCHAPTER 3. FINANCIAL ELIGIBILITY— INCOME, RESOURCES, BENEFITS

10:90-3.1 General financial eligibility provisions

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

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

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

(c) Once initial financial eligibility is determined, as long as the total countable income of a WFNJ/TANF or WFNJ/GA assistance unit (with benefit of the appropriate disregards at N.J.A.C. 10:90-3.8 for earned income) is less than the maximum benefit payment level for the appropriate eligible assistance unit size in accordance with Schedule II at N.J.A.C. 10:90-3.3, Schedule IV at N.J.A.C. 10:90-3.5 or Schedule V at N.J.A.C. 10:90-3.6, as appropriate, financial eligibility shall exist until such income equals or exceeds the maximum benefit payment level for the appropriate unit size.

(d) For WFNJ/TANF only, a new eligible applicant/recipient who has resided in New Jersey for less than 12 consecutive months shall be eligible to receive cash assistance benefits in the amount that the recipient would have received from the recipient's prior state of residence if that amount is less than the cash assistance benefits provided under the WFNJ/TANF program. This limitation on cash assistance benefits shall apply until the recipient has resided in New Jersey for 12 consecutive months.

1. The limitation on cash assistance with regard to the 12-month residency requirement in (d) above shall not apply in accordance with N.J.A.C. 10:90-2.6, for individuals who have moved from their prior state of residence as a result of domestic violence.

2. The limitation on cash assistance with regard to the 12-month residency requirement in (d) above does not apply to newly arrived eligible aliens who arrived in the United States within the 60-day period prior to the date of application for WFNJ benefits.

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

In (a), substituted "to adolescent parents and from sponsors to eligible aliens" for "and sponsors" at the end; in (b)1, deleted "equal to or" following "income" in the last sentence; in (c), deleted "is equal to or" following "income)", and inserted "equals or" following "income"; and in (d), added 2.

10:90-3.2 Determining initial financial eligibility for WFNJ/TANF assistance units with dependent children

(a) For the initial financial eligibility test, that is, in order to determine initial financial eligibility for assistance units applying for WFNJ/TANF as a new applicant, reapplicant or reopened case, all countable income available to the assistance unit shall be considered and compared to the initial maximum allowable income levels for the appropriate eligible assistance unit size in Schedule I at N.J.A.C. 10:90-3.3. If the assistance unit has income equal to or less than the initial maximum allowable income level for the appropriate unit size, then WFNJ/TANF initial financial eligibility exists.

(b) WFNJ/TANF initial maximum allowable financial income eligibility levels are based on 150 percent of the maximum benefit payment levels (provided within the limit of funds appropriated by the Legislature) for the appropriate assistance unit size in Schedule II at N.J.A.C. 10:90-3.3.

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

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

(e) WFNJ assistance units shall be required to report any change in income and circumstances that could affect eligibility and the benefit amount as soon as possible to the county or municipal agency, but in no event later than 10 calendar days of the date the change happened. The agency shall initiate appropriate action on the reported change within 10 calendar days of receiving the report of the change, subject to timely and/or adequate notice.

1. Reportable income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible assistance unit size which are expected to continue into the future. Examples of such changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a job or a source of unearned income; permanent or long term changes in hours worked and/or rate of pay; permanent or long term changes in unearned income; changing from part-time to full-time employment (or vice-versa); changing employers; short term plant closings (such as one or more weeks) or periods of sick leave without compensation (more than one day); or addition of or loss of an eligible unit member.

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

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

1. An assistance payment was incorrectly computed or not issued due to administrative error. Such supplemental payment(s) shall be considered as corrections to underpayments;

2. A change in circumstances occurred; or

3. A new member was added to the eligible unit.

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

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

In (c), substituted a reference to WFNJ/FS cases for a reference to PA/FS cases; and added (d)1i and ii.

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

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

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

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

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

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

(e) A parent person other than a natural or adoptive parent or stepparent, who is a care-giver to a dependent child(ren) who is that care-giver's legal blood relative, shall be evaluated to determine whether that person is eligible for benefits if that person's income does not exceed 150 percent

of the Federal Poverty Income Guidelines, as published in the Federal Register and subsequently as a public notice in the New Jersey Register.

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

Administrative correction.

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

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

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

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

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

(a) When a needy stepparent is married to a natural or adoptive WFNJ recipient parent and is not the parent of any of the WFNJ children, the stepparent shall be included as a member of the eligible assistance unit, with all needs recognized and his or her income considered in determining the adjusted allowance and the amount of the cash assistance benefit in accordance with all regulations in this chapter.

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

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

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

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

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

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

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

1. The income of the assistance unit shall be determined by counting the gross income of all members of the household (with the exclusion of SSI recipients) which shall be reduced only by any amounts paid as alimony or child support to individuals not living in the household.

2. The gross income derived from the computation procedures in (b)1 above shall be compared to 150 percent of the Federal Poverty Income Guidelines. Provided the household's gross income is less than the amount for the appropriate household size, initial WFNJ eligibility shall be established for the children of the natural or adoptive parent (excluding children who are recipients of SSI benefits). If the household's gross income equals or exceeds the applicable poverty level guideline amount, all members of the household shall be ineligible for WFNJ benefits.

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

ii. The grant for eligible children shall be:

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

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

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

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

2. Any earned income of the WFNJ parent shall be reduced by the 50 percent disregard as specified at N.J.A.C. 10:90-3.8, and the result added to any unearned income received by that parent. The result of this calculation is further reduced by the payment benefit level amount for an eligible unit of one in Schedule II at N.J.A.C. 10:90-3.3.

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

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

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

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

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

10:90-3.15 Eligibility of sponsored aliens and deeming of sponsor's income and resources to a sponsored alien for eligible aliens who entered the United States prior to August 22, 1996

(a) The income and resources of an alien's sponsor shall be deemed to be unearned income and resources of an alien applying for WFNJ for a period of three years following the alien's entry into the United States. For purposes of deeming, a sponsor is an individual who executed an affidavit of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

1. No income or resources shall be deemed from a sponsor who is (or whose spouse is) receiving WFNJ or SSI.

(b) An alien may also be sponsored by a public or private agency or organization, however, alien sponsor deeming provisions are not applicable. In such situations, (b)1 below applies.

1. Any alien who was sponsored by a public or private agency or organization, and is not exempt from deeming provisions as described in (i) below, shall be ineligible for public assistance for a period of three years following his or her entry into the United States unless the county or municipal agency determines that the a public or private agency or organization no longer exists or has been declared bankrupt by a court of appropriate jurisdiction.

(c) For a period of three years following entry for permanent residence into the United States, a sponsored alien who is not exempt from deeming, as described in (i) below, shall provide the county or municipal agency with any information and documentation necessary to determine the income and resources of the sponsor and the sponsor's spouse (if applicable and if living with the sponsor) that can

be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

1. If the alien's circumstances change during the three-year period such that the alien is no longer exempt from or subject to deeming in accordance with (i) below, the county or municipal agency shall reflect the resulting change in unearned income in the assistance payment.

2. A sponsored alien is ineligible in any month in which adequate information concerning the income and resources of the sponsor (or sponsor's spouse if living with the sponsor) is not provided.

