

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

**Authority**

N.J.S.A. 30:1-12.

**Source and Effective Date**

R.2009 d.94, effective February 19, 2009.  
See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

**Chapter Expiration Date**

Chapter 87, Food Stamp Manual, expires on February 19, 2014.

**Chapter Historical Note**

Chapter 87, Food Stamp Manual, was adopted as R.1969 d.22, effective December 3, 1969. See: 1 N.J.R. 14(a), 1 N.J.R. 30(b).

Chapter 87, Food Stamp Manual, was readopted as R.1972 d.177, effective September 8, 1972. See: 4 N.J.R. 187(a), 4 N.J.R. 239(a).

Chapter 87, Food Stamp Manual, was readopted as R.1975 d.350, effective January 1, 1976. See: 7 N.J.R. 363(b), 7 N.J.R. 567(d).

Chapter 87, Food Stamp Manual, was readopted as R.1979 d.29, effective March 1, 1979. See: 10 N.J.R. 537(b), 11 N.J.R. 76(a).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1984 d.68, effective March 1, 1984. See: 15 N.J.R. 2134(b), 16 N.J.R. 550(a).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1989 d.121, effective January 27, 1989. See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Public Notice: Change in standards for food stamp income eligibility. See: 23 N.J.R. 3030(a).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1994 d.42, effective December 21, 1993. See: 25 N.J.R. 4697(b), 26 N.J.R. 377(a).

Public Notice: Change in standards for food stamp income eligibility, deduction, and coupon allotment standards. See: 29 N.J.R. 4346(a).

Subchapter 13, New Jersey State Food Stamp Program, was adopted as Emergency New Rules by R.1997 d.402, effective August 29, 1997, operative September 1, 1997, to expire October 28, 1997. See: 29 N.J.R. 4191(a). The provisions of R.1997 d.402 were readopted as R.1997 d.505, effective October 28, 1997. See: 29 N.J.R. 4191(a), 29 N.J.R. 5063(b).

Pursuant to Executive Order No. 66(1978), Chapter 87, Food Stamp Manual, was readopted as R.1999 d.6, effective December 8, 1998. See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

Chapter 87, Food Stamp Manual, was readopted as R.2004 d.181, effective April 5, 2004. See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Chapter 87, Food Stamp Manual, was readopted as R.2009 d.94, effective February 19, 2009. As a part of R.2009 d.94, Subchapter 9, Certification Related Procedures, was renamed Certification-Related Procedures, effective March 16, 2009. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 10:87-1.1 Purpose of the Food Stamp Program
- 10:87-1.2 Administration of the Program

- 10:87-1.3 Legal basis of the Program
- 10:87-1.4 Program informational activities
- 10:87-1.5 Purpose of the New Jersey Food Stamp Manual
- 10:87-1.6 The concept of reasonable certainty; situations not covered by the manual
- 10:87-1.7 Assignment of manual
- 10:87-1.8 Responsibility of manual holders
- 10:87-1.9 Retention of obsolete material
- 10:87-1.10 Public access to the manual
- 10:87-1.11 Policy of nondiscrimination
- 10:87-1.12 Complaint procedures
- 10:87-1.13 Public Notification Plan
- 10:87-1.14 Confidentiality and disclosure of information
- 10:87-1.15 Public access to information
- 10:87-1.16 Appeals
- 10:87-1.17 Suits against county
- 10:87-1.18 (Reserved)

**SUBCHAPTER 2. THE APPLICATION PROCESS**

- 10:87-2.1 The household concept
- 10:87-2.2 Household defined
- 10:87-2.3 Nonhousehold members, boarders and excluded household members
- 10:87-2.4 Residents of institutions and homeless individuals defined
- 10:87-2.5 Boarding home/house
- 10:87-2.6 Head of household
- 10:87-2.7 Authorized representatives
- 10:87-2.8 Nonhousehold member as authorized representative
- 10:87-2.9 Documentation of authorized representative
- 10:87-2.10 Restrictions on authorized representatives
- 10:87-2.11 Application for food stamps
- 10:87-2.12 Food stamp application form
- 10:87-2.13 Filing an application
- 10:87-2.14 Household cooperation
- 10:87-2.15 Denial of eligibility for non-cooperation
- 10:87-2.16 Subsequent refusal to cooperate
- 10:87-2.17 Refusal to cooperate with Quality Control reviews
- 10:87-2.18 Interview process
- 10:87-2.19 Mandatory verification
- 10:87-2.20 Verification of questionable information
- 10:87-2.21 Verification of Social Security and/or SSI using SDX/BENDEX
- 10:87-2.22 Sources of verification
- 10:87-2.23 Documentation
- 10:87-2.24 Verification subsequent to initial certification
- 10:87-2.25 Denial of the application
- 10:87-2.26 Normal processing standard
- 10:87-2.27 Delays in processing
- 10:87-2.28 Expedited service
- 10:87-2.29 Expedited service processing standards
- 10:87-2.30 Special procedures for expediting service
- 10:87-2.31 WFNJ/TANF eligibility determination (PA households)
- 10:87-2.32 Categorically eligible WFNJ/TANF/SSI households
- 10:87-2.33 Procedures for SSI jointly processed households
- 10:87-2.34 Elderly or disabled household members
- 10:87-2.35 Categorically eligible WFNJ/GA households
- 10:87-2.36 through 10:87-2.39 (Reserved)

**SUBCHAPTER 3. ELIGIBILITY FACTORS OTHER THAN NEED**

- 10:87-3.1 Applicability
- 10:87-3.2 Residency in the county
- 10:87-3.3 Determination of residency
- 10:87-3.4 Recording applicant's address
- 10:87-3.5 Citizenship or permanent alien status
- 10:87-3.6 U.S. citizen defined
- 10:87-3.7 Eligible alien
- 10:87-3.8 Eligible aliens defined
- 10:87-3.9 Ineligible aliens

- 10:87-3.10 Income and resources of ineligible aliens and individuals whose citizenship is questionable
- 10:87-3.11 Awaiting verifications
- 10:87-3.12 Eligibility to use benefits for prepared meals
- 10:87-3.13 State Income and Eligibility Verification System
- 10:87-3.14 Procedures for students in an institution of higher education
- 10:87-3.15 Social Security numbers
- 10:87-3.16 Work registration
- 10:87-3.17 Felons and parole violators
- 10:87-3.18 Individuals convicted of use, possession, or distribution of controlled substances
- 10:87-3.19 Disqualification due to duplicate participation

**SUBCHAPTER 4. FINANCIAL ELIGIBILITY; RESOURCES**

- 10:87-4.1 Applicability
- 10:87-4.2 Determining resources and applicant responsibility
- 10:87-4.3 Resources defined
- 10:87-4.4 Jointly owned resources
- 10:87-4.5 Verification of resource information
- 10:87-4.6 Resources of nonhousehold and excluded household members
- 10:87-4.7 Resource exclusions
- 10:87-4.8 Identification of resource exclusions
- 10:87-4.9 Treatment of excluded funds
- 10:87-4.10 Value of resources
- 10:87-4.11 Treatment of licensed vehicles
- 10:87-4.12 Maximum allowable resources
- 10:87-4.13 Transfer of resources
- 10:87-4.14 Disqualification
- 10:87-4.15 Transfers not subject to disqualification
- 10:87-4.16 Notice to applicant household
- 10:87-4.17 Notice to participating household
- 10:87-4.18 Period of disqualification
- 10:87-4.19 through 10:87-4.20 (Reserved)

