

**CHAPTER 90**

**WORK FIRST NEW JERSEY PROGRAM**

**Authority**

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

**Source and Effective Date**

R.2007 d.240, effective July 16, 2007.  
See: 39 N.J.R. 832(a), 39 N.J.R. 3936(a).

**Chapter Expiration Date**

Chapter 90, Work First New Jersey Program, expires on July 16, 2012.

**Chapter Historical Note**

Chapter 90, The Handbook for Home Services Program, was filed and became effective prior to September 1, 1969. Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980. See: 12 N.J.R. 192(a), 12 N.J.R. 323(a).

Chapter 90, Monthly Reporting Policy Manual, was adopted as R.1982 d.399, effective November 15, 1982. See: 14 N.J.R. 958(a), 14 N.J.R. 302(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, Monthly Reporting Policy Manual, was readopted as R.1987 d.454, effective November 16, 1987. See: 19 N.J.R. 1517(a), 19 N.J.R. 2193(a). Pursuant to Executive Order No. 66(1978), Chapter 90, Monthly Reporting Policy Manual, expired on October 14, 1992.

Chapter 90, Work First New Jersey Program, was adopted as R.1997 d.311, effective July 1, 1997 (to expire January 1, 1998). See: 29 N.J.R. 3287(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, Work First New Jersey Program, was readopted as R.1998 d.42, effective December 10, 1997. See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).

Subchapter 17, Early Employment Initiative (EEI), was adopted as R.1998 d.383, effective July 20, 1998. See: 30 N.J.R. 1489(a), 30 N.J.R. 3656(a) (operative August 1, 1998).

Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration, was adopted as R.1999 d.66, effective March 1, 1999. See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

Subchapter 19, Kinship Care Subsidy Program (KCSP), was adopted as R.2002 d.349, effective November 4, 2002. See: 33 N.J.R. 4191(a), 34 N.J.R. 3778(b).

Chapter 90, Work First New Jersey Program, was readopted as R.2003 d.226, effective May 5, 2003. As part of d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules. See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Chapter 90, Work First New Jersey Program, was readopted as R.2007 d.240, effective July 16, 2007. See: Source and Effective Date.

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1	\$210
2	\$289
3	\$366
4	\$420
5	\$480
6	\$540
7	\$597
8	\$655
More than 8	Add \$48.00 each person

Administrative correction.

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

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

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

In (a), deleted "equal to or" following "income is" throughout, and inserted "equals or" following "income" in the last sentence.

Administrative correction.

See: 36 N.J.R. 4316(a).

**10:90-3.7 Computing prorated cash assistance benefits for WFNJ TANF/GA recipients**

(a) The county or municipal agency shall prorate the initial cash assistance benefit or any other cash benefit that is issued for less than one month. The prorated benefit shall be determined by counting all income which has been received or which will be received in the month of application, and applying the appropriate disregards (see N.J.A.C. 10:90-3.8) to the earned income. The countable income shall be subtracted from the appropriate monthly maximum benefit payment level (Schedule II, IV or V located at N.J.A.C. 10:90-3.3, 3.5 and 3.6, as appropriate) and the result prorated by multiplying that amount by the factor appropriate for the date of application in the proration table below. If the result is not a whole dollar amount, the amount shall be rounded to the next lower whole dollar.

1. The effective date of the initial cash assistance benefit shall be the date of the application if the client was eligible on that date. If the client was found eligible on any other date, the initial grant shall be the date eligibility was established.

Proration Table for Initial/Partial Assistance Payments

<u>Date of Application</u>	<u>Multiplication Factor</u>	<u>Date of Application</u>	<u>Multiplication Factor</u>
1	1.000	16	.5000
2	.9666	17	.4666
3	.9333	18	.4333
4	.9000	19	.4000
5	.8666	20	.3666
6	.8333	21	.3333
7	.8000	22	.3000
8	.7666	23	.2666
9	.7333	24	.2333
10	.7000	25	.2000
11	.6666	26	.1666
12	.6333	27	.1333
13	.6000	28	.1000
14	.5666	29	.0666
15	.5333	30 and 31	.0333

**10:90-3.8 Computing the WFNJ TANF/GA monthly cash benefit using disregards for earned income**

(a) In computing the monthly cash assistance benefit for eligible new applicants who are employed, 50 percent of the gross earned income shall be disregarded for the first month and for each continuous month of employment thereafter.

(b) In computing the cash assistance benefit for WFNJ recipients who are unemployed and subsequently obtain employment, 100 percent of the gross earned income shall be disregarded for the first full month in which the earned income would be counted, and 50 percent of the gross earned income shall be disregarded for each continuous month of employment thereafter.

1. For purposes of budgeting income from new employment, earned income shall be budgeted prospectively. Recipients shall report earned income no later than 10 days from the date the recipient receives his or her first paycheck. CWAs/MWAs have 10 days from the date that such income is reported to act on the change. The 100 percent disregard shall then be applied for the first full month for which the income will be budgeted.

2. When budgeting new income from employment, if the agency is not able to budget the income for the first month following the month such income is reported, then the income and the 100 percent disregard shall be applied for the first of the next following month.

(c) In computing the cash assistance benefit for recipients who lose their employment through no fault of their own and subsequently become reemployed, the 100 percent disregard may be applied again for the first full month of employment only once every 12 months; otherwise, the 50 percent disregard shall be applied for each continuous month of employment.

(d) When a member of the eligible assistance unit receives a lump sum payment for services rendered over a period of more than a month, any disregard of earned income is to be computed for each month in which such income was earned.

(e) Income shall be considered available when with the exception of income from self employment, the income becomes payable but is not received by the individual due to his or her preference to voluntarily defer receipt of the income.

(f) In situations where a WFNJ applicant's or recipient's State or Federal benefit such as RSDI has been reduced due to an overpayment, the actual amount received from such entitled State or Federal benefit shall be counted when determining the cash assistance benefit.

(g) If gross income from employment is reduced due to garnishment of wages for a loan, lien or repayment of other outstanding debts other than child or spousal support, gross earned income shall be countable.

1. Child support and spousal support payments paid by any member of a WFNJ household assistance unit shall be disregarded in the determination of initial eligibility and calculation of the assistance payment.

(h) If an assistance unit is eligible for benefits and in receipt of child support, up to \$50.00 per month based on the amount of current child support received for that month shall be disregarded in the determination of maximum initial income eligibility and the cash assistance benefit computation. If the amount of child support received is less than \$50.00, the assistance unit shall receive the lesser amount. If the amount of child support received is \$50.00 or more, the assistance unit shall receive \$50.00. Thus, the total amount of child support disregarded shall not exceed \$50.00 per month per eligible assistance unit.

(i) When an individual is not included in the eligible assistance unit because of a sanction for failure to or refusal to comply with a WFNJ program requirement or is disqualified for an intentional program violation, and such individual has earned income, the gross amount of earned income shall be considered available, without application of the earned income disregards, to the eligible assistance unit (see N.J.A.C. 10:90-3.12).

(j) In the case of an overpayment caused by the recipient's failure, without good cause, to report earned income on a timely basis, the amount of the overpayment shall be calculated without application of the earned income disregards (see N.J.A.C. 10:90-3.21).

(k) A pilot project is established to increase the amount of earned income disregarded when computing the cash assistance benefit for recipients who are employed a minimum of 30 hours or more per week. One-hundred percent of the gross earned income shall be disregarded for the first full month in which the earned income would be counted. After the 100 percent disregard for the first month of employment, if the recipient is employed for a minimum of 30 hours or more a week, 75 percent of the gross earned income shall be disregarded for six consecutive months, and 50 percent of the gross earned income shall be disregarded for each continuous month of employment thereafter. If the recipient is employed less than 30 hours a week, after the 100 percent disregard for the first month of employment, 50 percent of the gross earned

income shall be disregarded for each continuous month of employment thereafter. For the duration of the pilot, disregards under (b) and (c) above shall not be applied.

1. In computing the cash assistance benefit for recipients who lose their employment through no fault of their own and subsequently become reemployed, the 100 percent disregard and the 75 percent disregard shall only be applied as specified in (k) above once every 12 months; otherwise, the 50 percent disregard shall be applied for each continuous month of employment.

i. If a recipient's hours of employment are reduced during the 75 percent disregard period through no fault of his or her own, he or she shall be entitled to receive the balance of any unused months of the 75 percent disregard, provided he or she has returned to being employed a minimum of 30 hours or more per week and it is within the six-month disregard period.

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

Added (c)1 and 2.  
Amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.  
Amended by R.2007 d.163, effective May 21, 2007.  
See: 39 N.J.R. 8(a), 39 N.J.R. 2113(a).

Added (k).

#### 10:90-3.9 Income—WFNJ TANF/GA

(a) Income is either countable or exempt. The provisions pertaining to exempt income may be found at N.J.A.C. 10:90-3.19.

(b) Income refers to earned or unearned and means, but is not limited to, child support, commissions, salaries, self-employed earnings, and spousal support payments, interest and dividend earnings, wages, receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, Federal income tax refunds, state income tax refunds, homestead rebates, inheritances, lottery prizes, casino and racetrack winnings, annuities, retirement benefits, RSDI, veterans' benefits, union benefits, or other sources that may be construed or defined as income.

2. For WFNJ/GA recipients in consolidated municipalities, the WFNJ agency shall place WFNJ/GA single adults and couples without dependent children in an approved activity and monitor compliance.

(d) Failure to actively cooperate with or participate in the WFNJ work activity requirements, without good cause, shall be considered noncompliance and shall result in loss of cash assistance benefits on a per capita basis (see N.J.A.C. 10:90-4.13, Sanctions).

1. For WFNJ/GA recipients in consolidated municipalities, when the NJOSCC reports to the county agency noncompliance by a WFNJ/GA participant, the county agency shall act on the report of noncompliance within 10 days and begin the WFNJ conciliation process (see N.J.A.C. 10:90-4.12, Sanction notification process).

2. For WFNJ/GA recipients in nonconsolidated municipalities, the NJOSCC is responsible for beginning the WFNJ conciliation process by issuing the sanction notification letter (see N.J.A.C. 10:90-4.12). If the recipient does not respond to NJOSCC within 10 days to take action to avoid a sanction, NJOSCC will report the noncompliance by the WFNJ/GA recipient to the municipal agency which will begin the sanction process (see N.J.A.C. 10:90-4.13).

(e) A recipient who is not engaged in full time unsubsidized employment shall be required to commence participation in a work activity, self-directed job search, job search or other designated work/educational activity as follows (whichever occurs first):

1. As soon as it is determined that the individual is ready to engage in work or in a work activity; or
2. At some time prior to the individual having received 24 months of cash assistance benefits (whether or not the receipt of such cash assistance is consecutive) unless deferred.
  - i. Receipt of 24 cumulative months of WFNJ cash assistance benefits does not in and of itself render an individual ineligible for cash assistance.