3. Un-sponsored family members may remain eligible even if a sponsored alien fails to provide information concerning the sponsor (or sponsor's spouse if living with the sponsor). However, any income the un-sponsored family members actually receive from the sponsor must be reported and considered in determining their eligibility.

(d) The amount of income of a sponsor which shall be deemed to be the unearned income of an alien shall be determined as follows:

1. The sponsor's total monthly wages, salaries, and net earnings from self-employment (and that of his or her spouse if living with the sponsor) shall be reduced by 20 percent.

2. The amount determined in (d)1 above shall be added to the unearned income of the sponsor (and that of his or her spouse if living with the sponsor).

3. The amount determined in (d)2 above shall be reduced by the following:

i. The appropriate amount from Schedule VI at N.J.A.C. 10:90-3.18 (Schedule VI is also used for calculating lump sum income) for the sponsor, spouse, and other persons residing in his or her household who are or could be claimed by the sponsor as dependents for determination of Federal personal income tax liability and who are not recipients of WFNJ;

ii. Any amounts actually paid by the sponsor or sponsor's spouse to people not living in the household who are or could be claimed by them as dependents to determine their Federal personal income tax liability; and

iii. Actual payments of spousal support or child support with respect to individuals not in the household.

4. The remaining amount shall be deemed to the alien and shall be counted as unearned income in the determination of eligibility and cash assistance benefit.

(e) The amount of resources of the sponsor (and of the sponsor's spouse if living with the sponsor) shall be determined in accordance with the provisions of this subchapter. The value of the sponsor's resources shall be reduced by \$2,000 and remaining amount shall be deemed available to

the alien and counted in the determination of WFNJ eligibility and benefit payment level.

(f) In any case where a person is the sponsor of two or more aliens, the income and resources of the sponsor (and the sponsor's spouse if living with the sponsor), to the extent the income and resources would be deemed to any one of the aliens under the provisions of this section, shall be equally divided among the sponsored aliens.

(g) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income and resources are actually available. The sponsor's obligatory contribution shall not exceed the per capita share of the eligible unit's adjusted allowance for the alien(s) for whom the sponsor is liable.

(h) Any individual sponsor of an alien, and the alien, shall be jointly and severally liable for any overpayment of public assistance made to the alien during the three years after the alien's entry into the United States that was caused by the sponsor's failure to provide correct information under the provisions of this section, except as provided in (h)1 below.

1. When a sponsor is found to have good cause or to be without fault for not providing information to the county or municipal agency, the sponsor will not be held liable for the overpayment and recovery will not be made from this sponsor.

2. An overpayment for which the alien or the sponsor and the alien are liable as described above shall be repaid to the county or municipal agency or recovered in accordance with the provisions of N.J.A.C. 10:90-3.21. If the county or municipal agency is unable to recover the overpayment through this method, the overpayment shall be withheld from future payments to which the alien or the alien and the individual sponsor are entitled under:

- i. Any State administered or supervised program established by the Social Security Act; or
- ii. Any cash benefit program administered by the Social Security Administration and established by the Social Security Act.

(i) These deeming provisions do not apply to any alien who is:

1. Admitted as a conditional entrant refugee to the United States as a result of the application of the provision of Section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Nationality Act;

2. Admitted as a refugee to the United States as a result of the application of the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Nationality Act (8 U.S.C. §§ 1101 et seq.);

3. Paroled into the United States as a refugee under Section 212(d)(5) of the Immigration and Nationality Act;

4. Granted political asylum by the Attorney General under Section 208 of the Immigration and Nationality Act;

5. A Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422);

6. The dependent child of the sponsor or sponsor's spouse; or,

7. An Amerasian admitted under Section 584 of the Foreign Operation Appropriations Act beginning March 20, 1988.

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

10:90-3.16 Deeming income of parents of adolescent parents

(a) An adolescent parent is an individual under the age of 18 and who is himself or herself a parent of a dependent child.

(b) Whether or not an adolescent parent lives in the same home as his or her own parent(s), the income of such parent(s) shall be deemed available to the eligible assistance unit; however, inability to obtain financial information of such parent(s) shall not preclude eligibility of the adolescent parent. These rules do not apply if the parent(s) of the adolescent parent receive(s) SSI or WFNJ. Deeming under this provision shall be in accordance with the following procedures:

1. Reduce the gross earned income (and net income from self-employment) of each employed parent by the 50 percent disregard as specified at N.J.A.C. 10:90-3.8;

2. Add the result to the unearned income of the parent(s);

3. Any income remaining shall be reduced by any amounts paid by the parent(s) as spousal support or child support to individuals not living in the household; and

4. All income remaining shall be counted as unearned income available to the eligible unit and shall be counted toward total income and in the determination of financial eligibility and the cash assistance benefit amount.

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

10:90-3.17 WFNJ/GA special payment provisions for other living arrangements

(a) When an individual is purchasing a room and board living arrangement, the following shall apply:

(b) Conclusions from the employment profile (assessment) shall be included as steps and provisions in the individual responsibility plan described in N.J.A.C. 10:90-4.8.

(c) The employment profile (assessment) shall be reviewed and, if necessary, updated at the time of redetermination and whenever interim changes/updates are made to the IRP.

Administrative correction.

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

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

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

Added (a)5, (b) and (c).

10:90-4.8 Individual responsibility plan (IRP)

(a) An individual responsibility plan (IRP) shall be developed jointly by the county or municipal agency representative, as appropriate, and the WFNJ recipient at time of eligibility determination, and shall be jointly reviewed and/or revised at time of redetermination. The requirements set forth in the IRP must be coordinated with requirements set forth in an emergency assistance service plan, if the participant is also in receipt of EA. Interim changes/updates to the IRP shall be made more frequently as appropriate and necessary in accordance with individual progress and/or change in circumstances. The IRP shall be signed and dated by the recipient and the respective agency representative. The original IRP shall be maintained electronically or in the case record and a copy shall be provided to the recipient. The IRP shall contain:

1. General case information concerning the individual;
2. Conclusions from the employment profile (assessment), in accordance with N.J.A.C. 10:90-4.7(b);
3. A specific employment goal and work activity;
4. Supportive services to be provided to enable participation in the work activity, such as child care, transportation allowances and other available supportive services;
5. Recipient's education level, that is, the highest grade completed; and
6. Identification of barriers to employment, including screening and assessment for substance abuse, and a plan of action to be taken.
7. The IRP may also include specific goals concerning a dependent child member of the assistance unit such as, but not limited to:
 - i. Requirements for parental participation in a dependent child's pre-school, elementary and secondary school program activities;
 - ii. Immunizations for a dependent child; or
 - iii. Regular school attendance by a dependent child.

(b) The IRP for teen parents shall include all of the requirements listed in (a) above, if appropriate, as well as, but not limited to, the following:

1. Regular attendance in high school or an equivalent program of study; or
2. Participation in an approved work activity for those teen parents who have completed secondary education; and
3. Identification of necessary supportive services which are not available free through another source, including child care and transportation, as needed; and
4. Identification of barriers to employment and a plan of action to be taken, including screening and assessment for substance abuse, as appropriate.