**SUBCHAPTER 5. FINANCIAL ELIGIBILITY; INCOME**

- 10:87-5.1 Applicability
- 10:87-5.2 Responsibilities regarding the reporting of income
- 10:87-5.3 Income defined
- 10:87-5.4 Earned income
- 10:87-5.5 Unearned income
- 10:87-5.6 Income of excluded individuals
- 10:87-5.7 Special income situations
- 10:87-5.8 Income exclusions
- 10:87-5.9 Identification of income exclusions
- 10:87-5.10 Income deductions
- 10:87-5.11 Treatment of educational assistance

**SUBCHAPTER 6. CERTIFICATION PROCEDURES**

- 10:87-6.1 Applicability
- 10:87-6.2 Month of application
- 10:87-6.3 Application for recertification
- 10:87-6.4 Ineligibility subsequent to month of application
- 10:87-6.5 Ineligibility for month of application
- 10:87-6.6 Varying allotments
- 10:87-6.7 Determining resources and income
- 10:87-6.8 Resources
- 10:87-6.9 Income determination
- 10:87-6.10 Determining deductions
- 10:87-6.11 Disallowed expenses
- 10:87-6.12 Billed expenses
- 10:87-6.13 Averaging expenses
- 10:87-6.14 Anticipating expenses
- 10:87-6.15 Anticipating medical expenses
- 10:87-6.16 Calculating net and gross income and benefit levels
- 10:87-6.17 Destitute households
- 10:87-6.18 Destitute households with income from a terminated source
- 10:87-6.19 Destitute households with income from a new source

- 10:87-6.20 Certification periods
- 10:87-6.21 Certification period length
- 10:87-6.22 Calendar months
- 10:87-6.23 PA households
- 10:87-6.24 Shortening certification periods
- 10:87-6.25 Lengthening certification periods
- 10:87-6.26 Other household certifications

**SUBCHAPTER 7. SPECIAL INCOME CIRCUMSTANCES**

- 10:87-7.1 Applicability
- 10:87-7.2 Self-employment income
- 10:87-7.3 Determining monthly income from self-employment
- 10:87-7.4 Capital gains
- 10:87-7.5 Allowable costs of producing self-employment income
- 10:87-7.6 Assigning certification periods
- 10:87-7.7 Treatment of income and resources of non-household members
- 10:87-7.8 Residents of substance abuse treatment and rehabilitation programs
- 10:87-7.9 Residents of group living arrangements
- 10:87-7.10 Residents of shelters for battered women and their children
- 10:87-7.11 Deeming of income and resources of alien sponsors
- 10:87-7.12 Homeless Food Stamp households and homeless meal providers
- 10:87-7.13 through 10:87-7.20 (Reserved)

**SUBCHAPTER 8. FAIR HEARINGS**

- 10:87-8.1 General provisions
- 10:87-8.2 CWA responsibility to provide fair hearing information
- 10:87-8.2A Fair hearing based on Federal changes
- 10:87-8.3 Request for fair hearing
- 10:87-8.4 Right to request a fair hearing
- 10:87-8.5 Time period for request of a hearing
- 10:87-8.6 Processing fair hearing requests
- 10:87-8.7 Participation during appeal
- 10:87-8.8 Delayed request
- 10:87-8.9 Reduction or termination due to mass change
- 10:87-8.10 Reduction or termination of benefits prior to a hearing decision
- 10:87-8.11 Prompt notice
- 10:87-8.12 Hearing procedures
- 10:87-8.13 Hearing official
- 10:87-8.14 Household rights
- 10:87-8.15 County welfare agency rights at hearing
- 10:87-8.16 Decision on fair hearing
- 10:87-8.17 Retention of record
- 10:87-8.18 Prospective or retroactive action
- 10:87-8.19 Corrective measures
- 10:87-8.20 Final administrative action
- 10:87-8.21 CWA responsibilities; fair hearings
- 10:87-8.22 through 10:87-8.26 (Reserved)

**SUBCHAPTER 9. CERTIFICATION-RELATED PROCEDURES**

- 10:87-9.1 Recertification
- 10:87-9.2 Recertification application processing
- 10:87-9.3 Notices of eligibility
- 10:87-9.4 Recertification/denial notice
- 10:87-9.5 Changes
- 10:87-9.6 Identification (ID) cards
- 10:87-9.7 Families First Program cards
- 10:87-9.8 Replacement of benefits
- 10:87-9.9 Credit adjustments to food stamp benefit accounts
- 10:87-9.10 Replacement of lost/stolen Families First cards
- 10:87-9.11 Miscellaneous administrative procedures
- 10:87-9.12 Case records
- 10:87-9.13 Security and control of Families First cards
- 10:87-9.14 (Reserved)

2. Receives supplemental security income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;

3. Receives federally or State-administered supplemental benefits under section 1616(a) of the Social Security Act, provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;

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

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

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

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

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

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

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

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

- i. Medicaid Only (Aged, Blind, and Disabled);
- ii. AIDS Community Care Alternatives Program;
- iii. Community Care Program for the Elderly and Disabled;

iv. Model Waivers I, II, or III (Medicaid Community/Home Care Waivers);

v. Home Care Expansion Program;

vi. Medically-Needy Program; or

vii. New Jersey Care Program.

(b) A pilot project is established to provide outreach efforts to assist elderly New Jersey residents receiving Supplemental Security Income (SSI) to make it easier to access and to apply for food stamp benefits. The name of the pilot is the Simplified Nutritional Assistance for Seniors (SNAS) program. Eligibility criteria for the SNAS program is as follows:

1. The individual is receiving SSI and is:

- i. Age 65 or older;
- ii. Not currently receiving food stamp benefits;
- iii. Living alone;
- iv. Not in receipt of earned income; and
- v. A New Jersey resident; and

2. CWAs will access a quarterly report from iACquire, which will identify SSI residents of their county who meet SNAS eligibility criteria. The CWAs shall be responsible for mailing a simplified application form with a return envelope to those SSI recipients in their county.

i. Interested applicants will mail the signed application back to the originating CWA.

ii. Applicants who do not wish to participate will be directed to check off a specific box on the cover letter stating that they do not wish to enroll in SNAS.

iii. Applications will be processed without a face-to-face or telephone interview.

iv. SNAS cases will not be expedited and will be certified for 24 months.

v. SNAS recipients will be mailed a new application form in the 23rd month, which will notify the household that their benefits will stop if the form is not returned by the 24th month.

vi. There is no proration of benefits in SNAS.

vii. SNAS project cases will receive a monthly benefit allotment.

viii. SNAS recipients may opt out of SNAS and may apply for food stamp benefits under the application project for the regular Food Stamp Program.