(f) All adult WFNJ recipients, teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis, including those individuals determined deferred from the WFNJ work requirement, shall be required to sign an initial individual responsibility plan (IRP) which shall indicate the terms of the work activity requirements and/or the plan of action based on the findings and conclusions from the initial assessment that the recipient must fulfill in order to continue to receive benefits as well as identify work related supportive services (such as child care, transportation, and other work-related expenses necessary to engage in work activities) that are to be provided. For all recipients not deferred from the WFNJ work requirements, the individual responsibility plan shall be updated annually or as necessary in accordance with individual progress and/or change in circumstances (see N.J.A.C. 10:90-4.8).

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

Added (a)2.

Amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.

Administrative correction.

See: 35 N.J.R. 4894(a).

Amended by R.2004 d.292, effective August 2, 2004.  
See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

Inserted "teen parents, and 16 through 18 year old individuals that are not attending school on a full time basis" in the first sentence of (a), introductory paragraph, 2, and (f).

**10:90-4.2 Work activity participation**

(a) All recipients, unless otherwise deferred, shall continuously and actively seek work and engage in job search. Recipients who are assessed to be job ready shall be placed in job search immediately. If no employment is found, they shall be reassessed, if appropriate and placed in a work activity as indicated by their individual assessments. Other recipients shall be placed in an appropriate work activity as indicated by the assessment results; however, they shall be encouraged to continuously seek employment.

1. Participation in job search may be counted for up to six weeks, of which no more than four weeks may be consecutive.

2. When an adult WFNJ/TANF recipient is placed in a CWEP or AWEP activity, the number of hours of participation per week, based on the receipt of TANF and Food Stamp benefits, shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the Food Stamp allotment less child support collections for the month, divided by the higher of the current Federal or State minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next lower whole hour.

i. If the calculated number of hours does not equal the mandated number of hours of participation for that recipient, the recipient shall continue to participate in the activity in accordance with the prescribed hours of participation for compliance under the WFNJ program. The participant shall be compensated for the total excess hours of participation required through the issuance of a supplemental participant allowance payment that shall be calculated as follows:

(1) Excess hours of participation shall be determined by subtracting the calculated hours of participation (determined using the grant, TRA, EA, and food stamp allotment less child support collections for the month as described above) from the mandated hours of participation for compliance under WFNJ program and multiplying the excess participation hours by the higher of the current Federal or State minimum hourly wage rate.

(b) An WFNJ/TANF adult recipient in a single parent family, unless temporarily deferred, shall be required to participate in one or more work activities for up to 40 hours per week.

1. WFNJ/GA single adults or couples without dependent children, unless temporarily deferred, shall be required to participate in one or more work activities for up to 30 hours per week.

i. When a WFNJ/GA individual(s) is participating in a CWEP activity, the maximum number of hours per week shall be determined by calculating the total of the recipient's monthly cash assistance grant, plus any Temporary Rental Assistance (TRA), Emergency Assistance (EA), and the Food Stamp allotment divided by the higher of the Federal or state minimum hourly wage and further divided by 4.333. Any resulting partial hour shall be rounded down to the next whole hour. The WFNJ/GA individual(s) may be required to participate in another activity such as job search or remediation.

ii. In nonconsolidated municipalities, the NJOSCC shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP based on the information reported by the municipal agency at the initial eligibility determination or when the municipal agency reports a change to NJOSCC. If available, NJOSCC may access this information through the State's automated information system.

iii. In consolidated municipalities, the county agency shall be responsible for calculating the number of hours a WFNJ/GA recipient is to participate in CWEP.

(c) A teen parent under the age of 18 shall be required, on a full time basis, to attend high school or an equivalent course of study unless:

1. It is determined that the teen parent is exempt from regularly attending high school or its equivalent, based upon an assessment which indicates the person's inability and lack of aptitude to successfully complete such academic requirements; then the teen parent shall be required to participate full time in an approved alternative educational or training program, including special educational programs for the learning and developmentally challenged (the hours of participation shall be in accordance with the scheduled program); or

2. The teen parent has completed secondary education; then he or she shall be required to participate in a work activity for a minimum of 35 hours per week.

(d) A recipient who has not completed high school and has not attained 20 years of age and is a single head of household, a single adult or either of the adults of a couple without dependent children shall be required to maintain satisfactory school attendance at secondary school or the equivalent during the month or participate in education directly related to employment for at least 20 hours per week. If it is determined that, due to the person's inability or lack of aptitude to successfully complete academic requirements, he or she shall be required to participate in another appropriate work activity.

(e) Each parent in a two-parent WFNJ/TANF family shall be required to participate in one or more activities for a minimum of 35 hours per week up to a maximum hourly total of 40 hours per week, unless otherwise deferred in accordance with N.J.A.C. 10:90-4.9.

1. For one parent, 30 hours of the required 35 hours of participation shall include participation in one or more of the following federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job training; job-search and job readiness assistance; community service programs; vocational educational training (not to exceed 12 months per individual) which may be combined with work experience; or the provision of child care services to an individual who is participating in a community service program.

2. The second parent shall be required to satisfactorily participate in work activities for 35 hours a week of which a minimum of 20 hours shall be in the following Federally recognized activities: unsubsidized employment; work experience (including work associated with the refurbishing of publicly assisted housing); on-the-job-training; or community service programs.

(f) Individuals 16 through 18 years of age who are attending school on a full-time basis and are expected to complete the program of the school before reaching the age of 19 are required to satisfactorily attend the scheduled classes at a secondary school or a course of study leading to a certificate of general equivalence.

1. Individuals, age 16 through 18, who are students and who drop out of school will be required to enroll and participate in another appropriate work activity for a minimum of 35 hours per week. Failure to comply with the work activity will result in the sanctions for such persons as stipulated at N.J.A.C. 10:90-4.11.

(g) A recipient who is a full-time post-secondary student in a course of study related to employment, as defined at N.J.A.C. 10:90-4.3(j)1, shall be required to engage in another work activity for 15 hours a week subject to the recipient making satisfactory progress toward the completion of the post-secondary course of study.

Administrative correction.

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

In (b), deleted "a minimum of 35 hours per week to a maximum aggregate hourly total of" preceding "up to 40 hours per week"; in (b)1, deleted "for an average total of 30 hours per week" following "or more work activities"; in (e)1 and 2, under Federally recognized activities deleted subsidized private sector employment and subsidized public sector employment.

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

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

Rewrote (a); added (a)2, (a)2i and 2i(1); and in (d) inserted "dependent" before "children".

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

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

In (a), substituted "assessment" for "employment profile (assessment)"; rewrote (b).

i. The client self-assessment section, completed by the client, explores the client's strengths and weaknesses and shall assist in determining appropriate interventions.

ii. The comprehensive social assessment tool, completed by both the client and worker, assists in identifying barriers that hinder the recipient's success in reaching self-sufficiency. Identified issues shall trigger subsequent referrals/actions to address such concerns.

iii. The assessment summary sheet shall indicate and record the initial actions taken by the agency as a result of the assessments.

2. The employability assessment, completed by the Department of Labor, provides testing to determine reading and math levels and testing to establish employment competence.

(b) Required attendance at a scheduled comprehensive assessment appointment shall be entered on the IRP so that failure to attend or refusal to be assessed, without good cause, shall be considered sanctionable.

(c) The WFNJ recipient shall be informed, verbally and in writing, prior to beginning the CSA that disclosure of disability information is voluntary. An individual shall not be sanctioned or otherwise penalized for failing to disclose information or for declining to answer specific questions.

(d) A CSA shall be administered to a developmentally, mentally, or physically disabled recipient who failed to actively participate in work activities without acknowledged good cause prior to the agency notifying the individual via a sanction notification letter of his or her non-cooperation (see N.J.A.C. 10:90-4.12).

1. If barriers are identified during the assessment, those issues shall be addressed and the sanction notification process and imposition rescinded. If the barriers relate to family violence, the FVO Initiative procedures are to be followed (see N.J.A.C. 10:90-20).

(e) Disclosure of family violence shall require referral of the individual to the agency's Family Violence Option (FVO) representative (see N.J.A.C. 10:90-20).

(f) Based on the information obtained from the comprehensive assessment, the agency shall address all barriers that are identified and schedule the client for an appropriate employment-related activity at the earliest possible opportunity.

(g) Actions taken as a result of the comprehensive assessment must be included in the IRP. Some of the assigned actions set forth in the IRP may not be work related depending on the issues and barriers identified on the CSA. Sanctions will apply in those situations of non-compliance with assigned work or work related activities only. Participation in the Substance Abuse Initiative (SAI) and/or the Mental Health Initiative (MHI) may be considered a work activity (see N.J.A.C. 10:90-5.15 and 18).

New Rule, R.2003 d.226, effective June 16, 2003.

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

Former N.J.A.C. 10:90-4.9, Deferrals from the work requirement, recodified to N.J.A.C. 10:90-4.10.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), deleted "is comprised of 12 sections that" after "client and worker," in the first sentence of Iii.

Amended by R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

In (g), inserted "and/or the Mental Health Initiative (MHI)" and updated the N.J.A.C. reference.

#### 10:90-4.10 Deferrals from the work requirement

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

1. Individuals age 60 or older;

2. Individuals who are unable to engage in regular work activities because they are chronically ill, infirm, or have a physical and/or mental disability or impairment which is expected to last for more than 12 months and such conditions are certified by an attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse to constitute a permanent disability. Such certification shall be documented through use of Form WFNJ/MED-1, Examination Report, and shall, upon completion by the certifying physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse, be reviewed by the county or municipal agency which shall have the responsibility to approve or deny the deferral request;

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

ii. A recertification to determine permanent disability using Form WFNJ/MED-1 shall not be required for those individuals who provide documentation that they have been determined permanently disabled and are receiving disability insurance benefits under Title II or Title XVI of the Federal Social Security Act. At the time of case redetermination, the permanent disability condition of the individual shall be reviewed. If the permanent disability remains unchanged as verified through social security documentation, it shall be duly noted on the IRP that the permanent disability remains unchanged, the source of the documentation and the date of the review. If a change in the permanent disability occurs which indicates that the individual may be able to participate in a WFNJ activity, for example, the client is no longer eligible for permanent disability considerations under Title II or Title XVI and the client is still requesting a WFNJ deferral based on the disability, the county or municipal agency shall require the completion of Form WFNJ/MED-1 by the client's attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse in order to evaluate the client's ability to participate;

3. A person certified by an attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period of less than 12 months. Such certification shall be documented through use of Form WFNJ/MED-1, Examination Report, which, upon completion by the certifying physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse, shall be returned to the county or municipal agency worker, as appropriate for review and final determination of deferral from participation from work requirement activities within the WFNJ program;

4. WFNJ/GA single adults or couples without dependent children who are determined unemployable in accordance with provisions set forth at N.J.A.C. 10:90-2.9(a)2. The form WFNJ/MED-1 will be required, if appropriate;

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

6. A woman in the third trimester of pregnancy;

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

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

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

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

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

i. Such certification shall be completed through use of Form WFNJ-5S(DEP), Confidential Medical Examining Physician's Report for Dependent Child or Dependent Adult, which shall provide documentation for the severity of the disability or illness of the dependent child or adult.

ii. During the time a severely disabled or ill dependent child or family member regularly attends a residential special school or other specialized care environment, the sole caretaker shall not be deferred.