(c) The IRP for victims of domestic violence shall include the following, as appropriate:

1. Set goals to move forward toward safety and self-sufficiency. The goals established shall be reviewed with the individual at three month intervals to determine the status and progress the individual has made toward meeting the established goals;
2. Identification of necessary supportive services, such as, but not limited to: information and referral to the Department of Human Services' (DHS) Designated Domestic Violence Programs which provide all core services or to Rape Crisis Programs, as well as referral to any other community services which can assist the victim and any dependent children in the family;
3. If, upon disclosure of the domestic violence victimization, the victim expresses a willingness to begin to engage in a work activity prior to the next regular redetermination, this shall be accommodated. For example, the victim may wish to begin work as soon as permanent housing has been secured, the children have been enrolled and settled in school and major court appointments have been kept;
4. At the point of the first regular six-month case redetermination, unless the victim is in crisis and clearly indicates via affidavit that the inability to participate in work activities still exists, the individual shall be scheduled for participation in a regular work activity or participate in community service for a minimum of 20 hours per week, unless the victim is still in crisis. If the victim requests or if the victim elects to do only the 20 hours of community service, the victim shall also be referred to the local DHS Designated Domestic Violence Program for core services, related support and/or community service placement in counties where arrangements have been made to assist such individuals through purchase of service agreements with the DHS Designated Domestic Violence programs;

5. At each point of redetermination or three month review, the individual shall be encouraged to engage in work and be provided the supportive services available through the program to support the individual's work efforts. If after a full year (that is, at the second six-month redetermination), the participant continues to be unable to engage in a work or community service activity, referral to a DHS Designated Domestic Violence Program shall be made for an assessment of barriers to enable a plan for specific goals and/or activities to be developed. Goals, such as, domestic violence counseling will be clearly identified on the IRP and the individual will be required to engage in this, or community service, in conjunction with the DHS Designated Domestic Violence Program. The plan will also outline specific constructive movement for the victim and the victim's family to move toward self sufficiency; and

6. If at the next three month review, still no constructive movement has occurred, completion of a WFNJ-5S will be required to substantiate the continuing exemption/deferral. An exception to this shall be allowed only if the victim is currently being abused, is in crisis, is being sabotaged, stalked or harassed by the abuser and/or is deemed to be at risk of further abuse and this situation has been confirmed by the DHS Designated Domestic Violence Program or a certified Domestic Violence Specialist (CDVS).

Administrative correction.

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

Inserted new (c)4 and recodified former (c)4 and 5 as (c)5 and 6. Amended by R.1998 d.42, effective January 20, 1998.

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

In (a), added second sentence, added (a)2, recodified former 2 through 4 as 3 through 5, added a new 6, and recodified former 5 as 7.

10:90-4.9 Deferrals from the work requirement

(a) Deferrals from WFNJ work requirements shall be limited to:

1. Individuals age 60 or older;

2. Individuals who are unable to engage in regular work activities because they are chronically ill, infirmed, or have a physical and/or mental disability or impairment which is expected to last for more than 12 months and such conditions are certified by an attending physician (including a licensed or certified psychologist, as appropriate) to constitute a permanent disability. Such certification shall be documented through use of Form WFNJ-5(DRS1), Examining Physician's Report, and shall, upon completion by the certifying physician be submitted by the county or municipal agency to the Division of Family Development (DFD) for review and final approval through consultation with the Division of Medical Assistance and Health Services (DMAHS);

i. Individuals receiving a work deferral due to a certified permanent disability shall be required to make application for SSI benefits.

ii. Individuals who provide documentation that they have been determined permanently disabled and are receiving disability insurance benefits under Title II or Title XVI of the Federal Social Security Act. A recertification to determine permanent disability using Form WFNJ-5(DRS1) shall not be required. At the time of case redetermination, the permanent disability condition of the individual shall be reviewed. If the permanent disability remains unchanged as verified through social security documentation, completion of a new IRP will not be required, however, it shall be duly noted on the IRP that the permanent disability remains unchanged, the source of the documentation and the date of the review. If a change in the permanent disability occurs which indicates that the individual may be able to participate in a WFNJ activity, for example the client is no longer eligible for permanent disability considerations under Title II or Title XVI and the client is still requesting a WFNJ deferral based on the disability, the county or municipal agency shall require completion of Form WFNJ-5S by the client's attending physician in order to evaluate the client's ability to participate;

3. A person certified by an attending physician (including a licensed or certified psychologist, as appropriate) to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period of less than 12 months. Such certification shall be documented through use of Form WFNJ-5S, Confidential Medical Examining Physician's Report, which, upon completion by the certifying physician, shall be returned to the county or municipal agency worker, as appropriate for review and final determination of deferral from participation from work requirement activities within the WFNJ program. (see N.J.A.C. 10:90-4.9(b));

4. WFNJ/GA single adults or couples without dependent children who are determined unemployable in accordance with provisions set forth at N.J.A.C. 10:90-2.9(a)2. The WFNJ-5S or WFNJ-5(DRS1) medical form will be required, if appropriate;

5. A women in the second trimester, or earlier, of a pregnancy, when it is certified by an attending physician that a medical reason exists;

6. A woman in the third trimester of pregnancy;

7. The parent or relative of a child under the age of 12 weeks who is the individual providing care for that child;

i. This deferral may be extended for an appropriate period of time, when it is certified by the attending physician to be medically necessary for the parent or child;

8. A person who has been determined to be temporarily disabled resulting from his or her participation in a CWEP or AWEP activity;

9. An individual who is participating in a CWEP or AWEP activity and is eligible for leave under the State Family Leave Act and the family and medical leave provisions allowed under Federal law;

10. The sole caretaker (parent/relative) of a severely disabled or seriously ill dependent child or the sole caretaker (parent/relative) of a severely disabled or seriously ill family member; and

11. Individuals determined to be victims of domestic violence who have requested temporary deferral from work via affidavit due to circumstances/trauma related to the domestic violence incident in accordance with requirements set forth at N.J.A.C. 10:90-1.1(f).

(b) In all instances when medical documentation is required, Form WFNJ-5S, Confidential Medical Examining Physician's Report, shall serve as a physician's certification and the following procedures concerning receipt of the completed form shall be adhered to:

1. If the WFNJ-5S states that the incapacity will be for less than 30 days, the agency will approve the deferral and retain the documentation at the agency. At the end of the 30 days, the agency worker will review the circumstances of the incapacity with the client and determine if the client is still claiming the same deferral circumstance; if so, another WFNJ-5S is to be completed by the attending physician.

2. If the WFNJ-5S states that the incapacity is expected to last more than 30 days the county or municipal agency, as appropriate, shall make an approval recommendation and forward a copy of the WFNJ-5S to DFD for final approval which shall be made in consultation with DMAHS.

3. If the WFNJ-5S indicates that the incapacity is expected to last one year or more, the county or municipal agency, as appropriate, shall further require the completion of Form WFNJ-5(DRS1), Examining Physician's Report, which, upon completion by the certifying physician shall be forwarded to DFD for review and final approval which will be in consultation with DMAHS.

(c) Alcohol or drug addiction does not make a recipient unemployable, but shall be considered an impairment if an individual evidences symptoms of alcohol or substance abuse which prevents the individual from securing a job, retaining employment or engaging in a work activity. Such an individual shall be referred for substance abuse treatment. If the individual does not comply with the referral or stops participating in the treatment program, the individual shall no longer be considered deferred from WFNJ work requirement participation.