R.1983 d.72, eff. February 28, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 444(a).

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

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

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

Deleted "Licenses" and substituted "Is certified for".  
Amended by R.1989 d.121, effective February 21, 1989.

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

Repealed old text and substituted new.

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

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

Stylistic revisions and added new (a)11.

Recodified from N.J.A.C. 10:87-2.38 and amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Former N.J.A.C. 10:87-2.34, Special procedures for expediting service, recodified to N.J.A.C. 10:87-2.30.

Amended by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Added (b).

### 10:87-2.35 Categorically eligible WFNJ/GA households

(a) Any household, except those listed in (c) below, in which all members are authorized to receive WFNJ/GA benefits shall be considered categorically eligible for the Food Stamp Program. Households comprised entirely of those recipients, as specified at N.J.A.C. 10:87-2.32, shall be categorically eligible for food stamp benefits.

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

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

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

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

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

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

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

1. None of the provisions at N.J.A.C. 10:87-4, Financial Eligibility: Resources, apply to categorically eligible households, with the exception of N.J.A.C. 10:87-4.1(b) (categorical eligible provision) and 4.14 through 4.19 (transfer of resources). The provision at N.J.A.C. 10:87-6.8 shall not be applied to categorically eligible households;

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

3. The CWA shall deny the application of a household which is otherwise program eligible, but is entitled to no benefit because its net income results in a calculation of zero benefit; and

4. Sponsored alien information, which otherwise is required at N.J.A.C. 10:87-2.19(c) and 7.11.

New Rule, R.1993 d.62, effective February 1, 1993.

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

Amended by R.1999 d.6, effective January 4, 1999.

See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

Substituted references to WFNJ/GA for references to GA throughout; and in (a) and (d), substituted references to WFNJ/TANF for references to AFDC.

Recodified from N.J.A.C. 10:87-2.39 and amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section. Former N.J.A.C. 10:87-2.35, WFNJ/TANF eligibility determination (PA households), recodified to N.J.A.C. 10:87-2.31.

Amended by R.2007 d.129, effective May 7, 2007.

See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

In (b)4, substituted "Disqualified" for "A household member not the household head, disqualified"; deleted (c)2; and recodified (c)3 through (c)4 as (c)2 through (c)3.

### 10:87-2.36 (Reserved)

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

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

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

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

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

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

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

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

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

Added head of household text at (c)3.

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

Added new (s) and (t).

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

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

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

Amended by R.1999 d.6, effective January 4, 1999.

See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

Substituted references to WFNJ/TANF for references to AFDC throughout; in (a), rewrote 4; and in (c), deleted a former 2, and re-codified former 3 and 4 as 2 and 3.

Recodified to N.J.A.C. 10:87-2.32 by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Categorically eligible WFNJ/TANF/SSI households".

### 10:87-2.37 (Reserved)

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

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

Substantially amended.

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

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

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

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

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

Stylistic changes in (f).

Amended by R.1999 d.6, effective January 4, 1999.

See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (b), substituted references to FSP 901 for references to FSP 901A in the introductory paragraph and 1.

Recodified to N.J.A.C. 10:87-2.33 by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Procedures for SSI jointly processed households".

### 10:87-2.38 (Reserved)

R.1983 d.72, eff. February 28, 1983.

See: 15 N.J.R. 247(a), 15 N.J.R. 444(a).

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

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

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

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

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

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

Repealed old text and substituted new.

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

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

Stylistic revisions and added new (a)11.

Recodified to N.J.A.C. 10:87-2.34 by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Elderly or disabled household members".

### 10:87-2.39 (Reserved)

New Rule, R.1993 d.62, effective February 1, 1993.

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

Amended by R.1999 d.6, effective January 4, 1999.

See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

Substituted references to WFNJ/GA for references to GA throughout; and in (a) and (d), substituted references to WFNJ/TANF for references to AFDC.

Recodified to N.J.A.C. 10:87-2.35 by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Categorically eligible WFNJ/GA households".

## SUBCHAPTER 3. ELIGIBILITY FACTORS OTHER THAN NEED

### 10:87-3.1 Applicability

Nonfinancial eligibility factors in this section shall apply equally to all applicant households (see N.J.A.C. 10:87-2.19 and 2.20 for verification requirements).

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

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

Substantially amended.

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

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

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Amended the N.J.A.C. references.

### Case Notes

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

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

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

(b) Residents of shelters for battered women and children may participate in the program as a member of more than one household or in more than one county as a separate household in any month if the previously certified household of which they were members also contains the person who subjected them to abuse. (See also N.J.A.C. 10:87-2.4(a)4.)

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

Amended by R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Treatment of battered women and children.

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

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

Reference to N.J.A.C. 10:87-9.8 deleted.

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

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

Substantially amended.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted "Residents of shelters for battered women and children:"; added the N.J.A.C. reference.

### 10:87-3.3 Determination of residency

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

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

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

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

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

Added (a)1.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted "Vacationer excluded."

#### Case Notes

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

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

The county welfare agency shall be responsible for recording the applicant's correct address, or location where the applicant may be contacted, in the case record. Confidentiality for persons participating in the Address Confidentiality Program shall be maintained in accordance with N.J.A.C. 10:87-1.14. The CWA shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility.

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

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

Substantially amended.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Added second sentence.

#### 10:87-3.5 Citizenship or permanent alien status

To receive program benefits, the applicant shall be either a United States citizen or a qualified eligible alien.

Amended by R.2007 d.129, effective May 7, 2007.

See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Substituted "a qualified" for "an".

#### 10:87-3.6 U.S. citizen defined

For the purposes of N.J.A.C. 10:87-3.5, the United States shall be defined as the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Swain's Island, American Samoa, and the Northern Mariana Islands. Citizenship shall be verified only if questionable in accordance with N.J.A.C. 10:87-2.20(b).

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

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

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

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

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

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

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

Revised N.J.A.C. citation.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Amended N.J.A.C. reference.

#### 10:87-3.7 Eligible alien

(a) Qualified aliens who have been lawfully admitted for permanent U.S. residence and/or who are permanently and lawfully residing in the U.S. shall be eligible for participation in the Food Stamp Program. For a specific listing of aliens eligible for program benefits, see N.J.A.C. 10:87-3.8.

(b) The presence of a person in the household who is ineligible for participation in the program because of his or her alien status shall not prevent the remainder of the household from being certified for program benefits, if eligible (see also N.J.A.C. 10:87-2.19(c)).

(c) If the household is comprised of minors (who are eligible for participation in the program) and an adult member who is ineligible for program benefits because of his or her alien status, such adult may make application on behalf of the remaining members of the household. However, if there is another adult in the household who is eligible for benefits, that person shall make application.

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

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

Substantially amended.

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

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

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted "Ineligible alien as a member of the household" and amended the N.J.A.C. reference; in (c), deleted "Ineligible alien as applicant".