(1) If there is an interruption of 30 consecutive days or longer in this regular schedule of care at the residential special school or other specialized care

environment which necessitates the recipient to care for that individual due to the unavailability of other care arrangements, the caretaker shall be deferred from the work requirement.

(2) Periods of less than 30 days of care shall allow the caretaker an excused absence from participation; and

11. Individuals determined to be victims of family violence who have requested temporary deferral from work via affidavit due to circumstances/trauma related to the family violence incident in accordance with requirements set forth at N.J.A.C. 10:90-20.

(b) All instances when medical documentation is required, Form WFNJ/MED-1, Examination Report or Form WFNJ-5S (DEP), Confidential Medical Examining Physician's Report for Dependent Child or Dependent Adult, as appropriate, shall serve as a physician's, licensed or certified psychologist, or advanced practice nurse certification and the following procedures concerning receipt of the completed form shall be adhered to:

1. If the WFNJ/MED-1 or WFNJ-5S (DEP) states that the incapacity will be for less than 30 days, the agency will approve the deferral and retain the documentation at the agency. At the end of the 30 days, the agency worker will review the circumstances of the incapacity with the client and determine if the client is still claiming the same deferral circumstance; if so, another WFNJ/MED-1 or WFNJ-5S (DEP) is to be completed by the attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse.

2. If the WFNJ/MED-1 or WFNJ-5S (DEP) states that the incapacity is expected to last more than 30 days the county or municipal agency, as appropriate, shall have the responsibility to approve or deny the deferral request.

i. The acceptable timeframe for a physician (licensed or certified psychologist, as appropriate) or advanced practice nurse to complete and a client to return medical documentation shall not exceed 30 days unless extenuating circumstances occur which cause a delay in the completion/return of such documentation. Extenuating circumstances shall include, but not be limited to, the inability of the recipient to see a treating physician (licensed or certified psychologist, as appropriate) or advanced practice nurse within the 30 days or when the physician (licensed or certified psychologist, as appropriate) or advanced practice nurse fails to return the form within the specified timeframe.

ii. A sanction shall not be imposed for failing to return medical documentation timely. The individual and case manager shall have previously decided on an acceptable employment-directed activity in the event that the medical deferral is not forthcoming.

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

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

4. The mandatory WFNJ participant is unable to engage in an assigned WFNJ work requirement or to cooperate with a WFNJ program requirement due to family violence. If noncompliance relates to family violence, the FVO Initiative procedures are to be followed (see N.J.A.C. 10:90-20).

(b) Good cause for temporary excused participation from the WFNJ assigned work requirement or program requirement shall be limited to the following:

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

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

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

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

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

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

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

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

In (a)3, added N.J.A.C. reference; and in (b)2, added language describing excused participation.  
Recodified from N.J.A.C. 10:90-4.10 and amended by R.2003 d.226, effective June 16, 2003.

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

Rewrote the section. Former N.J.A.C. 10:90-4.11, Sanctions, recodified to N.J.A.C. 10:90-4.13.

**10:90-4.12 Sanction notification process (conciliation)**

(a) When a decision is made to sanction a recipient for failing to actively participate in work activities without good cause, the participant is to be notified via a sanction notification letter of his or her non-cooperation, the sanction penalty that will be imposed unless cooperation occurs and that the individual can avoid the sanction if he or she comes into compliance or demonstrates good cause for not complying.

1. The recipient shall have 10 calendar days from the date of the sanction notification letter to contact the agency worker in order to begin participation in the previously assigned activity, agree to begin a new work-related activity or provide good cause for the initial non-cooperation.

i. Agreement to begin or continue participation in an assigned activity or the provision of good cause for non-cooperation shall end any further action being taken to impose the original sanction.

ii. Failure, without good cause to begin or continue to participate in the agreed-upon assigned activity after the conciliation process, shall initiate an immediate sanction imposition process with a 10 day adverse action notice, describing the recipient's continued non-cooperation in the assigned activity and the sanction penalty and duration.

2. Failure, without good cause, to respond to the sanction notification letter shall be considered as refusal to cooperate with WFNJ work requirements without good cause. This action shall result in the processing and imposition of the original sanction.

i. Imposition of the original sanction penalty shall require a 10-day adverse action notice, describing the recipient's non-cooperation in the assigned activity and the sanction penalty and duration.

3. Once a 10-day adverse action notice has been issued to implement a WFNJ sanction, the sanction shall be imposed unless the recipient provides good cause for failing to comply or demonstrates compliance by attending the assigned activity prior to sanction penalty imposition, which is effective as of the first day of the following month.

(b) When a decision is made to sanction a known developmentally, mentally, or physically disabled recipient for failing to actively participate in work activities without acknowledged good cause, a CSA (see N.J.A.C. 10:90-4.9) shall be administered to the participant prior to notifying

the individual via a sanction notification letter of his or her non-cooperation, the sanction penalty that will be imposed unless cooperation occurs and that the individual can avoid the sanction if he or she comes into compliance or demonstrates good cause for not complying.

1. If barriers are identified during the CSA, those issues shall be addressed and the sanction notification process and imposition rescinded.

2. If there are no barriers identified during the CSA, the sanction notification process (conciliation) shall commence.

(c) The sanction notification process (conciliation) shall apply to individuals who are in a post 60-month extension or exemption benefit period.

New Rule. R.2003 d.226. effective June 16, 2003.

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

Former N.J.A.C. 10:90-4.12. Effective date of sanctions, recodified to N.J.A.C. 10:90-4.17.

#### 10:90-4.13 Sanctions

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

1. First offense sanctions are as follows:

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

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

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

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

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

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

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

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

(3) If an intent to comply by the parent in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

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

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

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

(C) If one parent evidences an intent to comply by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the parent that remains in noncompliance for up to two additional months (which shall be applied as full month increments).

(D) If an intent to comply by both parents is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication parents who were sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

iii. If the noncompliance is due to the inaction of a minor parent in the assistance unit, sanctions shall be applied as follows:

(1) The per capita share of the minor parent and of the minor parent's spouse, if any, in the assistance unit shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of one month.

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

(3) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the third month, the cash assistance benefit provided to the assistance unit shall be reduced by the per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit until willingness to comply is evidenced by the minor parent in accordance with the provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply.

iv. A dependent child 16 years of age or older who fails to comply with the requirement for school attendance or other work activity participation pursuant to this section shall be sanctioned as follows:

(1) The per capita share of the dependent child shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for one month.

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

(3) If an intent to comply by the dependent child is not evidenced by the end of the third month, the dependent child shall be excluded from the assistance

unit for cash assistance benefits until such time as the dependent child demonstrates willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply.

2. Second offense sanctions are as follows:

i. In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children, the following second offense sanctions shall apply:

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

(2) When the person in noncompliance evidences the intent to comply by the end of the one-month period, the cash assistance benefit provided to the assistance unit shall continue to be reduced by the per capita share of the person in noncompliance for the following month. Otherwise, if the person does not evidence the intent to comply by the end of the one month period the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month.

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

ii. In a two-parent assistance unit with dependent children, the following second offense sanctions shall apply:

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

(2) If an intent to comply by the parent in noncompliance, pursuant to the provisions of this section, is not evidenced by the end of the one-month period, the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month.

(3) If an intent to comply by the person in noncompliance is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive

cash assistance benefits. However, upon reapplication the person who was sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

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

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

(B) If an intent to comply by both parents is not evidenced by the end of the one-month period, the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month.

(C) If an intent to comply by both parents is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication both parents shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

iii. If the noncompliance is due to the inaction of a minor parent in the assistance unit, the following second offense sanctions shall apply:

(1) The per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of one month.

(2) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the one-month period, the cash assistance benefit amount provided to the assistance unit shall be reduced by the calculated per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit for the following month.

(3) If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the second month, the cash assistance benefit provided to the assistance unit shall continue to be reduced by the per capita share of the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit until willingness to comply is evidenced in accordance with the provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply.

iv. A dependent child 16 years of age or older who is in noncompliance with the requirement for school attendance or other work activity participation pursuant to this section shall be subject to the following second offense sanctions:

(1) The per capita share of the dependent child shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of two months.

(2) If an intent to comply by the dependent child is not evidenced by the end of the two-month period, the dependent child shall be excluded from the assistance unit for cash assistance benefits, until such time as the dependent child demonstrates intent to comply in accordance with the provisions at N.J.A.C. 10:90-4.18, Intent to comply.

v. A person sanctioned for a second offense pursuant to this subsection shall be counseled by the county or municipal agency, as appropriate, prior to the reinstatement of eligibility for cash assistance benefits.

3. Third offense sanctions and sanctions for all subsequent offenses beyond the third offense are as follows:

i. The person(s) in noncompliance and all other members of the assistance unit shall be subject to a loss of cash assistance benefits for a minimum of three months. (Exception: see (a)3ii below for dependent child third offense sanctions.)

(1) If an intent to comply by the person(s) in noncompliance is not evidenced by the end of the three-month period, the assistance unit's case shall be closed for cash assistance benefits and reapplication shall be required by the assistance unit in order to receive cash assistance benefits. However, upon reapplication the person(s) sanctioned for noncompliance shall be required to demonstrate a willingness to comply in accordance with provisions set forth at N.J.A.C. 10:90-4.18, Intent to comply, prior to cash assistance being granted.

ii. Third offense sanctions for a dependent child 16 years of age or older who is in noncompliance with the requirement for school attendance or other work activity participation pursuant to this section shall be as follows:

(1) The per capita share of the dependent child in noncompliance shall be calculated and deducted from the cash assistance benefit provided to the assistance unit for a minimum of three months.

(2) If an intent to comply by the dependent child is not evidenced by the end of the three-month period, then the dependent child shall be excluded from the assistance unit for cash assistance benefits.

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

In (a)3i, deleted "person's" preceding "assistance unit"; in (a)3i(1), deleted "who was" preceding "sanctioned"; in (c)8, deleted "reliable" preceding "verified information"; in (c)9, deleted "required" following "does not exist and is"; and in (c)10, deleted "may" following "the employer shall".

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

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

Added language regarding full month increments of the cash assistance benefit throughout; and in (c)2, added reference to N.J.A.C. 10:90-5.2.

Recodified from N.J.A.C. 10:90-4.11 and amended by R.2003 d.226, effective June 16, 2003.

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

Rewrote the section. Former N.J.A.C. 10:90-4.13, Intent to comply, recodified to N.J.A.C. 10:90-4.18.

**10:90-4.14 Voluntary quit (recipients)**

(a) An adult recipient who voluntarily quits a job, without good cause, shall render the entire assistance unit ineligible for WFNJ cash assistance benefits for a period of two months from the date the county agency or municipal agency, as appropriate, makes the determination that the recipient quit the job.

1. When a WFNJ recipient reports the loss of earned income, the county or municipal agency, as appropriate, shall determine if any adult household member has quit or terminated his or her most recent job, without good cause (see (c) below for good cause).

2. Changes in employment status that result from a permanent reduction in hours of employment while working for the same employer; terminating a failing self-employment enterprise; or resigning from a job at the demand of the employer shall not be considered a voluntary quit.

(b) Such voluntary cessation of employment by recipients, without good cause, may include, but are not limited to, situations where individuals were discharged from employment due to an action or inaction on his or her part in violation of the employer's written rules or policies, or lawful job related instructions.