(d) A recipient shall not be required to engage in a work activity if appropriate child care is necessary but unavailable. Child care services shall be provided in accordance with child care services regulations at N.J.A.C. 10:15 through

10:15C and N.J.A.C. 10:81-14.18. WFNJ supportive services provisions concerning child care are found at N.J.A.C. 10:90-5.2. Child care is unavailable if:

1. Appropriate child care is not available within a reasonable distance from the individual's home or work-site;

2. Appropriate informal child care from a relative or otherwise, if available, is unsuitable; or

3. Appropriate formal child care arrangements are unaffordable.

Administrative correction.

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

In (a)11, amended N.J.A.C. reference; and in (d), deleted "from any other source, and the recipients child(ren) is under 13 years of age or up to 18 years of age if a special needs child" following "Child care is unavailable if:".

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

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

Added (a)2ii; and in (d), added N.J.A.C. references.

10:90-4.10 Good cause

(a) Good cause for failure to participate in WFNJ or refusal to accept or maintain employment shall be found if:

1. The mandatory WFNJ participant is certified by DFD to be physically or mentally unable to engage in any education, training, community service, employment or other work activity;

2. The conditions of employment are a risk to the WFNJ individual's health and safety (subject to review and determination by the Division of Family Development); or

3. Child care is needed and is not available. (See N.J.A.C. 10:90-5.2, Supportive services, child care.)

(b) Good cause for temporary excused participation from the WFNJ activity shall be limited to the following:

1. WFNJ participants shall be temporarily excused from participation if the WFNJ activity for which they are scheduled, as set forth in the IRP, is not available. Excused participation is to be reviewed once every week up to once every month, depending on the circumstances surrounding the reason for the excused participation.

i. During the excused period, the WFNJ participant and the county or municipal agency worker shall be expected to continue to comply with the other terms of the IRP.

ii. Another WFNJ activity, which is suitable for the participant and for which necessary supportive services are available, may be substituted as an alternative form of participation for that individual.

2. Absence from a particular day of employment or a WFNJ activity scheduled session shall be considered temporarily excused participation under the following circumstances (when the participant has notified his or her employer or an appropriate person at the work activity of the need for an absence from a particular day or appropriate documentation is provided):

i. Illness of the participant, child of the participant, or any other member of the participant's household or immediate family who is or becomes dependent upon the participant because of such illness;

ii. Death of a spouse, parent, child, sibling, or grandparent has occurred within the preceding 10 working days; or

iii. Other circumstances requiring the participant's immediate and personal attention, including but not limited to: jury duty, a court appearance, school conferences concerning a child of the participant, medical diagnosis or testing, and other similarly important matters.

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

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

In (a)3, added N.J.A.C. reference; and in (b)2, added language describing excused participation.

10:90-4.11 Sanctions

(a) The failure of a recipient to actively cooperate with the program or participate in work activities, without good cause, shall result in a loss of cash assistance benefits as follows:

1. First offense sanctions are as follows:

i. In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children, the person in noncompliance shall be subject to a loss of cash assistance benefits as follows:

(1) The cash assistance benefit provided to the assistance unit shall be reduced by the per capita share of the person in noncompliance for a minimum period of one month.

(2) If an intent to comply by the person in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the parent in noncompliance for up to two additional months (which shall be applied as full month increments).

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) A single custodial parent shall not be sanctioned for failure to comply with a work requirement, if the parent proves that failure to participate is due to lack of child care or suitable child care (see N.J.A.C. 10:90-5.2, Supportive services, child care).

ii. In a two-parent assistance unit with dependent children, the following sanctions shall be applied for noncompliance:

(1) If one parent is in noncompliance, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the parent in noncompliance for a minimum of one month when the other parent is not otherwise participating in a work activity, or is not otherwise deferred.

(2) If an intent to comply by the parent in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of the parent in noncompliance for up to two additional months (which shall be applied as full month increments).

(3) If an intent to comply by the parent in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

(4) When both parents are mandatory to participate and are in noncompliance, the following sanctions shall apply:

(A) The cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of both parents for a minimum of one month.

(B) If an intent to comply by both parents is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall continue to be reduced by the calculated per capita share of both parents for up to two additional months (which shall be applied as full month increments).

(C) If an intent to comply by both parents is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication parents who were sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.13 (Intent to comply) prior to cash assistance being granted.

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

10:90-9.13 Disposition of hearing request through withdrawal, abandonment or settlement

(a) Prior to transmittal to the OAL, if an applicant/recipient desires that a hearing request be withdrawn, that individual shall notify the county or municipal agency or the DFD of the withdrawal request. The DFD shall request, but not require, that a decision to withdraw be confirmed in writing. The DFD shall in turn acknowledge, in writing, receipt of the withdrawal request.

(b) No county or municipal agency shall deny or dismiss a request for a State fair hearing. The determination on the validity of each hearing request shall be made by the DFD, including any determination on the appropriateness of processing hearing requests pursuant to N.J.A.C. 10:6-1.3.

(c) The filing of a request for a fair hearing shall not of itself preclude continued efforts to accomplish corrective action, settlement, adjustment or any other agreement through informal procedures. Any withdrawal or abandonment or any settlement or agreement reached, subsequent to the transmittal of the case to the OAL, shall be processed according to N.J.A.C. 1:1-1 including any Rules of Special Applicability which may apply to disposition by settlement or withdrawal.

(d) In instances of local agency hearings pursuant to N.J.A.C. 10:90-9.4, if an applicant/recipient of WFNJ/GA or his or her representative fails to appear for a scheduled hearing without giving proper notice, a notice of abandonment shall be sent by the county or municipal agency confirming the applicant/recipient's failure to appear on the date scheduled and inviting him or her to submit an excuse, in writing or by telephone, for nonappearance within three business days if another scheduling is desired. If no reply is received after three business days, no further hearing date shall be established.

1. Proper notice, in both WFNJ/TANF and GA, shall mean that notice is received by the county or municipal agency, the DFD, or OAL, as appropriate, not later than the scheduled date of the hearing, that the applicant/recipient will be unable to attend for unavoidable cause. If a WFNJ/GA client fails to appear for a local hearing and so advises the county or municipal agency, the hearing shall be adjourned and rescheduled.

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

In (d), added "In instances of local agency hearings pursuant to N.J.A.C. 10:90-9.4, if" to beginning of paragraph.

10:90-9.14 Adjournments

Any adjournment requested by a county or municipal agency or the DFD and granted by the OAL may not operate to extend the deadlines for a final decision and agency implementation of the final decision.

10:90-9.15 Hearings involving medical issues

(a) If the hearing involves medical issues, requiring a diagnosis or a report from an examining physician, or concerning a determination by the State Disability Review Unit (within the Division of Medical Assistance and Health Services), the ALJ may issue an order requiring a medical assessment by someone other than the person who made the original medical determination.

(b) The county or municipal agency shall pay for this medical assessment which shall be obtained at reasonable expense.

10:90-9.16 Decision by Director, Division of Family Development

(a) Following issuance of an Initial Decision by the ALJ, a final administrative hearing decision will be rendered by the Director of the DFD. The applicant/recipient, his or her representative and, as appropriate, the county or municipal agency shall be notified by mail of any decision or order.