Amended by R.2007 d.129, effective May 7, 2007.

See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Substituted "Qualified aliens" for "alien".

#### 10:87-3.8 Eligible aliens defined

(a) A documented alien is an individual with "documentation," supplied by the United States Citizenship and Immigration Services (USCIS), which supports the alien being in the United States. An undocumented alien is an individual who has no "documentation," supplied by USCIS to indicate his or her alien status.

(b) Immigrants shall meet the following two requirements to be eligible for food stamp benefits in addition to other program requirements:

1. Be in a qualified alien category; and
2. Meet a condition that allows qualified aliens to get food stamp benefits.

(c) A qualified alien in the context of food stamp benefit eligibility is defined as an individual who falls into one of the categories required for qualified alien status (see (d) and (e) below).

Amended by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

In (d)7ii, inserted “, unless the individual meets the exemption criteria at N.J.A.C. 10:87-10.2(b)3”.

### 10:87-3.15 Social Security numbers

Providing the Social Security Number for each household member is voluntary; however, failure to provide a SSN will result in denial of food stamp benefits to each individual failing to provide a SSN. Once a SSN is verified, the CWA may share it with other State and Federal agencies. Any SSNs provided of non-applicant members shall be used and disclosed in the same manner as SSNs of eligible household members. If individuals have more than one number, all numbers shall be required. The CWA shall explain to applicants and participants that refusal or inability to provide a SSN will result in disqualification of the individual for whom the number has not been provided.

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

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

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

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

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

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

### 10:87-3.16 Work registration

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

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

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

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

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), inserted “or, if available, to electronically register” at the end.

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

Individuals are ineligible for the Food Stamp Program benefits while they are fleeing to avoid prosecution, custody, or confinement for a felony or attempted felony, or for violating a condition of probation or parole. If the CWA determines that an individual has a warrant out for his or her arrest, the agency shall also verify that the individual has knowledge of the warrant. Once an individual has knowledge

of the warrant, either by having received the warrant personally, or by being advised of its existence by the agency, he or she is technically at that time “fleeing” and ineligible for food stamp benefits. Where the agency learns that an individual has a warrant out for his or her arrest during the application processing period, the worker is required to verify with the applicant whether he or she has knowledge of the warrant. Furthermore, the individual shall be given the opportunity to submit documentation that a warrant has been satisfied, if that is what he or she states.

New Rule, R.1998 d.498, effective October 5, 1998.

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

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

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

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

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

1. Eligibility for benefits shall commence upon completion of the established requirements of the DHSS licensed or approved substance abuse treatment program.

2. A good cause exception may be granted, as determined by the FSP certification worker, to persons convicted of possession or use of a controlled substance who want to establish eligibility for FSP benefits when:

i. The person confirms his or her participation in the Drug Court Initiative (DCI). Documentation shall consist of written verification, on agency letterhead, confirming that a Treatment Assessment Services for the Courts (TASC) evaluator's substance abuse assessment has been completed and the level of treatment required

by the courts. DCI participants are not referred to the Substance Abuse Initiative (SAI) for assessment or substance abuse treatment;

ii. The FSP certification worker is able to confirm that:

(1) The person has already completed a DHSS licensed or approved residential, in-patient or out-patient substance abuse treatment program;

(2) The person entered a DHSS licensed or approved residential substance abuse treatment program (SATP) on his or her own and is actively participating in treatment; or

(3) The person does not need substance abuse treatment at this time and he or she is able to function at work or in a work activity;

iii. The person confirms that he or she was enrolled in a DHSS facility, and then later discharged as a result of physical or mental health problems (including pregnancy). Documentation shall consist of written verification on agency letterhead, from the facility that he or she was discharged confirming the reason for the discharge and the date of discharge; and

iv. The person is not able to enroll in a DHSS licensed or approved SATP, due to the facility's inability to accommodate the person's physical or mental health problems (including pregnancy) or capacity issues in the treatment programs. Such an individual shall make and document his or her good faith effort to attempt to enroll in at least three facilities. Attempts by the individual to enroll in a facility may be pursued by telephone. Documentation shall consist of written confirmation from each DHSS licensed or approved SATP, on agency letterhead, verifying that the person sought entry into the facility; and, the date(s) and reason (mental or physical health problems or capacity issues in the treatment programs) the facility denied the individual's request for enrollment. Documentation of the person's good faith effort shall be provided promptly, as a condition of eligibility, so that the eligibility determination can be completed within the 30-day time frame in accordance with N.J.A.C. 10:90-1.5.

3. A good cause exception may also be granted, as determined by the FSP certification worker, to persons convicted of distribution of a controlled substance for the same reasons and under the same conditions identified at (b)2 above for persons convicted of possession or use who want to establish eligibility for FSP benefits.

(c) During the first 60 days after successful completion of the drug treatment program or at the time of application or case redetermination, it must be determined, via testing by an entity designated by DFD, that the person is free of any nonprescribed controlled substance. If the person is determined not to be free of any controlled substance during, or at

the conclusion of, the 60-day period, the person's eligibility for benefits shall be terminated immediately, after allowing for the issuance of advance notice of adverse action.

(d) If the test indicates positive for any controlled substance, benefits cannot be granted or reinstated until the person completes another substance abuse treatment program, and remains drug free for a minimum of 60 days and is determined via testing to be free of any non-prescribed controlled substance.

New Rule, R.1998 d.498, effective October 5, 1998.

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), inserted "unless enrolled in, actively participating in or has completed a licensed residential substance abuse treatment program (LRDTP)" at the end of the introductory paragraph; rewrote (b); in (d), substituted "If the test indicates positive for any controlled substance, benefits" for "Benefits" and substituted "substance abuse" for "drug".

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

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

New Rule, R.1998 d.498, effective October 5, 1998.

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

## SUBCHAPTER 4. FINANCIAL ELIGIBILITY; RESOURCES

### 10:87-4.1 Applicability

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

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

(b) Households that are categorically eligible as defined at N.J.A.C. 10:87-2.32 and 2.35 do not have to meet the resource limits or definitions of this subchapter. Categorically eligible households cited at N.J.A.C. 10:87-2.32 are subject to the transfer of resource provisions at N.J.A.C. 10:87-4.13.

Amended by R.1984 d.414, effective September 17, 1984.

See: 16 N.J.R. 1934(a), 16 N.J.R. 2441(a).

Section substantially amended.

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

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

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

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

Amended by R.1999 d.6, effective January 4, 1999.  
See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (a), substituted references to WFNJ/TANF for references to AFDC.  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), amended the N.J.A.C. references following "s defined at" and "cited at" respectively.

Amended by R.2009 d.94, effective March 16, 2009.  
See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Updated the final N.J.A.C. reference in (b).

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

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

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

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

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

#### Case Notes

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

#### 10:87-4.3 Resources defined

(a) The resources of a household shall include the following, which shall be recorded by the CWA in sufficient detail to permit verification if necessary (see N.J.A.C. 10:87-2.19, 2.20 and 4.5).