(c) The individual who voluntarily ceased employment shall be responsible for providing the necessary information so that a good cause determination can be made. Good cause as it relates to voluntary cessation of work shall exist when:

1. Transportation of any means or mode, if required for the job, is unavailable.

2. Child care is necessary for a child under 13 years of age or for a special needs child up to the age of 18 and appropriate child care, as defined in N.J.A.C. 10:90-5.2 and 5.3, is not available.

3. The individual has been discriminated against by the employer when a formal complaint, appeal or lawsuit is pending and this has been verified by the State Department of Labor or other appropriate source.

4. Work demands render continued employment unreasonable, such as working without being paid on schedule.

5. Work conditions are in violation of Occupational Safety and Health Act (OSHA) and potentially pose a risk to an individual's health or safety.

6. A resignation is recognized by the employer as retirement when the person is 60 years of age or older.

7. An individual is prevented from working as a result of lawful strike by other employees or lockout by the employer.

8. The individual is physically or mentally unable (unfit) to perform the employment, as established by documentary medical evidence or verified information obtained from other sources.

9. Circumstances beyond the individual's control prevent continued employment such as loss of driver's license or insurance or a change in shift or hours of employment causing loss of the individual's regular means of transportation (when transportation does not exist and is necessary), break down of transportation or child care arrangements and client has demonstrated attempts to alleviate problems and temporary illness or disability as determined on a case-by-case basis.

10. Problems caused by an inability to speak or write English as determined by the employer shall constitute good cause.

11. The individual is a victim of family violence and must leave the job because of harassment or threats by the batterer.

(d) A voluntary quit penalty assigned to a recipient shall not influence the progression of sanction levels.

Recodified in part from 10:90-4.11 and amended by R.2003 d.226, effective June 16, 2003.

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

Rewrote the section. Former N.J.A.C. 10:90-4.14, Appeals, recodified to N.J.A.C. 10:90-4.19.

**10:90-4.15 Removal/lifting and rescission of sanctions**

(a) A sanction shall be removed or lifted when a sanctioned individual completes an assigned intent to comply period of attendance at an activity and the minimum time period for the offense level of the sanctions imposed has expired.

1. The agency shall remove/lift a sanction penalty temporarily when a deferral is received during a minimum sanction penalty period.

i. The remaining minimum penalty period shall be reinstated at the time of deferral expiration.

2. Once compliance has been met, benefits are restored effective the first day of the next month.

(b) A sanction is rescinded when a decision has been made that through no fault on the individual's part, the sanction was imposed in error.

1. The sanction shall be rescinded immediately and cash assistance benefits restored back to the date of sanction imposition.

2. Any record of a rescinded sanction shall be expunged.

New Rule. R.2003 d.226, effective June 16, 2003.

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

Former N.J.A.C. 10:90-4.15, Injury compensation for CWEP and AWEF participants, recodified to N.J.A.C. 10:90-4.20.

#### 10:90-4.16 Sanction accruals

(a) The county agency or municipal agency, as appropriate, shall maintain a record of the number of sanctions which have accrued to an assistance unit.

1. When no member of the assistance unit has incurred a sanction of any kind for a continuous 12-month period, the county agency or municipal agency, as appropriate, shall reduce the accrued sanctions by one for that assistance unit. This sanction reduction provision shall be applicable for each continuous 12-month period the members of an assistance unit remain sanction-free.

i. Periods in closed status, in non-receipt of WFNJ cash assistance benefits, shall not be counted as sanction free periods.

ii. Periods in closed status shall not be considered when determining a continuous 12-month sanction-free period.

(b) The sanction penalty and/or record shall follow the sanctioned individual if he or she leaves the assistance unit. If no other members of the remaining assistance unit have been sanctioned, the case shall be considered sanction-free.

(c) Sanction accruals are determined based on an individual's WFNJ non-participation without good cause regardless of the program segment (WFNJ/TANF or WFNJ/GA) in which the individual receives assistance.

(d) Out-of-State sanctions shall not accrue to WFNJ cases since the prior sanctions are specific to individual states and differ in regard to length and amount of penalty.

New Rule. R.2003 d.226, effective June 16, 2003.

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

#### 10:90-4.17 Effective date of sanctions

The sanction periods at N.J.A.C. 10:90-4.13 shall become effective on the first day of the first payment month after the month the decision is made to impose the sanction, subject to the sanction notification process (conciliation) (see N.J.A.C. 10:90-4.12) and timely and adequate notice, as appropriate (see N.J.A.C. 10:90-9, Notices and Hearings in WFNJ).

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

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

Recodified from N.J.A.C. 10:90-4.12 and amended by R.2003 d.226, effective June 16, 2003.

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

Rewrote the section.

#### 10:90-4.18 Intent to comply

(a) Any time prior to the end of the applicable sanction period, the individual(s) in noncompliance may indicate his or her intent to comply by notifying the county or municipal agency, as appropriate, accordingly. The reduction in cash assistance, however, shall remain in effect for the minimum time period for that level of sanction. The individual in noncompliance shall be required to demonstrate willingness to cooperate with and/or participate in the WFNJ work requirements as follows:

1. The WFNJ individual shall agree to comply with either the activity in which he or she was previously engaged or another activity which is determined appropriate for that individual. In order to demonstrate willingness to comply, the individual shall participate for a period of up to two weeks as determined by the county or municipal agency worker, as appropriate, based on the particular requirement to be satisfied and individual case circumstances.

i. In no event shall an intent to comply period be waived due to the unavailability of appropriate activities. In such instances, individuals may be assigned to an individual job search or community work experience activity to demonstrate compliance.

ii. An intent to comply period of up to two weeks shall not be required when compliance by the individual only requires the completion or signing of the IRP or any other specified document. If the specified activity can be completed in less time than the two week intent to comply period, such as the completion of a CSA, then the period shall be no longer than the period required to complete such activity.

iii. An intent to comply period of up to two weeks shall not be required of an individual currently serving a minimum penalty period who secures employment for a minimum of 25 hours per week. That individual shall be required to secure increased hours of work or attend an additional activity(ies) to meet hourly participation requirements.

2. If the individual fails to participate, as designated, during the intent to comply trial period, the individual will again be sanctioned and the sanction will advance to the next sanction offense level, that is, those who were sanctioned for a first offense sanction shall be sanctioned in accordance with second offense sanctions and etc., as stipulated at N.J.A.C. 10:90-4.13, Sanctions.

3. When the county or municipal agency, as appropriate, determines that the intent to comply has been satisfied, the agency shall take action to lift the sanction and to calculate the cash assistance payment for the assistance unit from the date the applicable sanction period ended.

4. During the trial period of the intent to comply, the WFNJ individual shall be eligible for supportive services including child care, if appropriate, which the agency determines are necessary for participation.

(b) When there is evidence that substance abuse directly contributed to an individual's noncompliance with an assigned WFNJ work activity and that individual indicates an intent to comply, a referral to the Substance Abuse Initiative (SAI) Clinical Care Coordinator (CCC) for assessment shall be offered (see N.J.A.C. 10:90-18).

1. If the SAI CCC determines that treatment is needed, the individual shall comply with an assigned treatment program for a period of two weeks to show an intent to comply.

2. If the SAI CCC determines that the individual does not need treatment, the intent to comply period shall have been met.

(c) A case that reappears after being closed due to sanction status shall be required to show an intent to comply prior to the issuance of cash assistance.

1. If an intent to comply is not demonstrated within the assigned time period, the sanction level shall not be advanced; however, the WFNJ application for cash assistance shall be denied.

(d) A case that voluntarily closed prior to an imposition of a sanction that reappears shall not be required to show an intent to comply since the prior sanction was never imposed.

(e) A case that closes during an imposed minimum sanction penalty period shall satisfy the previous sanction obligation and show an intent to comply within the remaining sanction penalty period in order to be determined eligible for WFNJ cash benefits.

(f) A case that closed due to a sanction for non-cooperation that is now employed may be eligible for post-TANF benefits (see N.J.A.C. 10:90-4.5).

Amended by R.1998 d.42, effective January 20, 1998.  
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).  
Recodified from N.J.A.C. 10:90-4.13 and amended by R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).  
Rewrote the section.

#### 10:90-4.19 Appeals

Any appeals resulting from action taken by the county or municipal agency, as appropriate, to impose sanctions for noncompliance with the WFNJ work requirements shall be handled in accordance with established procedures for fair

hearings including eligibility for continued WFNJ benefits at an unreduced level during the appeal process (see N.J.A.C. 10:90-9, Notices and Hearings in WFNJ). Agency records of action taken by the county or municipal agency designee, as appropriate, on the indicated noncompliance shall be made available to the Administrative Law Judge should a fair hearing be requested by the participant.

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

Substituted "Notices and Hearings in WFNJ" for "Fair hearing provisions".  
Recodified from N.J.A.C. 10:90-4.14 by R.2003 d.226, effective June 16, 2003.

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

#### 10:90-4.20 Injury compensation for CWEP and AWEP participants

(a) A recipient who participates in a community work experience or alternative work experience shall be regarded as an employee of the State and the sponsor and shall be provided, by the State, with all compensation required and defenses and remedies available pursuant to chapter 15 of Title 34 of the Revised Statutes (Workmen's Compensation) except that:

1. The State shall not provide compensation for temporary disability pursuant to subsection a of N.J.S.A. 34:15-12 (see (e) below for temporary disability compensation provisions); and

2. Medical and hospital services shall not be provided pursuant to N.J.S.A. 34:15-15 unless the recipient becomes ineligible for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P.L. 1968, c.413 (N.J.S.A. 30:4D-1 et seq.).

(b) When determining the amount of any compensation provided pursuant to chapter 15 of Title 34 of the Revised Statutes, other than compensation for temporary disability, the amount of compensation shall be calculated as if the recipient's weekly wage was 60 percent of the statewide average weekly wages earned by all employees covered by the Unemployment Compensation Law (N.J.S.A. 43:21-1 et seq.).

(c) Compensation received for an injury or illness which arises out of and in the course of the CWEP or AWEP and which is permanent in quality and partial or total in character shall not be regarded as earned income and a disregard shall not be applied for that amount in computing the cash assistance benefit provided to the recipient.

(d) Compensation received by a dependent of a recipient for the death of the recipient which is caused by any injury or illness which arises out of and in the course of the CWEP or AWEP shall not be regarded as earned income and a disregard shall not be applied for that amount in computing the cash assistance benefit provided to the dependent.

(e) When it is determined that the recipient has been subject to an injury or illness producing only in a temporary disability, the recipient shall:

1. Receive cash assistance benefits from the WFNJ program;
2. Be deferred from WFNJ activity requirements for the temporary period of the disability; and
3. Notwithstanding any other provision of law, shall be exempted from the 60-month time limit as stipulated at N.J.A.C. 10:90-2.4, during the first 90 days of each period of temporary disability subject to the provisions of this section.

(f) Any recipient participating in a community work experience or alternative work experience, or a dependent of that recipient, who is provided compensation benefits, by the State, for an injury, illness or death arising out of and in the course of the CWEP or AWEF shall be required to surrender any other method, form or amount of compensation or benefits from the sponsor or the State for that injury, illness or death.