1. Unless otherwise indicated, the decision shall be effective on the date of issuance.

(b) An official and complete record of each administrative hearing will be maintained in the files of the DFD for at least one year after the date the final decision is rendered. During this one year period, the applicant/recipient or his or her legal representative may review, upon appointment, all or any part of the official and complete record of his or her administrative hearing.

(c) A decision requiring action by the county or municipal agency may apply either prospectively with regard to future action by the agency or retroactively to the date an incorrect action was taken. If the decision results from mutual agreement of the parties at the hearing and disposition by settlement and withdrawal, the terms of settlement will be binding upon the parties.

(d) Administrative hearing decisions shall be retained by the DFD for a period of three years.

(e) The DFD will take such steps as may be necessary to assure that the decision has been carried out. Corrective or remedial measures ordered by the hearing decision, unless otherwise directed in the decision, will be implemented by the county or municipal agency immediately upon receipt of the decision.

(f) Final administrative action on administrative hearing decisions, including any corrective action required by the decision, shall be implemented by the county or municipal agency within 90 calendar days of the date of the request for a fair hearing.

10:90-9.17 Emergency fair hearings

(a) An emergency fair hearing for purposes of expediting the fair hearing procedure will be scheduled when:

1. The fair hearing request results from denial by the county or municipal agency of a request for emergency assistance made in accordance with the provisions of N.J.A.C. 10:90-6.1, or replacement of a lost or stolen check has been declined by the county or municipal agency in accordance with N.J.A.C. 10:90-7.5, and the applicant/ recipient contends that he or she is without funds or resources; and

2. The DFD determines that there exists a threat to the health and physical safety of the applicant/recipient sufficiently compelling and imminent to require acceleration of the fair hearing procedure.

(b) When it is determined that a request for hearing should be scheduled as an emergency fair hearing:

1. BARA shall notify the OAL by telephone of the hearing request on the same business day as the request is received. The Clerk of the OAL shall prepare the OAL transmittal form based upon the telephone call.

2. The case shall be scheduled by the OAL for a hearing within three business days after the phone call is received.

3. Notice of the time, date and place of the hearing shall be transmitted by telephone or FAX in an expedited manner after the OAL is notified of the hearing request. BARA shall notify the county or municipal agency, the petitioning applicant/recipient or representative, of the scheduled hearing by telephone or FAX.

4. The ALJ shall file an Initial Decision by the most expeditious means available with the Director of the DFD and the parties no later than the first business day following the date of the hearing.

5. Only in emergency fair hearings may the applicant/recipient, his or her representative or the county or municipal agency take exception or object to the Initial Decision by a telephone call to the DFD no later than the first business day following the issuance of the Initial Decision.

6. The Director of the DFD shall issue a final decision no later than three business days following the date the Initial Decision is received, which shall accept, reject or modify the Initial Decision. On the day the final decision is issued, the DFD shall notify the county or municipal agency, and the petitioner or the petitioner's representative by telephone of the final decision, and any relief ordered shall be provided by the county or municipal agency on the day notice of the final decision is received.

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

SUBCHAPTER 10. REFUGEE RESETTLEMENT PROGRAM**10:90-10.1 Purpose and funding**

(a) The Refugee Resettlement Program (RRP) is a Federally funded program designed to help meet the needs of refugees.

(b) Federal financial participation for refugees who are single adults or couples without dependent children under RRP is 100 percent.

10:90-10.2 Identifying refugees

An individual is considered a refugee for purposes of RRP if he or she fled from and cannot return to his or her place of national origin because of fear of persecution on account of race, religion or political opinion. Such an individual may be eligible under RRP if he or she is included in one of the statuses granted by the Immigration and Naturalization Service (INS) as delineated at N.J.A.C. 10:90-10.3.

10:90-10.3 INS statuses for RRP

(a) Applicants may be eligible for assistance under the RRP if they have been classified in one of the following INS statuses:

1. A person from any country who has been granted parole status as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. §§ 1101 et seq.) and so indicated by INS Form I-94. An "applicant for asylum" is not eligible for RRP.

2. A person admitted from any country as a conditional entrant under Section 203(a)(7) of the INA and so indicated on Form I-94;

3. A person from any country admitted as a refugee under Section 207 of the INA and so indicated on Form I-94;

4. A person from any country who has been granted asylum under Section 208 of the INA and so indicated on Form I-94;

5. A person from any country who previously held one of the statuses identified in (a)1 through 4 above whose status has subsequently been changed to that of permanent resident alien. In addition to the required Form I-151 or I-551 (resident alien forms) showing the status of resident alien, the individual must also provide sufficient documentation to substantiate that one of the eligible statuses indicated in (a)1 through 4 above was held prior to that of resident alien;

(f) The LAB is responsible for establishment of the official municipal agency office and designation of hours of operation.

1. The office of the municipal agency shall be in a location accessible to the general public and adequate for efficient operation.

2. The office of the municipal agency shall be open to the public a minimum of three hours a day during the five-day work week to take applications for assistance and to provide emergency assistance. Additional arrangements shall be instituted by the LAB to ensure that someone is accessible to the public seven hours a day during the five-day work week to take applications for assistance and provide emergency assistance, and that persons in need of assistance are served without delay at times other than normal office hours.

i. Each municipal agency office shall be required to post a sign(s), in a conspicuous place(s), which lists the telephone number(s) and the person or agency available to handle emergencies beyond normal office hours.

(g) The LAB shall act as a body in discharging its duties. A board member shall not individually take upon himself or herself the responsibility for creation of policy, investigation of a client or disclosure of data contained in a case record. Actions taken by the LAB on all matters pertaining to the administration of WFNJ/GA shall be discharged by the board at regular or special meetings and recorded in the secretary's minutes. Functions and activities of the LAB include the study of employment possibilities in local industry, health, housing, and social conditions of the community. Analysis of municipal financial needs, insofar as they are related to WFNJ/GA, shall also be a matter of concern to the LAB.

1. The LAB shall undertake the following additional activities:

i. Seek and utilize opportunities to interpret to the community the purposes of the WFNJ/GA program as provided by law, and the needs of the community as revealed through the LAB's experience with the administration of the program;

ii. Confer with the director on concerns, criticisms or recommendations coming to it from citizens in the community;

iii. Meet with individuals and organizations interested in the administration of the assistance program;

iv. Accept and act upon complaints relating to the administration of the WFNJ/GA program when submitted to the board, in writing, prior to its meeting;

v. Review problem cases presented by the director for discussion; and

vi. Make recommendations as to the adequacy in number and qualifications of personnel for the administration of the program.

2. Specific duties of the local assistance board include, but are not limited to, the following:

i. The LAB shall provide space within the municipal office for the proper protection and maintenance of all reports, case records and any other materials essential to the administration of WFNJ/GA.

(1) Access to case records shall be granted by the LAB, through the agency director, only to the following persons: employees of the municipal agency acting in an official capacity; representatives of another recognized public or private health or welfare agency, organization or institution for the purpose of obtaining information relevant to providing service to a current or former recipient of WFNJ/GA or to a member of his or her family; the client or his or her representative, in accordance with N.J.A.C. 10:90-9.11 and authorized representatives of the DFD relevant to State audits and quality control reviews.