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

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

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

iii. Money placed into an account from a reverse mortgage shall be considered a liquid resource;

2. Monies withdrawn from a 401K plan.

i. In counting resources of a household with monies withdrawn from a 401K plan, the CWA shall include the total cash value of the monies withdrawn. If the 401K plan has been withdrawn early, the resource amount is determined by subtracting the penalty (if any) assessed for early withdrawal from the total amount of monies received;

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

4. Resources deemed to an alien from his or her sponsor, in accordance with N.J.A.C. 10:87-7.11.

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

(a)1: "N.J.A.C. 10:87-5.9(a)10" was "(a)9".

Amended by R.1983 d.121, effective April 4, 1983.  
See: 15 N.J.R. 247(a), 15 N.J.R. 625(b).

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

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

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

Substantially amended.

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

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

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

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

Corrected a cross-reference.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), amended the N.J.A.C. references in the introductory paragraph and 3, substituted "at" for "in" and "under" respectively in the introductory paragraph of 1 and in 2; deleted the introductory phrases throughout.

Amended by R.2007 d.129, effective May 7, 2007.

See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Added (a)liii and new (a)2; recodified former (a)2 through (a)3 as (a)3 through (a)4; in (a)3, substituted "; and" for the period at the end; and in (a)4, deleted "shall include resources" following "Resources", and inserted a comma following "sponsor".

#### Case Notes

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

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

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

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

(a) Resources held jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the

household can demonstrate that it has access to only a portion of the resources, only the value of that portion shall be counted toward the household's resource level.

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

(c) The following resources shall be considered inaccessible to residents of a shelter for battered women and children:

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

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

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

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

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

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

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

Added "only" and deleted "of the resource".  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted the introductory phrase and substituted "at" for "in" preceding the N.J.A.C. reference; in (c), substituted "The following resources" for "Residents of shelter for battered women and children: Resources" in the introductory paragraph.

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

Resource information shall be verified prior to certification only if questionable (see N.J.A.C. 10:87-2.20).

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

Deleted (a)4 and substituted (i).  
Amended by R.1990 d.270, effective May 21, 1990.  
See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

Deleted (i) from N.J.A.C. reference.  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).  
Amended N.J.A.C. reference.

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

(a) The resources of nonhousehold members, as described at N.J.A.C. 10:87-2.3(a), shall not be counted as available to the household in accordance with N.J.A.C. 10:87-7.7(e) and (f).

(b) The resources of excluded household members, as described at N.J.A.C. 10:87-2.3(c), shall be counted as available to the remaining household members in accordance with N.J.A.C. 10:87-7.7(b) and (c).

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

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

(a)1. and 2. deleted.  
Amended by R.1983 d.223, effective May 31, 1983.  
See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

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

Distinction made between nonhousehold and excluded household members.

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

Deleted (b)1 and (c)1.  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), amended the N.J.A.C. reference following "in accordance with"; substituted "at" for "in" following "as described" and deleted the introductory phrases throughout.

#### 10:87-4.7 Resource exclusions

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

Amended by R.1983 d.223, effective May 31, 1983.  
See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

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

Language added concerning excluded household member.

#### Case Notes

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings on AFDC determination (Division's Final Decision). *G.M. v. Mercer Cty. Bd. of Social Services*, 4 N.J.A.R. 233 (1983).

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

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

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

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

- i. Public rights of way, such as roads that run through the surrounding property and separate it from the home, will not affect the exclusion of the property.
  - ii. The home and surrounding property shall remain excluded when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, only if the household intends to return to the home.
  - iii. Households which currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home.
2. Household goods, including such items as furniture and appliances.
  3. Personal effects, including such items as clothing or jewelry.
  4. One burial plot per household member. In addition, the value of one bona fide funeral agreement per household member is also excluded (including cremation), provided that the agreement does not exceed \$1,500 in equity value. If the agreement exceeds \$1,500 in equity value, then any value in excess of \$1,500 shall be counted towards the household's resource limit.
  5. The cash value of life insurance policies.
  6. The cash value of pension plans (such as 401Ks) or funds, only if the funds remain in the pension plans. Keogh plans that involve no contractual relationship with individuals who are not nonhousehold members and Individual Retirement Accounts (IRAs) shall not be excluded.
    - i. Keogh plans involving a contractual relationship with a nonhousehold member (such as Keogh plans established for the self-employed person(s) and employees) shall be excluded. However, if the Keogh plan is such that individual participants may make withdrawals without affecting the other parties in any way (for example, without any contractual obligation to the other participants), then the household member's funds in the Keogh plan will be counted as a resource.
  7. Property which annually produces income consistent with its fair market value, even if used only on a seasonal basis. Such property shall include rental and vacation homes.
  8. Property, such as farm land, which is essential to the employment or self-employment of a household member. Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year from the date the household member terminates his or her self-employment from farming.
  9. Work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment of a household member.
  10. Licensed vehicles (see N.J.A.C. 10:87-4.11).
  11. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value. The exclusion shall also apply to the value of any property sold under contract, or held as security in exchange for a purchase price consistent with the fair market value of that property.
  12. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended. For example, payments made by the Department of Housing and Urban Development (HUD) through the individual and family grant program of disaster loans or grants made by the Small Business Administration (SBA) shall be excluded.
  13. Resources having a cash value which is not accessible to the household, such as, but not limited to, irrevocable trust funds (see (a)14 below for treatment of irrevocable trusts), security deposits on rental property or utilities, property in probate and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold.
    - i. The CWA shall verify that the property is actually for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.
    - ii. Non-liquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the creditor from selling the asset(s) shall be excluded.
    - iii. If the sale or other disposition of a resource is unlikely to produce any significant amount of funds for the support of the household, the resource shall be considered inaccessible. The CWA is not required to verify that a resource is inaccessible unless the information provided by the household is questionable. When the equity value of any vehicle is under \$1,500, it shall be considered as an inaccessible resource.
  14. Any funds held in a trust or transferred to a trust, and the income produced by that trust, to the extent it is not available to the household, shall be considered inaccessible if all of the following criteria apply:
    - i. The trustee administering the funds is one of the following:

(1) A court, or an institution, corporation or organization which is not under the direction or ownership of any household member; or

(2) An individual (who may be a household member) appointed by the court who has court-imposed limitations placed on his or her use of the funds that meet the requirements of this paragraph;

ii. The funds held in an irrevocable trust are either of the following:

(1) Established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust; or

(2) Established from nonhousehold funds by a nonhousehold member;

iii. Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member;

iv. The trust arrangement is not likely to cease during the certification period; and

v. No household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period.

15. Resources, such as those of students or self-employed persons, that have been counted as income (see N.J.A.C. 10:87-5.4(a)).

16. Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

17. Resources which are excluded for food stamp purposes by express provision of Federal statute. The following is a listing of resources excluded by Federal statute:

i. Benefits received from the Special Supplemental Food Program for Women, Infants, and Children (WIC) (Public Law 92-433);

ii. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646);

iii. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 94-540);

iv. Payments received under the Alaska Native Claims Settlement Act (Public Law 92-203) or the Sac and Fox Indian Claims Agreement (Public Law 94-189);

v. Payments received by certain Indian tribal members regarding submarginal land held in trust by the United States (Public Law 94-114);

vi. Payments received from the Energy Crisis Assistance and Crisis Intervention Programs administered by the Community Service Administration;

vii. Payments or allowances made under any Federal law for the purpose of energy assistance. In order to qualify for this exclusion, the payments or allowances must be clearly identified as energy assistance by the legislative body authorizing the program or the funds. Home Energy Assistance payments, as well as Federal or State one-time payments for weatherization, or emergency repair or replacement of heating or cooling devices qualify for this exclusion;

viii. Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission as designated under Public Law 95-443;

ix. Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420);

x. Payments for relocation assistance to members of the Hopi and Navajo Tribes shall be excluded from both resources and income (Public Law 93-531);

xi. Federal and State earned income tax credits (EITC) received either as a lump sum or as payments under Section 3507 of the Internal Revenue Code shall be excluded for 12 months, provided that the household was participating in the Food Stamp Program at the time of receipt of the earned income tax credit, and provided the household participates continuously during that 12-month period. Breaks in participation of one month or less due to administrative reasons, such as delayed certification, shall not be considered as nonparticipation in determining the 12-month period;

xii. Payments received under the Civil Liberties Act of 1988 (P.L. 100-383);

xiii. Resources of a household member receiving WFNJ/TANF and/or SSI benefits;

xiv. Resources of a household member which are placed in a Plan for Achieving Self-Support (PASS) account;

xv. Payment received under the Radiation Exposure Compensation Act (P.L. 100-426);

xvi. All payments from the Agent Orange Compensation Exclusion Act (P.L. 101-201), retroactive to January 1, 1989. Payments made from the Agent Orange settlement fund under section 10405 of P.L. 101-239 are also excluded. Veteran's benefits authorized under the Agent Orange Act of 1991 (P.L. 102-4) are not excluded by law;

xvii. Payments under the Crime Act of 1984 to victims of crime (P.L. 103-322);

xviii. Payments made under Section 421 of P.L. 104-204 for children of Vietnam veterans who are born with spina bifida;

xix. Payments made under the Nazi Persecution Crimes Act;

xx. Payments made under Public Law 100-707, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to pay Disaster Unemployment Assistance to any individual unemployed as a result of a major disaster; and

xxi. Payments under Public Law 109-64, which amended the National Flood Insurance Act of 1968, mandates that payments made under the National Flood Insurance Program (NFIP) for flood mitigation activities shall not be counted as a resource of the owner of the property when determining eligibility for any Federal means-tested program. In determining eligibility for the Food Stamp Program, CWAs shall exclude as resources any payments received by property owners under NFIP.

18. HUD retroactive tax and utility cost subsidy payments issued pursuant to settlement of *Underwood vs. Harris* against HUD, for the month in which the payment was received and for the following month.

19. Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. (See N.J.A.C. 10:87-4.7.)

20. Funds held in an Individual Development Account (IDA) established in accordance with Public Law 2001, c.93.

Amended by R.1980 d.117, effective March 19, 1980.

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

(a)17iii: Added language on advances; replaced reference to various tax Acts of 1975 and 1976 with "before January 1, 1980, ..."

(a)17iv: "Youth Employment and Demonstration Project Act of 1977" was replaced by "Title IV ..."; deleted reference to nonexclusion of CETA and Young Adults Conservation Corps payments.

Amended by R.1980 d.220, effective July 1, 1980.

See: 12 N.J.R. 191(c), 12 N.J.R. 323(d).

Added subparagraph (a)17vii.

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

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

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

Amended by R.1983 d.141, effective May 2, 1983.

See: 15 N.J.R. 212(b), 15 N.J.R. 692(b).

Language added clarifying irrevocable trusts and court administered trusts as inaccessible resources. Federal payments to certain Indian Tribes added as excludable resources.

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

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

Substantially amended.

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

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

Exclusion of payments received under Wartime Relocation Act added at (a)17xiv.

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

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

In (a)8: added text regarding one-year resource exclusion to income producing assets.

In (a)17: deleted iv., "Payments from certain Federal programs," and renumbered v through xiv as iv through xiii with no change in text.

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

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

In (a)17xiii: revised reference to Civil Liberties Act of 1988.

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

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

Added (a)13iii; revised (a)17vii, xii and xiii; added new xiv through xvi.

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

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

In (a), rewrote 4 and 17.

Amended by R.1999 d.6, effective January 4, 1999.

See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (a)17xiii, substituted a reference to WFNJ/TANF for a reference to AFDC.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote (a).

Amended by R.2007 d.129, effective May 7, 2007.

See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

In (a)6, inserted "(such as 401Ks)"; in (a)17xi, inserted "and State", and deleted the last sentence; in (a)17xiv, deleted "and" from the end; in (a)17xv through (a)17xix, substituted a semicolon for the period at the end; and added (a)17xx and (a)17xxi.

Amended by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

In (a)10, substituted "Licensed" for "Certain licensed" and updated the N.J.A.C. reference.

### Case Notes

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

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

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

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings in AFDC determination (Division's Final Decision). G.M. v. Mercer Cty. Bd. of Social Services, 4 N.J.A.R. 233 (1983).

Irrevocable trusts. Camden County Board of Social Services v. "M.L.", 1 N.J.A.R. 155, (1980).

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

### 10:87-4.9 Treatment of excluded funds

(a) Any monies excluded by the provisions of N.J.A.C. 10:87-4.8 shall retain the resource exclusion for an unlimited period of time so long as such monies are kept in a separate account and not commingled in an account with nonexcluded funds.

(b) The resources of students and self-employed persons that are excluded as provided at N.J.A.C. 10:87-4.8(a)15 and are commingled in an account with nonexcluded funds shall retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies which are commingled in an account with nonexcluded funds shall retain their exclusion for six months from the date they are commingled. After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

Amended by R.1980 d.117, effective March 19, 1980.  
See: 11 N.J.R. 517(a), 12 N.J.R. 194(b).

(b) Added first sentence; in second sentence "All other" was "Those".  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), deleted the introductory phrase and substituted "at" for "in" preceding the N.J.A.C. reference.

#### 10:87-4.10 Value of resources

The value of a nonexempt resource (except for licensed vehicles as described in N.J.A.C. 10:87-4.11) shall be its equity value. The equity value is the fair market value less encumbrances. When necessary, the value of resources shall be determined by consulting sources knowledgeable as to the value of such resources. The source and result of any such verification shall be documented in the case record.

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

Substantially amended.  
Amended by R.2009 d.94, effective March 16, 2009.  
See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).  
Updated the N.J.A.C. reference.

#### 10:87-4.11 Treatment of licensed vehicles

The entire value of all licensed vehicles in a food stamp household are not included as a resource toward a food stamp household's resource limit.

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

Substantially amended.  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote (a); in (c), substituted "on" for "in" following "is no longer listed"; deleted the introductory phrases and substituted references to KBB for reference to the Red Book throughout.