(g) The sponsor of the recipient, the State and the employees of the sponsor shall not be liable for the injury, illness or death for which the recipient or dependent of the recipient is provided the compensation, benefits or both, except if it is determined that an intentional wrong has occurred.

(h) A person, other than a recipient or a sponsor, who is injured as a result of an act or omission of a recipient in connection with the recipient's CWEP or AWEF participation shall have the recourse to file an action against the program in a court of competent jurisdiction.

1. The WFNJ program shall have available all of the notice requirements and the defenses available to the State under the "New Jersey Tort Claims Act," N.J.S.A. 59:1-1 et seq. with the exception of the defense that the recipient is not a public employee.

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

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

Added N.J.S.A. references throughout; and recodified (a) i and ii as (a) 1 and 2.

Recodified from N.J.A.C. 10:90-4.15 by R.2003 d.226, effective June 16, 2003.

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

#### **10:90-4.21 Failure to comply with work requirements for individuals in post 60-month extension or exemption status**

An individual whose case is in post 60-month extension or exemption status who continues to have a work requirement and fails to be in compliance with that requirement, without good cause, shall be subject to the WFNJ sanction process in accordance with provisions at N.J.A.C. 10:90-4.13.

New Rule, R.2003 d.226, effective June 16, 2003.

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

## **SUBCHAPTER 5. SUPPORTIVE SERVICES**

### **10:90-5.1 Introduction**

Certain temporary services shall be available to a WFNJ TANF/GA recipient, as appropriate, in support of the recipient's efforts to work. The rules in this subchapter shall not be interpreted as conferring an entitlement to supportive services; likewise, these services shall be provided only as a last resort when no other source of support is available. As it is used in this subchapter, supportive services include, but are not limited to, child care payments, transportation services, a limited allowance to cover necessary work-related expenses and extended medical coverage.

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

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

### **10:90-5.2 Child care services**

(a) Payment of child care services, including after-school child care in the case of a child over six years of age and care for children with special needs, shall be available for WFNJ/TANF eligible dependent children during the recipient's period of eligibility and for the 24 consecutive months following ineligibility for cash benefits as a result of earned income or other circumstances as described in this subchapter. Depending upon the type of child care program, payment for child care services will be provided in accordance with N.J.A.C. 10:15 and appropriate child care co-payment procedures at N.J.A.C. 10:15-9.

1. The child care services provided, both during the period of eligibility and during any post-eligibility period, shall be considered appropriate and available when the child care:
  - i. Is in the best interests of the child and shall consider the individual needs of the child, including the reasonable accessibility of the care to the child's home and school, or the parent's place of employment or work activity, and the appropriateness of the care to the age and special needs of the child;
  - ii. Is located within reasonable commuting distance from the participant's home, place of employment or work activity. The hours of child care provided are reasonably related to the hours of participant's work activity participation or employment and shall be sufficient to accommodate the hours required by the employer or work activity. Parental preference shall be accommodated within the child care options available;
  - iii. Allows parental access; and
  - iv. Meets applicable standards of State and local law.

(f) In the calculation of other benefits received by the household, the SLS shall be treated as unearned income for food stamp purposes and as part of total household income when determining, where necessary, the TRA/EA household co-payment amount.

1. If a WFNJ/TANF/GA recipient is already receiving TRA when he or she begins to receive an SLS benefit, the TRA shall be continued even if the additional SLS income would have rendered the recipient ineligible for TRA. The TRA co-payment amount will be 65 percent of all household income including the SLS benefit or the combined cash assistance and SLS benefit, whichever is less.

New Rule, R.2003 d.226, effective June 16, 2003.  
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).  
Amended by R.2004 d.292, effective August 2, 2004.  
See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).  
In (f), added 1.

### 10:90-5.15 Mental Health Initiative

(a) Mental health and employment readiness services are available through the Work First New Jersey Mental Health Initiative (MHI). The MHI provides services to WFNJ recipients who are experiencing mental health barriers to self-sufficiency.

1. WFNJ recipients enrolled in the MHI are eligible to receive mental health services provided and/or arranged by a Mental Health Case Manager who is a trained mental health clinician from a contracted agency, and employment readiness services provided by an employment specialist from an agency associated with the Division of Mental Health Services' Supported Employment Program and/or coordinated with the One-Stop Career Centers (OSCC).

i. Mental health services arranged for may include, but are not limited to, psychiatric evaluation and medication, out-patient counseling, or partial care/psychosocial rehabilitation.

ii. Employment services may include, but are not limited to, vocational readiness determination, career profiling, community-based occupational exploration, job-seeking skills, alternative work experience with support, support plan development, and individualized job placement.

(b) A participant's hours spent in treatment provided by and/or arranged through the MHI may count towards the required hours of a work activity.

1. For WFNJ recipients required to participate in a work activity, mental health treatment counts as a participant's work activity only if the mental health case manager assesses the recipient and monitors the participant's treatment.

(c) A WFNJ recipient who appears to have a mental health barrier and appears to meet the eligibility criteria for the program shall be asked to complete the form MHI-1, WFNJ

Mental Health Initiative Questionnaire. Completion of this form is voluntary. If the results of the MHI-1 indicate a mental health barrier, the recipient shall be referred to the MHI for an assessment by a Mental Health Case Manager.

1. A mental health assessment shall be administered to each WFNJ recipient referred to the program by a trained mental health clinician using recognized DMHS Intensive Case Management Services assessment protocols.

(d) Participants may be enrolled in the MHI if they meet either of the following criteria below:

1. They are mandatory TANF recipients required to participate in a work activity or employable GA recipients, and have a mental health problem that prevents them from achieving self-sufficiency, as determined by the Mental Health Case Manager, based on the results of the mental health assessment, pursuant to (c)1 above; or

2. They have an open DYFS case, and have a mental health problem, as determined by the Mental Health Case Manager, based on the results of the mental health assessment, pursuant to (c)1 above. These cases may include deferred TANF and unemployable GA cases.

(e) Referral to and participation in the MHI shall be either voluntary or mandatory based on the following criteria:

1. Non-sanctioned WFNJ recipients who are required to participate in a work activity shall be offered a referral based on the results of the MHI-1. Acceptance of such referral is voluntary. Individuals that choose not to accept the referral are to be assigned an appropriate work-related activity.

i. For those individuals that accept the referral and agree to attend a meeting with a Mental Health Case Manager, the referral is to be noted on the IRP. If the meeting with the recipient and the Mental Health Case Manager is held and it is determined that a mental health problem exists and an appropriate mental health activity is assigned, then the recipient has the option of attending that activity or participating in another WFNJ work-related activity. Refusal to attend the mental health activity is not sanctionable in this situation.

ii. If the recipient agrees to attend this activity, it becomes his or her WFNJ work-related activity, with non-compliance triggering the start of the sanction process.

(1) Before starting the sanction process for a recipient enrolled in MHI, the WFNJ worker shall contact that recipient's Mental Health Case Manager for a determination of whether the client's non-compliance was due to his or her mental health problems. If the Mental Health Case Manager concludes that the recipient's non-cooperation may have been a result of his or her mental health barriers, that recipient shall not be sanctioned and shall be offered the opportunity

either to continue participating in the MHI or to be assigned an alternate activity.

2. WFNJ recipients who are required to participate in a work activity, and who have been sanctioned for non-compliance with a work activity in accordance with N.J.A.C. 10:90-4.13, may be advised that they shall be required to complete the MHI-1 and, if applicable, participate in the MHI in order to remove the sanction, unless the agency worker determines that the reason for the non-compliance is other than a mental health problem. A referral to meet with a Mental Health Case Manager for a mental health assessment shall be provided to the sanctioned individual. Acceptance of such referral is mandatory. The MHI referral is to be noted on the recipient's IRP.

i. If treatment is indicated, the recipient shall be required to actively attend that program during the two-week intent to comply period in order for the sanction to be removed. Continuation of the mental health activity will become the recipient's mandatory work activity. Failure to participate as designated shall advance the penalty to the next sanction offense level.

(1) Before advancing a MHI recipient to the next sanction level, the WFNJ worker shall contact the recipient's Mental Health Case Manager for a determination of whether the recipient's non-compliance was due to his or her mental health problems. If the Mental Health Case Manager concludes that the recipient's non-cooperation was a result of his or her mental health barriers, then the recipient shall not be sanctioned and shall be offered the opportunity either to continue participating in MHI or be assigned an alternate activity.

New Rule, R.2007 d.15, effective January 16, 2007.  
See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

#### 10:90-5.16 TANF Initiative for Parents (TIP) Program

(a) The TIP Program is a performance-based child abuse and neglect prevention initiative that offers comprehensive parenting, nutritional and support services utilizing in-home visitation parenting models of service delivery, one of which includes the Healthy Families America (HFA) model, for families at risk of abuse or neglect. TIP Program services are made available initially based on the in-home visitation service provider's assessed needs of the family. TIP Program participants shall be re-evaluated for continued program services, by the service provider, at three-month intervals.

(b) The purposes of the TIP Program are to:

1. Promote the safety, permanency and well-being of infants and their siblings while:
  - i. Encouraging healthy parent-child interactions; and
  - ii. Reducing the number of referrals to the Division of Youth and Family Services (DYFS);

2. Increase healthy child development, rates of immunizations, early identification of development delays, and good nutrition;

3. Link families to community based medical, social, nutritional and employment services; and

4. Provide TANF parents an opportunity to acquire parenting skills that will assist the recipient in the pursuit or maintenance of employment while balancing a healthy family environment.

(c) Participation in TIP Program services, including the in-home visitation, is not mandatory. The TIP program preferred approach is in-home visitation. However, participants are given a choice of participating in the program services voluntarily, as follows:

1. In their own home;
2. Outside of their own home; or
3. In their own home and outside of their own home.

(d) The TIP Program services are available to certain individuals in their last trimester of pregnancy and new parents with infants from birth through 12 months of age, even if the individual has older children in the family in addition to the new infant, as follows:

1. Individuals in their third trimester of pregnancy:
  - i. WFNJ TANF/GA individuals; and
  - ii. Non-Public Assistance (NPA) Food Stamp Program (FSP) individuals; and
2. Individuals who are new parents:
  - i. WFNJ TANF recipients, including new TANF parents, needy parent persons, parents in child-only cases, sanctioned recipients and recipients with a capped child;
  - ii. SSI recipients in child-only cases; and
  - iii. NPA FSP recipients.

(e) TIP Program participants who are deferred from the WFNJ work requirements in accordance with N.J.A.C. 10:90-4.10 may voluntarily take part in parenting skills services.

1. WFNJ recipients who are deferred may want to consider participating in the TIP Program as a transitional activity that will help prepare them for employment readiness and assist the recipient with balancing work activity and raising a family.

(f) For TIP Program participants who are required to participate in a work activity in accordance with N.J.A.C. 10:90-4, hours spent participating in the TIP Program shall count towards the required hours of a work activity. A TIP participant may need to participate in another work activity in addition to TIP in order to fulfill his or her required number of hours. No adverse action or sanction shall be imposed on a

1. A timely notice is a notice that is mailed to the recipient at least 10 calendar days before the effective date of the action.

