

(c) Earned income refers to gross income received by an individual through the receipt of wages, tips, salaries or commissions or receipt of income from self-employment. It includes earnings over a period of time for which settlement is made in one payment, for example, as in the sale of farm crops.

1. Earnings payable under the terms of a renewable contract, for example, earnings of school personnel, are to be prorated over the stated term of the contract only.

(d) With respect to self-employment, the term "earned income" means the total profit from a business enterprise (such as farming) resulting from a comparison of the gross receipts with the business expenses. Business expenses are those costs directly related to producing the goods or services and without which, the goods or services could not be produced.

1. Allowable deductions (expenses) for self-employment income for WFNJ recipients include the identifiable costs of labor, stock, seed, fertilizer, raw material, payments on the principal and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery and other durable goods, insurance premiums and taxes paid on an income-producing property.

2. Costs which are not allowable deductions in calculating self-employment income include net losses from earlier periods, personal expenses such as entertainment and travel to and from work, money set aside for retirement and taxes on retirement funds, depreciation, and Federal, State, and local income taxes.

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote (d).

10:90-3.10 Resources—WFNJ TANF/GA

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

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

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

2. For checking and saving accounts in which the names of the owners are stated in the disjunctive ("or" accounts), the eligible assistance unit member shall be presumed to possess all the funds therein regardless of their source. Such presumption is rebuttable and shall not apply if the eligible assistance unit member and/or the

other owner(s) demonstrate to the county or municipal agency that ownership of the funds is in a different proportion, predicated on contributions by each party to the sums on deposit.

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

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

2. The signer(s) of the assistance application shall sign a written agreement with the county or municipal agency which describes a mutually acceptable plan of liquidation which includes a statement of market value of the property. The plan may be revised as necessary by mutual agreement. If an appraisal is found necessary in order to reach agreement, the county or municipal agency may advance the cost of the appraisal from the administrative account. Such cost is subject to repayment or recovery (see (c)4 below).

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

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

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

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

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

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

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

i. When a trust fund is not currently accessible and it exists at the time of application, the applicant must, as a condition of eligibility, make a bona fide presentation of a petition to the appropriate court for release of the funds for current and future support. The county or municipal agency shall assist the applicant if necessary.

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

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

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

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