(2) As a matter of policy, only the agency director or the LAB, by formal action and for a just cause, shall authorize the removal of a case record from the office.

(3) Information may be released to authorized persons for statistical purposes but shall not bear the name of the public assistance recipient or any other indication of his or her identity; and

ii. Responsibility is vested in the LAB to safeguard the applicants for and/or recipients of public assistance from discrimination by municipal agency employees and vendors who provide services to clients. Any discrimination based upon race, color, sex, religious creed, national origin, marital or birth status, political beliefs or disability is unlawful and subject to appropriate action (see N.J.A.C. 10:90-1.7).

(h) Nothing in this section shall be construed so as to allow access to confidential information beyond that authorized in N.J.A.C. 10:90-1.11.

(i) In Faulkner Act municipalities where no LAB exists, the authority, duties and responsibilities of the LAB resides with the mayor or manager as applicable to the form of government. Functions of the secretary of the LAB are assumed by the municipal clerk.

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

In (d)1, added a fourth sentence.

10:90-12.10 Appointment of employees

Employees for the municipal agency shall be appointed by the governing body in accordance with municipal ordinances

and in numbers adequate for the proper administration of the WFNJ/GA program. While the LAB shall appoint the agency director, the municipal governing body is responsible for the appointing of department staff.

10:90-12.11 Establishment of Public Assistance Trust Fund Account

(a) The governing body of the municipality shall establish a bank account titled "Public Assistance Trust Fund Account," with the municipal treasurer or other designated official as custodian (see N.J.A.C. 10:90-14.3).

(b) The governing body of the municipality may, at the request of the LAB, establish a Public Assistance Petty Cash Fund Account. Such fund shall be established and operated in accordance with N.J.A.C. 10:90-14.6.

**SUBCHAPTER 13. MEDICAL SERVICES FOR
WFNJ SINGLE ADULTS AND COUPLES
WITHOUT DEPENDENT CHILDREN
(WFNJ/GA)**

10:90-13.1 Payment of medical service claims

(a) Claims resulting from medical services provided to WFNJ/GA recipients, on or after February 1, 1997, shall be processed and paid by the New Jersey Division of Medical Assistance and Health Services (DMAHS) through its fiscal agent, in accordance with the rules appropriate for the services rendered (see N.J.A.C. 10:49). Payment of claims submitted to the fiscal agent for medical services covered under the WFNJ/GA program shall be based upon the Medicaid reimbursement methodology for the respective services. Those medical services identified at (a)2 below shall not be considered eligible for payment by the fiscal agent for WFNJ/GA program purposes.

1. Medical service claims with service dates on or after February 1, 1997 shall be submitted directly to the fiscal agent by the medical provider/vendor for payment processing. The original claim must be received by the fiscal agent within the time frame of one year from the date the service was rendered or the product was provided. If the original claim is not received by the fiscal agent within the one year time frame the claim shall not be processed for payment.

i. The provider/vendor shall direct all concerns relating to the payment or processing of WFNJ/GA medical service claims to the fiscal agent.

(1) A provider/vendor may, however, contact the agency in which the WFNJ/GA recipient is receiving assistance to ascertain information concerning WFNJ/GA policies, coverage of services and/or eligibility.

ii. Medical service claims, except for prescription claims, with service dates prior to February 1, 1997 shall be processed by the county/ municipality. Such claims, however, must be received by the county/ municipality within a time frame of six months from the date the service was rendered in order for that claim to be considered eligible for payment processing.

2. The following services are not considered eligible medical services for WFNJ/GA program purposes and shall not be processed for payment by the fiscal agent:

i. Inpatient or outpatient hospital services/care provided in a hospital either in-State or out-of-State, including, but not limited to, psychiatric hospitals, acute care hospitals, special hospitals, rehabilitation hospitals, Christian Science sanatoria and county or State hospitals;

(1) Exception: Inpatient hospitalization at Mt. Carmel Guild in Newark is an eligible medical service for the WFNJ/GA program.

ii. Professional services rendered to residents in public/private medical institutions;

iii. Professional services to WFNJ/GA clients residing in residential treatment centers for drug or alcohol abuse;

iv. Nursing facility per diem payments for individuals residing in Medicaid approved nursing facilities;

(1) See N.J.A.C. 10:90-13.3 concerning per diem payments for WFNJ/GA clients residing in non-Medicaid nursing facilities on or prior to June 30, 1995;

v. Early and periodic screening, diagnosis and treatment (EPSDT) services;

vi. Services provided under a home and community based services waiver, in accordance with Section 1915(c) of the Social Security Act, 42 U.S.C. § 1396n;

vii. Managed care services;

viii. Transportation for medical services provided under contract with a vendor or through a contract with the county agency;

ix. Medical services payable through other health insurance coverage, no-fault insurance benefits, or any other type of insurance/benefit coverage;

(1) Medical service bills shall be submitted to the appropriate primary carrier prior to being submitted for payment consideration through the fiscal agent;

x. Methadone maintenance services;

xi. HealthStart maternity and pediatric care services including comprehensive medical and health support service packages;

xii. Hospice services provided in a nursing facility;

xiii. Maternity services provided by any type of provider including, but not limited to physicians, certified nurse specialists/clinical nurse practitioners, certified nurse-midwives and clinics;

xiv. Medical day care services; and

xv. Medical bills, which have been paid by the client or on his or her behalf.

3. The director of the county/municipal agency may authorize payment of other medical insurance premiums.

4. Prior authorizations required under the Medicaid program shall also be applicable for WFNJ/GA program purposes.

5. The municipality shall be billed for the administrative costs associated with the processing and payment of WFNJ/GA medical service claims by the fiscal agent in accordance with the procedures set forth at N.J.A.C. 10:90-4.8.

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

In (a)2, deleted former iii and redesignated former iv through xvi as iii through xv.

10:90-13.2 Obtaining medical services

(a) The county/municipality shall provide the WFNJ/GA recipient with a current validation card or letter which will be utilized to obtain treatment by a Medicaid participating provider/vendor. The agency shall supply a validation card or letter to each WFNJ/GA recipient at time of opening or reopening of the case and monthly thereafter to ensure validity through all periods of assistance eligibility. The size and layout of the validation card or letter are optional. Each card or letter must contain, at a minimum:

1. The name, address, phone number and four-digit municipality code of the agency;

2. The first and last name(s) of the client(s) for whom the card or letter applies;

3. The required six-digit case number and two-digit person number. If the case number does not contain six digits, zeros are to be placed in the front of the case number to accommodate the entry. A two-digit person number (that is, 01, 02, and so forth) must be used to identify the person in the eligible unit for whom the services are to be provided. The person number 01 should be used to reflect the person whose name appears on the case name and person number 02 reflects the person who resides with the case name person in a marital relationship or who represents themselves as a couple to the community;

4. The expiration date;

5. A notice to client as follows: This validation form indicates eligibility for WFNJ/GA benefits and is to be presented to the Medicaid participating provider when you require medical services; and

6. A notice to Medicaid participating provider/vendor as follows: Please complete the appropriate claim form according to Medicaid policies and procedures and forward the claim directly to the Medicaid fiscal agent for claim processing and payment.

(b) Claims for medical services eligible under the WFNJ/GA program shall be processed and paid by the fiscal agent when such services are provided by Medicaid approved providers.