(c) When a county or municipal agency decision results in an adverse action to a recipient, there will be no change in the amount of benefits until 10 calendar days after the mailing date of the notice, unless assistance had been granted based on immediate need.

(d) Timely notice may be dispensed with but adequate notice shall be sent not later than the effective date of the action when:

1. The county or municipal agency has information confirming the death of a recipient or of the payee when there is no relative to serve as the new payee;

2. The county or municipal agency receives a clear written statement signed by a recipient that he or she no longer wishes to receive assistance, or that provides information which requires termination or reduction of assistance. In such instances, the recipient must indicate, in writing, that he or she understands that supplying such information will result in a reduction or loss of assistance;

3. The payee has been admitted or committed to an institution, and payments to that individual are no longer permitted under State law;

4. The recipient has been placed in a long term care or intermediate care facility, or is hospitalized;

5. The recipient's whereabouts are unknown and the county or municipal agency mail directed to him or her has been returned by the postal service indicating no known forwarding address. The recipient's benefit must,

however, be made available to him or her if his or her whereabouts become known during the payment period of issuance covered by the returned check, unless (d)5i below applies.

i. The recipient moves out-of-State, with apparent intent to remain permanently absent from New Jersey;

6. A recipient has been accepted for assistance in another state and that fact has been established by the county or municipal agency previously providing assistance;

7. An eligible child is removed from the home as a result of a judicial determination, an intervention by the Division of Youth and Family Services or is voluntarily placed in foster care by his or her legal guardian;

8. An additional payment or special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period, including such payments as directed by a final hearing decision;

9. A recipient has incurred a WFNJ sanction and the sanction is progressing to the next level within the sanction (whether first, second or third offense or subsequent sanctions) based on continued refusal to comply;

10. Assistance is reinstated in the corrected amount following suspension;

11. An application for assistance is being denied and no assistance payment has been issued, or assistance had been granted based on immediate need;

6. A person identified as an Amerasian from Vietnam with his or her close family members admitted in immigrant status under Section 584 of the Foreign Operations Appropriations Act, usually with an AM-1, AM-2 or AM-3 annotated on Form I-94. The Amerasians will subsequently receive an I-551. The codes used on that form will be AM-6, AM-7 or AM-8;

7. A Cuban or Haitian national granted parole for humanitarian reasons or in the public interest; or a Cuban or Haitian national who applies for asylum; or a Cuban or Haitian national who is subject to exclusion or deportation proceedings and a final order of deportation or exclusion has not been issued; or

8. An alien who is a national of Cuba or Haiti and, regardless of the status of the alien at the time the alien is an applicant for benefits and services and:

- i. Has been granted status as a Cuban/Haitian Entrant (Status Pending) on or after April 21, 1980; or
- ii. Has been paroled into the United States on or after October 10, 1980, unless the alien has been paroled into the United States in the custody of a Federal, State or local law enforcement or prosecutorial authority, for purposes of criminal prosecution in the United States, or solely to testify as a witness in proceedings before a judicial, administrative, or legislative body in the United States.

Amended by R.1998 d.42, effective January 20, 1998.  
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a)  
 Amended by R.2003 d.226, effective June 16, 2003.  
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).  
 In (a), added 8.

**10:90-10.4 Resettlement**

(a) Most refugees are resettled by a voluntary agency and will have a sponsor. This sponsor, which may be an individual, church or organization, shares certain responsibilities as a moral commitment with the resettling agency. Such responsibilities include: receiving the refugee, helping him or her find food, shelter, clothing, furniture, and employment; and assisting the refugee to adjust to a new environment.

(b) When a sponsor no longer provides adequate financial aid for the refugee, the refugee may turn to the county agency for assistance. As part of its regular verification process, the county agency shall contact the sponsor and inquire as to what, if any, assistance the sponsor may still be providing to the refugee and whether the refugee has refused an offer of employment or has voluntarily quit a job without good cause. The county agency shall also request that such sponsor notify the resettlement agency of these changes in circumstances. The county agency shall also promptly notify the resettlement agency that the refugee has applied for assistance. In addition, the refugee's sponsor or resettlement agency shall be contacted to verify the possible existence of any matching grant assistance being provided to the refugee. Meanwhile, the county agency shall grant

assistance to eligible refugees. Any cash assistance to the client from the sponsor or resettlement agency shall be treated as unearned income (see N.J.A.C. 10:90-3.9(e)). All contacts with the sponsor and/or resettlement agency shall be recorded in the case record (see N.J.A.C. 10:90-10.10).

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

**10:90-10.5 Termination of RRP: continued eligibility for assistance**

For refugee cases no longer eligible for RRP benefits, the suffix "R" is to be deleted from the case numbers.

**10:90-10.6 Eligibility**

(a) No United States citizen is eligible for RRP and a refugee may be eligible only if he or she meets the appropriate definition and INS status in N.J.A.C. 10:90-10.2 and 10.3. In addition, all refugees whose time limitations have expired will cease to be eligible for cash and medical assistance under RRP (see (b) below). Such ineligible refugees who are still in need shall, as appropriate, be assisted under WFNJ/GA, either at the county agency or referred to the municipal agency via Form WFNJ-14, "Referral for Services," giving the reason for referral.

- 1. For a large extended family group, the county agency shall establish a separate assistance unit for each non-WFNJ/GA eligible individual or couple in the household.

(b) Eligibility for assistance under RRP is limited to a total of eight months for WFNJ/GA type cases. Pursuant to Sections 207 and 101(a)(42) and 1522(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. §§ 1101 et seq.) and 45 C.F.R. 400.42, refugee cash assistance/ refugee medical assistance (RCA/RMA) are limited by the extent of available Federal appropriations in any Federal fiscal year (FFY), and on data concerning refugee arrivals, eligibility and participation in RCA/RMA. Therefore, the State RCA/RMA program period of eligibility is dependent on the fixed Federal appropriation made available to the states for any given FFY, based on the aforementioned criteria. Eligibility periods for RCA and RMA are published periodically in the Federal Register. Subsequent updates to these eligibility periods in the Federal Register will be published as a public notice by the Department of Human Services in the New Jersey Register, and this subsection revised accordingly as an administrative change.

- 1. Rules concerning WFNJ/GA type cases are as follows:
  - i. For all WFNJ/GA type applicants/recipients residing in the U.S. for eight months or less from their initial entry date or when parole status was first granted as identified on INS Form I-94, income and resources shall be treated in accordance with the standards and criteria applicable to WFNJ cases, except that county agencies shall not apply the earned income disregard. The assistance standard for applicants/recipients shall be the appropriate amount for the eligible unit size.

ii. During the eight month period, all eligible WFNJ/GA type cases will retain Medicaid eligibility.

(c) The county agency shall consult with sponsors and/or the resettling agency about the possibility of contributions. Cash assistance to the client shall be considered as unearned income (see N.J.A.C. 10:90-10.4(b)); however, the income and resources of the sponsors themselves shall not be considered. No resources which are in fact not available to the refugee shall be considered in determining eligibility. This includes resources in the refugee's native land owned by the refugee or a responsible relative.

(d) Refugee cases that are considered WFNJ/GA type cases are subject to the work and training requirements detailed in (d)1 through 3 below:

1. All refugees who are not exempt from the work requirements (see (i)1 below) shall be referred to the initial resettlement agency for employment services via the WFNJ-54, Refugee Program Interagency Referral. The resettlement agency should be identified on the I-94 card that also identifies the applicant as a refugee. If the agency is not identified on the card, the CWA shall ask the refugee who resettled them. Referral shall be made to that agency. When the CWA is unable to determine who resettled the client or if there is no refugee-specific employment provider in the county, then the CWA shall select an agency that they feel will best meet the client's needs.

2. All employable refugees shall accept appropriate work or training opportunities. The job or training assignment shall be related to the physical and mental capability of the individual to perform the task on a regular basis. Any claim of adverse affect to physical or mental health shall be based on an adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health. Cost of obtaining such medical evidence is an allowable 100 percent reimbursable cost to the county agency.

i. The total daily commuting time to and from home shall not exceed two hours. If a greater distance or time is generally accepted in the community, then the round trip commuting time shall not exceed community standards. Round trip time shall not include the time needed to transport a child to and from a child care facility.

3. In the instance of a refugee who is employed and receiving public assistance, the county agency shall require part-time training, such as English language instruction or skill training, if available, and determined appropriate, if the refugee is employed part-time (less than 100 hours per month), as a condition for continued receipt of assistance. Additionally, the county agency shall encourage, but not require, part-time English language instruction or skill training if the refugee is employed full-time (100 or more hours per month).

(e) Provisions relating to refugees attending school are as follows:

1. A full-time student age 18 shall be eligible for assistance if the student is reasonably expected to complete a program of secondary school (or the equivalent level of vocational or technical training) before attaining age 19.

2. A refugee of any age who is otherwise eligible shall not be denied cash assistance while enrolled and participating in a full-time training program which is approved by the county agency and intended to have a definite short-term (less than one year) employment objective.

(f) Provisions concerning voluntary termination of employment are as follows:

1. For a new applicant, for the 30 consecutive calendar days immediately prior to receiving aid, an employable refugee shall not have voluntarily terminated employment in order to receive assistance, nor have refused to apply for or accept an appropriate job offer.

2. Employable refugees currently receiving assistance shall not have voluntarily terminated employment in order to continue to receive assistance nor refuse to apply for or accept offers of appropriate work or training.

(g) Refusal of an employable adult recipient to accept or continue an employment or training opportunity without good cause will result in the following actions:

1. A conciliation period prior to the imposition of sanctions shall be provided for in accordance with the following time limitations:

i. The conciliation effort shall begin as soon as possible, but not later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days.

2. If the employable refugee recipient continues to refuse an offer of employment or training, assistance shall be terminated 30 days after the date of his or her original refusal. Either the county agency or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation. The refugee shall be given at least 10 days written notice of the termination of assistance and the reason therefore. This sanction shall be applied in the following manner:

i. If the assistance unit includes other individuals, then the assistance payment shall be reduced by the per capita share of the refugee in noncompliance. If the employable refugee is a caretaker relative, assistance in the form of protective or vendor payment shall be provided to the remaining members of the assistance unit.

ii. If such individual is the only individual in the assistance unit, assistance shall be terminated.

(1) The refugee's sponsor, or the voluntary resettlement agency where there is not a sponsor, shall be notified of the action taken in (g)2i or ii above.

iii. A decision by the refugee to accept employment or training, made at any time within the 30-day period after the date of the original refusal, shall result in the continuation of assistance without interruption if the refugee continues to meet the income eligibility requirements for continued assistance.

iv. Refugees who refuse, without good cause, to accept or continue in an employment or training opportunity shall be subject to the following penalties of ineligibility:

(1) Three payment-months for the first such refusal; and

(2) Six payment-months for the second and each subsequent occurrence.