Repeal and New Rule. R.2009 d.94, effective March 16, 2009.  
See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Section was "Fair market value of licensed vehicles".

#### 10:87-4.12 Maximum allowable resources

(a) The maximum allowable resources, including both liquid and non-liquid assets of all members of the household, shall not exceed \$2,000 for the household; except that for households including a member or members aged 60 or over and beginning on October 1, 2002, members who are disabled

as defined at N.J.A.C. 10:87-2.34, such resources shall not exceed \$3,000.

(b) If the household's non-excludable resources exceed the above amounts at any point in time, the household's participation in the program shall be denied or terminated.

Emergency Amendment R.1986 d.191, effective, April 29, 1986 (operative May 1, 1986, expires June 30, 1986).

See: 18 N.J.R. 1108(a).

Resource maximum raised from \$1,500 to \$2,000.

Readoption of Emergency Amendment and Concurrent Proposal, R.1986 d.301, effective June 30, 1986.

See: 18 N.J.R. 1108(a), 18 N.J.R. 1464(b).

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

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

Repealed old text and substituted new.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), inserted "and beginning on October 1, 2002, members who are disabled as defined at N.J.A.C. 10:87-2.34" following "60 or over".

Recodified from N.J.A.C. 10:87-4.13 by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Former N.J.A.C. 10:87-4.12, Treatment of licensed vehicles, repealed.

#### Case Notes

Food stamp applicant ineligible, stock given as gift. *Z.A. v. Bergen County Board of Social Services*. 94 N.J.A.R.2d (DEA) 11.

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

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

Funds in joint checking account which constituted an accessible trust must be included as a resource in the calculation of resource limitation for Food Stamp program; denial of eligibility affirmed as resource limitation excluded; remand for factual findings on AFDC determination (Division's Final Decision). *G.M. v. Mercer Cty. Bd. of Social Services*, 4 N.J.A.R. 233 (1983).

Proceeds from injury claim held in escrow by applicant's attorney counted as resource in total resource computation for eligibility. *M.R. v. Camden Cty. Welfare Bd.*, 1 N.J.A.R. 94 (1979).

Camden County Board of Social Services v. "M.L.," 1 N.J.A.R. 155, (1980).

#### 10:87-4.13 Transfer of resources

At the time of application, households shall be asked to provide information regarding any resources which any household member (or excluded household member whose resources are being considered available to the household) has transferred within the three month period immediately preceding the date of application.

Recodified from N.J.A.C. 10:87-4.14 by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Former N.J.A.C. 10:87-4.13, Maximum allowable resources, recodified to N.J.A.C. 10:87-4.12.

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.14 Disqualification**

Households, which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified for up to one year (see schedule at N.J.A.C. 10:87-4.18) from the date of discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the three-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets, which the household acquires after being certified for benefits and which are then transferred to prevent the household from exceeding the maximum resource limit.

As amended, R.1983 d.223, eff. May 31, 1983.  
See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

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

Parenthetical information on excluded household members added.  
Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Recodified from N.J.A.C. 10:87-4.15 and amended by R.2009 d.94, effective March 16, 2009.  
See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Inserted the commas following "Households" and "assets", updated the N.J.A.C. reference, and substituted "three-month" for "three month". Former N.J.A.C. 10:87-4.14, Transfer of resources, recodified to N.J.A.C. 10:87-4.13.

**Case Notes**

"J.F." v. Middlesex County Welfare Board, 1 N.J.A.R. 311, (1980).

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.15 Transfers not subject to disqualification**

(a) Eligibility for the program will not be affected by the following transfers:

1. Resources which would not otherwise affect eligibility; for example, resources consisting of excluded personal property such as furniture or money that, when added to other nonexcluded household resources, totalled less than the allowable resource limit at the time of the transfer;
2. Resources that are sold or traded at, or near, fair market value;
3. Resources which are transferred between members of the same household (including excluded household members whose resources are being considered available to the household); or

4. Resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits (e.g., a parent placing funds into an educational trust fund, as at N.J.A.C. 10:87-4.8(a)14).

As amended, R.1983 d.223, eff. May 31, 1983.  
See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

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

Parenthetical information added concerning excluded household members.

Amended by R.1989 d.121, effective February 21, 1989.  
See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).  
Amended by R.2004 d.181, effective May 17, 2004.  
See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), substituted "at" for "in" in 4 and deleted the introductory phrases throughout.  
Recodified from N.J.A.C. 10:87-4.16 by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Former N.J.A.C. 10:87-4.15, Disqualification, recodified to N.J.A.C. 10:87-4.14.

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.16 Notice to applicant household**

In the event that the CWA establishes that an applicant household has knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits, the household shall be sent a notice of denial explaining the reason for the length of disqualification. The period of disqualification shall begin in the month of application.

Recodified from N.J.A.C. 10:87-4.17 by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Former N.J.A.C. 10:87-4.16, Transfers not subject to disqualification, recodified to N.J.A.C. 10:87-4.15.

**Case Notes**

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

**10:87-4.17 Notice to participating household**

If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for the length of disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action period has expired, unless the household has requested a fair hearing and continued benefits.

Recodified from N.J.A.C. 10:87-4.18 by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Former N.J.A.C. 10:87-4.17, Notice to applicant household, recodified to N.J.A.C. 10:87-4.16.

#### Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

#### 10:87-4.18 Period of disqualification

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

Disqualification Period Chart

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

Amended by R.1982 d.473, effective January 3, 1983.

See: 14 N.J.R. 1037(a), 15 N.J.R. 34(a).

Resource limits changed from \$1,500 to \$1,250 and from \$1,750 to \$1,500.

Amended by R.1986 d.301, effective July 21, 1986.

See: 18 N.J.R. 1464(b).

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

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

Substantially amended.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Amended dollar amounts in the introductory paragraph.

Recodified from N.J.A.C. 10:87-4.19 and amended by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

In the introductory paragraph, deleted the former second sentence; and in the second column of the "Disqualification Period Chart", substituted "1 month" for "1 months". Former N.J.A.C. 10:87-4.18, Notice to participating household, recodified to N.J.A.C. 10:87-4.17.

#### Case Notes

Transfer of resources by way of account withdrawal and payment of unverifiable loan on date of application to meet eligibility requirements is proper grounds for benefits denial. "J.F." v. Middlesex Cty. Welfare Agency, 1 N.J.A.R. 311 (1980).

#### 10:87-4.19 (Reserved)

Recodified to N.J.A.C. 10:87-4.18 by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Section was "Period of disqualification".

#### 10:87-4.20 (Reserved)

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

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

Repealed by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Section was "Resources of nonhousehold members".

## SUBCHAPTER 5. FINANCIAL ELIGIBILITY; INCOME

### 10:87-5.1 Applicability

(a) All households which do not contain an elderly or disabled member, shall meet both the net and gross income eligibility standards set forth in N.J.A.C. 10:87-12.3 and 12.4, respectively, in order to be eligible for program participation, with the exception of (b) below. Households which contain an elderly or disabled member shall meet the net income eligibility standards in N.J.A.C. 10:87-12.3. Net food stamp income shall be determined in accordance with procedures contained in this subchapter.