1. When a WFNJ/GA recipient requires medical services from a provider and an appropriate clinic is not available to provide such services without charge, the client shall have the opportunity to select a Medicaid participating provider of his or her own choice. A representative of the agency may assist the client in obtaining an appropriate Medicaid participating provider.

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

10:90-13.3 Travel costs for medical care

(a) The county/municipal agency shall authorize payment for travel costs necessary for the receipt of health services, provided that such transportation is not otherwise available without cost.

1. To the extent possible, such services shall be purchased directly from the vendor.

i. Payment may be made directly to the recipient when prior authorization for the expenditure has been obtained from the agency.

2. Payment shall not exceed the Medicaid rate, when appropriate, or the most reasonable rate for which service may be obtained.

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

10:90-13.4 Nursing facility payments

(a) The agency director shall authorize payments for patient care and allow for a personal needs allowance (PNA) for those clients who were residing in a non-Medicaid nursing facility on or prior to June 30, 1995 when a physician certifies that the client has a defect, disease, or impairment (other than psychosis) which necessitates such care, the client is not eligible for Medicaid, or for nursing facility services under the Medically Needy Program, and there is no person available who will provide such care without cost to the client. Those WFNJ/GA recipients shall continue to receive WFNJ/GA nursing facility benefits until such time as the WFNJ/GA nursing facility benefits are no longer required, or when the client is no longer eligible to receive such WFNJ/GA benefits as long as the client remains in the same non-Medicaid nursing facility.

1. Physician certification shall be accomplished by means of Form GA-18, Certification of Need for Patient Care in Facility Other than Public or Private General Hospital. This form shall be completed in duplicate, by the attending or staff physician and the operator or superintendent of the appropriate facility. One copy shall be submitted to DFD for determination of nursing facility care and subsequently, filed in the case record and the other copy shall be retained by the nursing facility or institution.

2. Payment to the non-Medicaid facility shall not exceed the rates established by DFD for that facility. The county/municipality shall contact DFD to obtain the per diem rate for room, board and nursing care. A PNA of \$35.00 per month shall be allowed to the resident.

i. To determine the all inclusive rate the agency shall be authorized to pay the non-Medicaid nursing facility, the agency shall calculate the non-Medicaid facility rate established by the DFD, times the number of days of care for the month, less the payment by or on behalf of the client. Each month the agency will obtain a current bill for all services rendered during the previous month.

(1) The agency shall authorize per diem payments for periods of up to 10 days during which the client is temporarily absent from the facility for hospitalization, or for periods of up to 25 days in a calendar year for therapeutic visits.

ii. Prescription drugs, laboratory, x-ray, physician, dental, podiatry services and supplies are not included in the nursing facility per diem rate. Payment for such services rendered shall be paid directly to the provider by the fiscal agent in accordance with the rules and regulations appropriate for the services rendered (see N.J.A.C. 10:49).

Recodified from N.J.A.C. 10:90-13.3 by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

10:90-13.5 Medically needy

(a) Individuals and families who are ineligible for WFNJ/GA, WFNJ/TANF, the Refugee Resettlement Program or SSI, because their income exceeds the standards established for the applicable program may apply to the county/municipal agency on a monthly basis for assistance in paying excessive medical costs. The provisions of this subsection are not applicable to the payment of bills for inpatient or outpatient hospitalization or for medical services rendered to an inpatient or outpatient by a hospital or hospital clinic. Those individuals who appear to be potentially eligible for the Medically Needy Program shall be referred to that program. Except as stated in (b) below, any person found eligible under the provisions of that program is not eligible for benefits under this subsection.

(b) Elderly, blind or disabled individuals who are ineligible for the SSI Program, because their income exceeds the SSI standard, will be referred to the Medically Needy Program. That program, however, does not provide payment for prescribed drugs. Therefore, individuals not entitled to receive assistance in meeting the cost of drugs from any other source may apply to the county/municipal agency on a monthly basis for assistance in meeting excessive medical costs.

(c) When an individual's or family's income over and above the appropriate income level as explained in (d) below has been used to pay medical bills, any additional medical costs are considered excessive.

(d) For the purpose of determining excessive medical costs, the total available monthly income (see (e) below) of individuals, couples, or families with children is measured against the appropriate allowance standard. For elderly, blind, or disabled persons, the Medically Needy Program standard applies. For families with children, Schedule II applies (see N.J.A.C. 10:90-3.3(b)). For all others, Schedule IV (see N.J.A.C. 10:90-3.5(b)) or V (see N.J.A.C. 10:90-3.6(a)), as appropriate, applies. Information about the current standards may be obtained by contacting the Division of Family Development.

(e) Form WFNJ/GA-19 will be used to determine income and the amount of excessive medical costs. Monthly earned income is adjusted by deducting any earned disregard, as appropriate (see N.J.A.C. 10:90-3.8), plus any child care necessary for employment of the parent(s) and/or court ordered support payments; no further disregards are recognized. This adjusted amount added to any unearned income equals the total monthly income available to the eligible unit.

(f) When the appropriate standard ((d) above) is subtracted from the total available income, the difference or "surplus" is the amount of medical expenses the client is expected to pay him or herself. When the client has proof of paid medical bills in the amount of the "surplus," the agency shall provide payment for any unpaid medical costs in excess of the "surplus," in accordance with the regulations and rates set forth in this subchapter.

(g) N.J.A.C. 10:90-1.2 and 2.11(b) shall constitute the application process relevant to the medically needy. See also N.J.A.C. 10:90-3.22 regarding redeterminations.

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

SUBCHAPTER 14. FISCAL PROCEDURES FOR WFNJ SINGLE ADULTS AND COUPLES WITHOUT DEPENDENT CHILDREN (WFNJ/GA)

10:90-14.1 Statutory authority

(a) Under the provisions of N.J.S.A. 44:8-111, the Commissioner is empowered to make and to enforce rules and regulations governing the provision of WFNJ/GA.

2. A written agreement is reached between the absent parent and custodial parent which provides for an alternative arrangement. If there is an assignment of support rights to the county agency, the county agency must also be a party to the written agreement.

(b) In cases of income not subject to immediate withholding, the income of the absent parent will be subject to withholding on the date the absent parent fails to make support payments at least equal to the support payable for 14 calendar days.

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

10:90-16.23 Distribution of arrearage payments on child support orders

(a) Payments on arrearages accrued from past due child support shall be used to satisfy claims as follows:

1. If the obligee is receiving WFNJ/TANF cash assistance, any payment must first satisfy arrearages owed to the county agency before any payment to the obligee.
2. If the obligee has never received WFNJ/TANF cash assistance, all payments shall go to obligee.
3. If the obligee once received WFNJ/TANF cash assistance:
 - i. Payments from tax intercepts (Federal and State income tax and Homestead Rebate) first shall satisfy any arrearages owed the county agency;
 - ii. All other payments (for example, wage executions and unemployment garnishment) shall satisfy arrearages in the following priority order:
 - (1) During the five-month period following the last month of WFNJ/TANF eligibility, payments collected in excess of the current support for that period are first used to reimburse the county agencies for arrearages that accrued while the family was receiving WFNJ/TANF cash assistance.
 - (2) Subsequent to the five-month period, arrearages which have accrued to the obligee since leaving public assistance shall go to the obligee.
 - (3) Arrearages assigned to the county agency up to the amount of assistance granted shall go to the county agency.
 - (4) Any remaining arrearage balance owed to the obligee before receiving public assistance shall go to the obligee.