(h) The inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

(i) The following refugees are exempt from the employment or training requirements given in (d) above:

1. An individual who is between age 16 and 18, enrolled or accepted for enrollment as a full-time student for the next school term in a secondary, or vocational or technical school; or under age 19 and attending full-time, a secondary school or the equivalent level of a vocational or technical school, and expected to complete the program of the school before reaching age 19;

2. A person who is ill, incapacitated or age 65 or over;

3. A person whose presence in the home is required because of illness or incapacity of another member of the household;

4. An individual working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 days;

5. An individual who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the next six months; and

6. The person is enrolled full-time in training approved by the county agency as part of an approved employability plan.

(j) When there is an urgent need for assistance, the initial assistance payment shall be based on immediate need.

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

Recodified (h)1i through (h)1iv as (i)1 through (i)6 and recodified (i) as (j).

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

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

In (d), rewrote 1.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), substituted "WFNJ-14" for "PA-14" after "Form" in the third sentence of the introductory paragraph.

**10:90-10.7 Medical assistance and medical expense spend-down**

(a) Regarding Medical assistance, State eligibility standards for Title XIX shall apply to a refugee's eligibility for medical assistance except:

1. Requirements for categorical relatedness for medical assistance shall not be imposed. Actual receipt of financial assistance for living expenses shall not be required as a condition of eligibility for medical assistance;

2. The WFNJ allowance standard for the appropriate unit size shall constitute the medical assistance financial standard. However, the Medicaid "Cap" shall apply to eligible refugees in Title XIX-approved facilities;

3. No financial resources which are in fact not available to the refugee, including resources remaining in the place of national origin owned by a refugee or a responsible relative, shall be considered in determining eligibility for medical assistance;

4. The income and resources of sponsors, and in-kind services and shelter provided to refugees by their sponsors, shall not be considered in determining eligibility for medical assistance;

5. All refugees who have been in the U.S. for eight months shall no longer be eligible for medical or cash assistance under RRP. Any subsequent update to this eligibility period for medical or cash assistance under RRP will be published as public notice by the Department of Human Services in the New Jersey Register (see N.J.A.C. 10:90-10.6(b));

6. WFNJ/GA type refugees who lose eligibility for financial assistance due to increased earnings are eligible for Medicaid extension for up to eight months. This eight month extension is only allowable during the refugee's first eight months in the country. In cases where a refugee obtains private medical coverage, any payment of refugee medical assistance for that individual must be reduced by the amount of the third party payment;

7. A refugee is not required to actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance;

8. Determination of eligibility for refugee medical assistance (RMA), shall be based on the applicant's income and resources on the date of application, rather than on a refugee's income averaged prospectively over the RMA application processing period. A newly arrived refugee, who applies for RMA soon after arrival and becomes

employed within the first 30 days in the U.S. subsequent to filing the RMA application, shall not lose RMA eligibility; and

9. Cash assistance payments made under the publicly administrative Refugee Cash Assistance (RCA) program, the Department of State's Reception and Placement program, the Matching Grant program, a Wilson/Fish Alternative project, and the public/private RCA program shall not be considered in determining eligibility for refugee medical assistance.

(b) Those refugees who may be eligible for New Jersey's Medically Needy Program shall be referred to that Program.

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

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

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

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

In (a), added 8.

Amended by R.2004 d.292, effective August 2, 2004.

See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).

In (a), added 9.

#### 10:90-10.8 Social services

Referral and information about other services available in the community should be offered to refugees regardless of their eligibility for financial assistance.

#### 10:90-10.9 Fair hearings

The procedures and provisions for fair hearings in N.J.A.C. 10:90-9 shall apply in RRP.

#### 10:90-10.10 Case records

(a) A separate record shall be established for each individual or family receiving assistance. For continuing cases, all changes in the status of each case and the dates on which changes occurred shall be recorded. For inactive cases, since RRP is Federally financed, the case records are considered Federal records. Therefore, they cannot be disposed of in the same manner that the county agency disposes of case records for other inactive public assistance cases. Accordingly, the records for closed refugee cases shall be retained until a Federal audit is completed.

(b) Each case record shall contain:

1. The alien registration number as it appears on Form I-94 issued by INS;
2. The name and address of the refugee's sponsor (if known);
3. Documentation of contacts with the sponsor and/or resettlement agency; and
4. The date of entry into the U.S.

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

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

## SUBCHAPTER 11. INTENTIONAL PROGRAM VIOLATION

### 10:90-11.1 Definition of intentional program violation (IPV)

(a) Intentional program violation (IPV) is any statement or act by an individual for the purpose of establishing or maintaining the assistance unit's eligibility for WFNJ assistance, for increasing or preventing a reduction in the WFNJ assistance, or to prevent denial or termination of WFNJ assistance, which is intentionally: a false or misleading statement or misrepresentation, concealment, or withholding of facts; or an act intended to mislead, misrepresent, conceal, withhold facts, or to propound a falsity.

1. "WFNJ assistance" is defined, for this purpose, as WFNJ/TANF or WFNJ/GA cash assistance, WFNJ emergency assistance, WFNJ child care benefits, WFNJ special payments, WFNJ temporary rental assistance, or WFNJ transportation or work-related allowances or reimbursements.

(b) When evaluating alleged IPV by an individual, there are three basic elements which must be established through investigation:

1. The misrepresentation or concealment must have been deliberate and done knowingly. IPV does not exist if the misrepresentation or concealment is the result of an unintentional act, a misunderstanding or mental incompetence. Distinction must also be made between an intent to defraud on the part of an individual, and omission, neglect or error by the county or municipal agency's representatives in securing and recording information;

2. The misrepresentation or concealment must have been undertaken for the express purpose of receiving or obtaining benefit from, or attempting to receive or obtain benefit from, a payment of assistance to which the individual was not entitled; and

3. If the misrepresentation or concealment, or the attempt to misrepresent or conceal a relevant fact, had been known to the county or municipal agency, assistance would not have been granted or would have been granted in a lesser amount.

(c) The evidence to establish the three points delineated in (b) above must be factual and capable of being demonstrated in an administrative disqualification hearing or in a court of law through the testimony of witnesses, or by documentary evidence.

(d) At the time of application for WFNJ, individuals shall be provided with written notice informing them of the WFNJ disqualification penalties that will be imposed for committing IPV. Current WFNJ recipients shall also be provided with the written notice at the time of case redetermination.

(e) Unless good cause for temporary excused participation exists or other good cause for work deferral exists in accordance with N.J.A.C. 10:90-4.11(b), the SAI program provides for participant requirements that include, but are not limited to, the following requirements:

1. Completion and signing of the required SAI program forms, which include the Work First New Jersey Substance Abuse Initiative Care Coordinator Referral Form, WFNJ-125; the Consent for the Release of Confidential Alcohol or Drug Treatment Information to the National Council on Alcoholism and Drug Dependence Work First New Jersey Substance Abuse Initiative, WFNJ-126 and the Consent for the Release of Confidential Alcohol or Drug Treatment Information to State of New Jersey Welfare Information Systems, WFNJ-127 in accordance with the Federal Confidentiality regulations at 42 C.F.R. Part 2;

2. Participation in the completion of the substance abuse assessment administered by the CCC, using nationally recognized, standardized assessment tools.

- i. WFNJ recipients shall also cooperate with intake interviews at the treatment facility and any follow-up activities as determined by the CCC;

3. For WFNJ recipients required to participate in the SAI, mandatory participation in substance abuse treatment, as determined to be clinically appropriate by the CCC, in accordance with N.J.A.C. 10:90-18.3;

4. WFNJ recipients who are referred for voluntary participation in the SAI that do not complete and sign the required SAI forms, or do not complete the assessment, cannot obtain substance abuse treatment services through the SAI. However, these individuals cannot be sanctioned for failure to comply with treatment services;

5. WFNJ recipients subject to mandatory participation in the SAI, when participation is considered a work activity, shall complete and sign the required SAI forms; complete the assessment and follow through with the recommended treatment or the recipient shall be sanctioned in accordance with N.J.A.C. 10:90-4.13; and

6. WFNJ applicants/recipients, who want to establish eligibility in accordance with N.J.A.C. 10:90-18.6 and are subject to mandatory participation in the SAI, shall complete and sign the required SAI forms; complete the assessment and follow through with the recommended treatment as a condition for WFNJ initial or continued eligibility and the receipt of WFNJ/GA cash assistance benefits.

#### 10:90-18.2 Referral to the SAI

(a) WFNJ recipients who may be referred for voluntary participation in the SAI, include, but are not limited to, the following:

1. WFNJ TANF/GA recipients who are pregnant and choose to voluntarily participate in the SAI beyond the

third trimester, when the recipient is otherwise deferred, without the risk of sanction;

2. WFNJ TANF/GA recipients who are participating in work or a work activity other than substance abuse treatment, self-identify a substance abuse problem, and believe that treatment will be beneficial;

3. WFNJ/TANF deferred recipients with substance abuse problems and other physical, medical or mental health problems, including chemical addiction;

4. WFNJ/GA unemployable recipients with substance abuse problems and other physical, medical or mental health problems, including chemical addiction;

- i. Substance abuse treatment services offered through the SAI to WFNJ/GA applicants/recipients identified in (a)4 above are subject to the availability of funding; or

5. WFNJ TANF/GA recipients, who are required to participate in a work activity and who choose to participate in the SAI as his or her assigned work activity.

- i. A WFNJ TANF/GA recipient who chooses to participate in the SAI as his or her assigned work activity shall be required to participate in a substance abuse assessment. The WFNJ agency worker shall advise the recipient in accordance with N.J.A.C. 10:90-20.2(e)2.

(b) WFNJ applicants/recipients who must be referred for mandatory participation in the SAI include, but are not limited, to the following:

1. WFNJ TANF/GA recipients who have been sanctioned for non-compliance with work or a work activity, in accordance with N.J.A.C. 10:90-4.13, unless the WFNJ agency worker determines that the reason for the non-compliance is other than substance abuse;

2. WFNJ TANF/GA recipients who are required to participate in substance abuse treatment as stipulated in the IRP, unless the provisions at N.J.A.C. 10:90-18.2(e)3 apply;

3. WFNJ TANF/GA recipients who are in sanction status, for failure to comply with SAI treatment, and want to have the sanction removed in accordance with N.J.A.C. 10:90-4.18;

4. WFNJ/TANF recipients who are deferred when the sole reason for the deferred status is substance abuse;

5. WFNJ/GA recipients who are unemployable when the sole reason for the unemployable status is substance abuse;

6. WFNJ TANF/GA recipients in receipt of EA who meet the criteria established at N.J.A.C. 10:90-6.1(c)1iii for demonstrating functional incapacity; or

7. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involving possession or use of a controlled substance who want to establish eligibility for WFNJ cash assistance benefits,

unless the person meets the good cause criteria set forth at N.J.A.C. 10:90-18.6.

i. Persons convicted of possession or use of a controlled substance who are required to demonstrate good faith effort in accordance with N.J.A.C. 10:90-18.6(e) shall be required to participate in substance abuse treatment at the time that a facility is able to accommodate the person's request for enrollment. At that time, treatment shall become mandatory and a condition for WFNJ initial and continued eligibility and receipt of WFNJ TANF/GA cash assistance.

(c) The following are WFNJ recipients that are not eligible for referral to the SAI program.