(b) Households that are categorically eligible as defined at N.J.A.C. 10:87-2.32 and 2.35 do not have to meet either the gross or net income eligibility standards.

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

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

Reference to meeting net and gross income eligibility.

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

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

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

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

In (a): deleted language "including those in which all members are recipients of public assistance" describing households.

Added text with reference to exception of subsection (b).

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

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

In (b), added N.J.A.C. 10:87-2.39.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (b), amended the N.J.A.C. references.

### 10:87-5.2 Responsibilities regarding the reporting of income

(a) Responsibilities for the reporting of income shall be as follows:

1. At the time of certification or recertification, the applicant shall report all income currently being received by all members of the household and any income changes or additions which the household anticipates during the course of the certification period. The applicant also has the responsibility of reporting changes in circumstances, in accordance with N.J.A.C. 10:87-9.5, during the certification period.

2. The CWA shall determine that the total income to the household, as reported by the applicant during the certification or recertification interview, is completely identified on the FSP-901 (application form), and in sufficient detail to permit verification (see also N.J.A.C. 10:87-2.19(b)).

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

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

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

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

In (a)2: revised reference to N.J.A.C. 10:87-2.20(b).

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), rewrote the section.

To determine the amount of the prorated allotment for the month of application the CWA shall use the Allotment Proration Table found at N.J.A.C. 10:87-12.5. If the allotment for the initial month is less than \$10.00 the CWA shall not issue benefits to that household.

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

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

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

(a): "(including ... Than a month)" added; (a) 1 added.

As amended, R.1983 d.121, effective April 4, 1983.

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

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

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

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

Substantially amended.

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

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

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

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), substituted a reference to N.J.A.C. 10:87-2.33(b)3 for a reference to N.J.A.C. 10:87-2.37(b)3; rewrote (b); in (c), deleted "Determining benefit level for initial month:" from the beginning of first sentence, substituted a reference to N.J.A.C. 10:87-2.33(b)3 for a reference to N.J.A.C. 10:87-2.37(b)3.

### 10:87-6.3 Application for recertification

(a) Eligibility for recertification shall be determined by circumstances anticipated for the certification period beginning with the month following the expiration of the current certification period. The level of benefits for recertification shall be based on the same anticipated circumstances.

(b) If an application for recertification is submitted after the household's certification period has expired, that application shall be considered an initial application and benefits for that month shall be prorated in accordance with N.J.A.C. 10:87-6.2(c).

1. If the household submits an application for recertification before the end of its certification period but is found ineligible for the first month following the end of that period, then the first month of any subsequent participation shall be considered an initial month.

2. Conversely, if the household submits an application for recertification prior to the end of its certification period and is found eligible for the first month following the end of the certification period, then that month shall not be an initial month for that household.

3. If the household contains a member who is a migrant or seasonal farmworker, the household's allotment shall not be prorated, if the household participated in the Program within 30 days prior to the date of the application.

(c) Any household that receives a notice at the time of certification, as discussed in N.J.A.C. 10:87-9.1(a), shall not be subject to proration for the first month of its certification

period if the deadline for filing for recertification falls after the end of its current certification period. However, households found ineligible for the first month following the end of their certification shall have the first month of any subsequent participation considered an initial month.

(d) For all households that the CWA elects the time frame for providing missing verification, as outlined at N.J.A.C. 10:87-2.19 through 2.24, and the end of the time frame falls after the end of that household's current certification period, the household shall not be subject to proration for the first month following the end of its current certification period, if it has provided the missing verification and is otherwise eligible.

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

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

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

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

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

Deleted old text and substituted new.

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

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

In (b): added 3 and revised N.J.A.C. reference in subsection (d).

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

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

Added language in (c) regarding "a notice at the time of" certification. Administrative change.

See: 30 N.J.R. 3550(a).

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (d), amended the N.J.A.C. reference.

#### Case Notes

Eligibility determination must include costs of producing income from applicant-owned apartment house. Essex Cty. Welfare Bd. v. "W.C.", 1 N.J.A.R. 36 (1979).

### 10:87-6.4 Ineligibility subsequent to month of application

As a result of anticipated changes, a household may be eligible for the month of application but ineligible in the subsequent month. Such households shall be entitled to benefits for the month of application even if the processing of its application results in benefits being issued in a subsequent month.

### 10:87-6.5 Ineligibility for month of application

(a) A household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in the subsequent month. The same application shall be used for both the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards at N.J.A.C. 10:87-2.26 and 2.27.

(b) Eligible households may have their initial month's allotment prorated to zero, but be entitled to some benefits in subsequent months. The CWAs must certify the household beginning with the month of application.

(c) A household's gross income could be low enough to make it eligible while its net income could be high enough to disqualify it on an ongoing basis. The CWA shall deny these households participation on the grounds that their net income exceed the level below which benefits are issued.

(d) A household which is otherwise eligible, based on their gross and net income, may only be entitled to zero benefits. Such a household shall have its application denied.

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

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

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

(a) 1 and 2 added.

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

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

Substantially amended.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

In (a), amended the N.J.A.C. references; in (b) and (c), deleted the introductory phrases; added (d).

#### 10:87-6.6 Varying allotments

As a result of anticipated changes, the household's allotment for the application month may differ from its allotment in subsequent months. The CWA must establish a certification period for the longest possible period in accordance with N.J.A.C. 10:87-6.20, over which changes in the household's circumstances can be reasonably anticipated.

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

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

Substantially amended.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Inserted a N.J.A.C. reference and deleted the third sentence.

#### 10:87-6.7 Determining resources and income

The procedures contained in N.J.A.C. 10:87-6.8 and 6.9 shall be used to determine financial eligibility and benefit levels (see also N.J.A.C. 10:87-7 for households with special income circumstances).

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

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

Substantially amended.

#### Case Notes

Division of Public Welfare is required to promptly correct any underpayments to current AFDC recipients; said payments are retroactive to the date the incorrect action was taken under former N.J.A.C. 10:82-2.19. *Eherenstorfer v. Div. of Public Welfare*, 196 N.J.Super. 405, 483 A.2d 212 (App.Div.1984).

#### 10:87-6.8 Resources

The household's resources at the time the application is filed shall be used to determine whether or not they exceed the maximums prescribed at N.J.A.C. 10:87-4.12.

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

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

Substituted "prescribed at" for "described in".

Amended by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

Updated the N.J.A.C. reference.

#### 10:87-6.9 Income determination

(a) For the purposes of determining the household's eligibility and basis of issuance, the CWA shall consider the income already received by the household during the certification period and any anticipated income that the household and the CWA are reasonably certain will be received during the remainder of the certification period. Income from a new source anticipated after application shall not be counted if the household is destitute (see N.J.A.C. 10:87-6.17 through 6.19).

(b) If the amount of income which will be received, or when it will be received, is uncertain, that portion of the