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

10:90-16.24 Application fee for NPA applicants

(a) NPA individuals, who do not have an active support order and who do not know the location of the obligor, shall

file an application with the county agency CSP Unit. (Individuals with an active support order or those without an active support order who know the whereabouts of the obligor shall file the application for IV-D services at the appropriate probation division.) See N.J.A.C. 10:90-16.12(m)1 regarding the State of New Jersey Title IV-D Program Application for Child Support Services.

(b) Each NPA applicant shall pay an application fee in the amount of \$6.00.

1. The applicant shall be given a receipt to cover the fee, a copy of which shall be retained in a case record file.

(c) The \$6.00 fee shall be deposited in the Administration Account as an offset against CSP administrative costs.

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

10:90-16.25 Review and adjustment of child support orders (WFNJ/TANF, foster care and Medicaid cases)

(a) The county agency CSP Unit shall review all WFNJ/TANF, foster care and Medicaid cases with a court order at least once every three years, or at the request of either parent subject to the order, for possible adjustment. If a request for review is made before the three year time frame, and the request is determined to be frivolous by the county agency CSP Unit, the request may be denied.

1. An adjustment is an upward or downward change in the amount of child support based upon an application of State guidelines under New Jersey Court Rule 5:6A for setting and adjusting child support awards and/or a provision for the child's health care needs, through health insurance coverage or other means.

2. Review means an objective evaluation by the county agency CSP Unit of information necessary for application of the New Jersey Child Support Guidelines, New Jersey Court Rule 5:6A, to determine:

- i. The appropriate support award amount; and
- ii. The need to provide for the child's health care needs, through health insurance coverage or other means.

3. Examples of a frivolous request would be as follows:

- i. An obligor's income has not increased or decreased by a minimum of 20 percent.
- ii. An obligor is temporarily out of work or temporarily injured and unable to work.

(b) The procedure for the review of cases shall be as follows:

1. An Automated Child Support Enforcement Systems (ACES) report has been developed to identify appropriate cases for review for possible adjustment. The review

date field on the ACSES Support Order Review/Modification—Client Data Screen (USM1) and the Support Order Review/Modification—Absent Parent Data Screen (USM2) screens will trigger a report of cases in which the date is equal to or greater than two years and 11 months from the run date of the report.

2. The county agency CSP Unit shall screen cases on the report to identify those cases that should be adjusted to bring them into compliance with the Child Support Guidelines at New Jersey Court Rule 5:6A.

3. A case can be eliminated from the screening if it is found that:

i. There is a good cause determination that the review of the case is not in the best interest of the child(ren);

ii. The current order is less than three years old or the case has been reviewed in the last three years, unless a review was requested by either parent subject to the order and it has not been determined to be a frivolous request by the county agency CSP Unit. Examples of a frivolous request would be as outlined in (a)3 above; or

iii. The obligor is institutionalized.

4. The review date field on the USM1 and USM2 shall be updated indicating the date that a review was completed. If the case was eliminated from the adjustment cycle, the reason should be documented.

i. The county agency CSP Unit shall determine within 15 calendar days of the date the child support order is 36 months old, whether a review should be conducted.

ii. In handling a request for a review, the county agency CSP Unit has up to 15 calendar days from the receipt of a request to determine whether a review should be conducted.

iii. Within 180 days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the State must complete the process by adjusting the order or determining the order should not be adjusted and completing the steps outlined at (c) and (d)1 through 4 below.

iv. Interstate cases should also follow the 180 calendar day timeframe for completing the review and adjustment process.

5. When it is determined that a review should be conducted on an interstate case and New Jersey is the initiating state, a request for review shall be sent to the responding state within 20 calendar days of receipt of sufficient information to conduct a review.

i. The information the responding state needs to act on the request must be provided.

ii. If the request for review is the first contact between the initiating and responding states in the case, the initiating state must send the request for review to the interstate central registry in the responding state.

iii. If the initiating state has previously referred the case to a responding state for action, the request for review may be sent directly to the appropriate agency in the responding state for processing.

iv. The initiating state is also responsible for sending to the parent in its state a copy of any notice issued by a responding state in connection with the review and adjustment of an order. This notice must be sent to the parent within five working days of receipt in the initiating state.

6. When acting as the responding state in a case which another state has determined a review is necessary, the laws and procedures for review and adjustment of the responding state apply. This includes the use of the responding state's child support guidelines.

i. Within 15 calendar days of receipt of a request for review from another state, a determination must be made as to whether or not the review will be conducted.

ii. The determination not to conduct a review because it would not be in the best interest of the child cannot be made by the responding state. This determination must be made by the initiating state.

(c) The county agency CSP Unit shall process cases for review in the following manner:

1. Information on the obligor's current income and employment should be obtained via the USM2 screen and/or on-line access to the Department of Labor's Wage Reporting File through Honeywell terminals. Information obtained will be verified through a letter generated to the employer. Medical insurance information shall also be verified.

2. The case shall be cross-referenced on ACSES to determine if multiple cases exist (the amount of the obligor's court orders will figure in the use of the guidelines).

3. Verification of the obligor's address shall also be obtained.

4. In cases where there has been no change in the income, however, medical support is not currently ordered, a motion shall be filed to have the order adjusted to include medical support when health insurance is available to the obligor at a reasonable cost. If health insurance is not available to the obligor at a reasonable cost at the time of the modification, this order for support will go into effect when health insurance at a reasonable cost is actually available.

i. Health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism.

(d) Recommendations for adjustment shall be based on the New Jersey Child Support Guidelines, New Jersey Court Rule 5:6A.

1. If the recommended amount of adjustment is a 20 percent or more increase over the current order, a motion shall be filed to have the order modified.

2. If the recommended amount of adjustment is a 20 percent or more decrease, the obligor should be directed to file appropriate application with the court.

3. Each parent subject to a child support order shall be notified of any review of the order at least 30 calendar days before commencement of the review.

i. This notification requirement may be satisfied by filing a notice of motion, provided both parties are notified 30 calendar days prior to the hearing.

ii. If modification is warranted, the notice of motion may serve as a notice to both parties of the review determination. If either party disagrees with the determination, they may challenge the decision to a judge.

If no adjustment is warranted based on a review, a notice shall be issued as outlined in (d)4i and ii below.

4. Following any review, the county agency CSP Unit shall notify each parent subject to the child support order of the following:

i. Any adjustment or a determination that there should be no change; and

ii. Each parent's right to initiate proceedings to challenge the adjustment or determination within 30 calendar days after the date of the notice.

(e) The county agency Statistical Report shall be completed each month to reflect the number of cases reviewed and the number of cases adjusted.

(f) In accordance with Section 351 of the Personal Responsibility and Reconciliation Work Opportunity Act of 1996, P.L. 104-193, the county agency CSP Unit shall target for review and adjustment all orders under Title IV-A and Title IV-E foster care cases by reviewing one-third of the caseload per year, over a three-year period.

Amended by R.1998 d.42, effective January 20, 1997.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Rewrote (f).