1. Drug Court Initiative (DCI) participants;

2. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involving possession, use or distribution of a controlled substance that want to establish eligibility only for Food Stamp (FS) program benefits; and meet the good cause requirements in accordance with N.J.A.C. 10:90-18.6(c); and

3. Mutual Agreement Program (MAP) inmates who are on parole, residing in the community and under the custody of correctional authorities are not eligible for WFNJ cash assistance in accordance with N.J.A.C. 10:90-2.8(a)5, and therefore, cannot be referred to the WFNJ SAI. Treatment decisions and/or recommendations for such individuals fall under the purview of correctional authorities.

(d) WFNJ recipients shall be referred, by the WFNJ agency worker, for participation in the SAI at any time:

1. During the WFNJ application or re-determination process;

2. During the application for EA;

3. When the WFNJ recipient has incurred a sanction, unless the worker determines that the reason for the sanction is a reason other than substance abuse; or

4. The person self-identifies a substance abuse problem and requests to voluntarily participate in the SAI.

(e) Before a WFNJ recipient signs an IRP or otherwise agrees to participate in the SAI, the WFNJ agency worker shall advise WFNJ applicants/recipients referred for participation in the SAI of the following:

1. All of the information provided is confidential;

2. Substance abuse treatment is available at no cost.

i. A WFNJ applicant who is required to participate in work or a work activity has the option of participating in the SAI as his or her assigned work activity when the person becomes WFNJ eligible, or attending work or another work activity.

(1) A WFNJ recipient who chooses to participate in the SAI, as his or her assigned work activity, shall be required to participate in the substance assessment

as administered by the CCC. The CCC and the WFNJ recipient shall discuss the results of the assessment and recommendations for treatment. If the recommendations for treatment are incorporated in the IRP, then substance abuse treatment shall become mandatory. However, when the recommendations for treatment are not included in the IRP, the WFNJ recipient shall be required to participate in the usual WFNJ work requirements or incur a sanction.

ii. Individuals referred for mandatory participation in the SAI shall be advised orally and in writing that failure to attend the SAI program without good cause may result in a sanction;

3. When a decision is made to sanction a WFNJ recipient for not participating in substance abuse treatment services, the individual shall be given an opportunity during the conciliation process, in accordance with N.J.A.C. 10:90-4.12(a)1i, to begin or continue in an assigned work activity.

i. The CCC may recommend that the WFNJ recipient be reassigned to another work activity other than substance abuse treatment, if it is determined that treatment is not clinically appropriate for the recipient at that time;

4. A CCC shall conduct the substance abuse screening and assessment and determine the treatment plan and placement service, with the involvement of the WFNJ applicant/recipient, if such a plan and/or service is necessary;

5. Treatment counts toward the required hours of the WFNJ recipient's work activity only if the CCC assesses the individual and monitors the participant's treatment;

6. WFNJ individuals may be referred to the CCC in order to initiate having a sanction removed; and

7. SAI participants have a right to a fair hearing on any adverse action in accordance with the provisions at N.J.A.C. 10:90-9.

Amended by R.2007 d.15, effective January 16, 2007.

See: 38 N.J.R. 1156(a), 39 N.J.R. 207(a).

In (c)1, deleted "and" from the end; in (c)2, substituted "; and" for the period at the end; and added (c)3.

### 10:90-18.3 Mandatory SAI treatment

(a) For WFNJ applicants/recipients subject to mandatory participation in the SAI, the following shall apply:

1. Substance abuse treatment, as determined clinically appropriate by the CCC, shall be mandatory for WFNJ TANF/GA applicants/recipients identified at N.J.A.C. 10:90-18.2(b).

i. WFNJ individuals shall demonstrate active participation in a DHSS' licensed or approved RSATP in accordance with the definition established at N.J.A.C. 10:90-15.1, or in-patient, or out-patient substance abuse treatment programs.

ii. Enrollment of WFNJ individuals in a DHSS' licensed or approved RSATP shall be required in accordance with the definition established at N.J.A.C. 10:90-15.1, or in-patient, or out-patient substance abuse treatment programs.

iii. Failure to participate in the treatment plan shall result in a sanction in accordance with N.J.A.C. 10:90-4.13.

2. A WFNJ GA unemployable individual shall be required to participate in the mandatory SAI program, if substance abuse is the sole reason for the unemployable status and shall have his or her WFNJ status changed from GA unemployable to GA employable once the individual is well enough, as determined by the CCC, to participate in work or work activities. Such a change in status shall be supported by medical documentation, and shall be in the therapeutic interest of the WFNJ recipient as determined by the CCC and the CCC clinical supervisor.

i. In the instances as noted in (a)2 above, the CCC shall advise the WFNJ agency worker to request a new WFNJ/MED-1, Examination Report that states that substance abuse is the reason for the unemployable status. If the updated WFNJ/MED-1, Examination Report indicates that the WFNJ/GA recipient is no longer unemployable, then the WFNJ/GA employable requirements at N.J.A.C. 10:90-3 shall apply.

3. WFNJ recipients who shall not be required to participate in substance abuse treatment include, but are not limited to, the following:

i. WFNJ individuals who, as a result of the assessment by the CCC, are determined not to be dependent on alcohol and/or drugs or abusing alcohol and/or drugs shall cease involvement with the SAI program at that time;

ii. A WFNJ eligible individual who is able to function at work or in a work activity and scores high on the "Cage-Aid" form; or

iii. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involving possession, use or distribution of a controlled substance that meet the good cause requirements in accordance with N.J.A.C. 10:90-18.6(c).

Amended by R.2004 d.292, effective August 2, 2004.  
See: 36 N.J.R. 1695(a), 36 N.J.R. 3545(a).  
In (a), rewrote 2i.

#### 10:90-18.4 SAI sanctions

For WFNJ recipients subject to mandatory participation in the SAI, failure to comply with the completion and signing of the required SAI forms, the substance abuse assessment and/or the requirements of the treatment plan, including biological testing if appropriate, and follow-up, when it is clinically appropriate and in the therapeutic interest of the

SAI participant, shall result in a sanction in accordance with N.J.A.C. 10:90-4.13, unless the CCC determines that treatment is not clinically appropriate for the WFNJ recipient at the time or the criteria established for conciliation at N.J.A.C. 10:90-4.12 apply.

#### 10:90-18.5 Continued SAI treatment when the WFNJ TANF/GA case closes

(a) WFNJ recipients are eligible for continued substance abuse treatment as follows:

1. WFNJ/GA recipients are eligible for continued treatment for a period of six months from the date the WFNJ/GA case is closed due to earnings; and

2. WFNJ/TANF recipients are eligible for continued treatment for up to two years from the effective date the WFNJ/TANF case is closed due to earnings.

#### 10:90-18.6 Eligibility rules for convicted drug felons

(a) The following convicted drug felons may establish eligibility for WFNJ TANF/GA cash assistance benefits and/or Food Stamp program benefits:

1. 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 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)).

i. 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 6 months is authorized."

ii. A person convicted in accordance with (a)1 above of possession or use of a controlled substance may be eligible for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits, if the person enrolls in and actively participates in or completes a DHSS' licensed or approved RSATP at the conclusion of which the person is certified drug free by an authorized program representative or the person is able to establish good cause in accordance with N.J.A.C. 10:90-18.6(c).

(1) Eligibility for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits shall commence upon the person's enrollment in a DHSS' licensed or approved RSATP.

(2) Eligibility for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits may continue after the person has completed a DHSS' licensed or approved RSATP provided that:

(A) During the first 60 days after completion of a RSATP or at the time of application or case rede-

termination, it must be determined, via testing by an entity designated by DFD, that the person is free of any non-prescribed 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.

(B) WFNJ TANF/GA cash assistance and/or Food Stamp program benefits cannot be granted or reinstated until the person re-enrolls in another RSATP, and remains drug free for a minimum of 60 days and is determined via testing to be free of any non-prescribed controlled substance.

iii. Juvenile drug convictions are not classified as felonies, high misdemeanors or crimes. Therefore, a juvenile who committed an offense involving possession or use of a controlled substance, who was not convicted of the offense until he or she was 18 years of age or older, shall not be found ineligible for WFNJ cash assistance and/or Food Stamp program benefits solely because of a drug conviction.

(b) The following convicted drug felons may establish eligibility only for Food Stamp program benefits and WFNJ/GA medical services:

1. The provisions at (a)1 above, with respect to Federal and State law, also apply to persons convicted of distribution of a controlled substance.

i. The provisions at (a)1i above, with respect to the State's definition of a crime, also apply to persons convicted of distribution of a controlled substance.

ii. A person convicted in accordance with (a)1 above of distribution of a controlled substance may be eligible only for Food Stamp program benefits, if the person enrolls in and actively participates in or completes a licensed or approved DHSS' RSATP at the conclusion of which the person is certified drug free by an authorized program representative; and WFNJ/GA medical services, which shall not exceed benefits offered in the WFNJ/GA program, that are limited to the time the person is receiving treatment in a DHSS' licensed or approved RSATP.

(1) Eligibility for Food Stamp program benefits and WFNJ/GA medical services shall commence upon the person's enrollment in a DHSS' licensed or approved RSATP.

(A) A person convicted of distribution of a controlled substance is only eligible for WFNJ/GA medical services while at the facility. The person is not eligible for GA medical services after completing a DHSS' licensed or approved RSATP.

(2) The provisions at (a)1ii(2) above, with respect to continued eligibility for Food Stamp program bene-

fits, also apply to persons convicted of distribution of a controlled substance.

(A) The provisions at (a)1ii(2)(A) and (B) above, with respect to drug testing, also apply to persons convicted of distribution of a controlled substance.

(3) Persons convicted on or after August 22, 1996 of an offense which occurred on or after August 22, 1996 involving distribution are not eligible for WFNJ cash assistance benefits.

iii. The provisions at (a)1iii above, with respect to juvenile drug convictions, also apply to persons convicted of distribution of a controlled substance.

(c) Good cause exceptions, from participation in substance abuse treatment, shall be established for persons convicted of possession or use of a controlled substance who are willing to participate in a DHSS' licensed or approved RSATP in order to establish eligibility for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits and are unable to do so for the following reasons:

1. Persons that want to establish eligibility for Food Stamp program benefits only and meet the good cause criteria established at (c)2 through 6 below, including the good faith effort requirements, can not be referred to the SAI for assessment or substance abuse treatment.

2. The person already completed a substance abuse treatment program as noted below:

i. Individuals who have been incarcerated and have completed a substance abuse treatment program as a result of the incarceration and are determined to be drug free;

ii. Individuals who have completed a DHSS' licensed or approved in-patient or out-patient substance abuse treatment program and are determined to be drug free; or

iii. Individuals who test free of drugs, and are therefore not appropriate for substance abuse treatment in a DHSS' licensed or approved RSATP, or in an in-patient or out-patient program.

(1) As a result of the substance abuse assessment, the CCC can determine that:

(A) The person is not in need of substance abuse treatment at this time and his or her involvement in the SAI shall cease;

(B) Periodic completion of the "Cage-AID" form or the "Pre-Assessment Checklist" shall be done to verify the person's continued compliance with the good cause reasons identified in (c)2i through ii above. The periodic assessment shall become mandatory and a condition for WFNJ