

**CHAPTER 86**

**FAMILY DEVELOPMENT PROGRAM  
(FDP) MANUAL**

**Authority**

N.J.S.A. 44:10-1 et seq.; and 44:10-3; Family Support Act, Public Law 100-485; Family Development Act approved January 21, 1992, P.L. 1991, c.523. The Department is relying upon the authority also granted by waivers issued pursuant to Federal demonstration authority.

**Source and Effective Date**

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

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**Chapter Historical Note**

All provisions of the chapter "AFDC Work Incentive Program" were adopted pursuant to the Authority of N.J.S.A. 44:10-3 and became effective prior to September 1, 1969. Subchapter 6 became effective June 21, 1972 as R.1972 d.114. See: 4 N.J.R. 160(c). This chapter was repealed effective April 18, 1988 as R.1988 d.170. See: 20 N.J.R. 162(b), 20 N.J.R. 903(b).

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#### SUBCHAPTER 1. GENERAL PROVISIONS OF THE FAMILY DEVELOPMENT PROGRAM (FDP)

##### 10:86-1.1 Purpose and scope

(a) The purpose of this manual is to set forth the policies and procedures of the Family Development Program (FDP) for the efficient and equitable provision of intensive, coordinated and comprehensive services Statewide to economically disadvantaged families receiving Aid to Families with Dependent Children (AFDC) and to individuals on the State's General Assistance (GA) program. The FDP shall replace REACH/JOBS and the General Assistance Employability Program (GAEP) as the work/training program for AFDC and GA respectively when a county implements the FDP. Based on the availability of resources, the GA program will experience staggered implementation of the FDP due to State fiscal constraints, and may not comply with the implementation schedule in (d) below. The Family Development Program is New Jersey's initiative to help public assistance individuals and their family members overcome barriers to employment to become members of the productive work force employed in full-time unsubsidized jobs with wages and benefits at adequate levels to support themselves and their families. The FDP is a result of the Family Development Act approved January 21, 1992, P.L.1991, c.523, which supplements Title 44 of the Revised Statutes and amends P.L. 1947, c.156; P.L.1987, c.282 and 283.

1. Due to Federal waiver requirements to operate FDP for purposes of evaluation, a control group of AFDC applicant and recipient families must be randomly selected from the AFDC population. The following FDP provisions are not applicable in total or in part to control group families because of the FDP evaluation criteria.

i. The newborn child provisions as delineated at N.J.A.C. 10:82-1.11 and 10:81-3.8(c) and related State disregard provisions set forth at N.J.A.C. 10:82-2.8(c) and 4.4(e);

ii. The procedures for non-needy stepparents marrying a natural or adoptive AFDC-C recipient parent as set forth at N.J.A.C. 10:81-3.9(a) and 10:82-2.10;

iii. The Family Plan at N.J.A.C. 10:86-3.1 and 4.2(d) and (e) shall be completed only for AFDC eligible unit members and FDP services/activities shall only be provided to those AFDC individuals. The sanction penalty at N.J.A.C. 10:86-4.2(e)1 does not apply to control group families (see (a)iv below);

iv. Sanction procedures at N.J.A.C. 10:86-8 do not apply to control group families; rather, procedures at N.J.A.C. 10:81-14.8 shall be followed;

v. The AFDC control group parent shall participate in FDP activities based on the age of the youngest child (age three or older) in compliance with provisions at N.J.A.C. 10:81-14.3A(a)7, rather than provisions at N.J.A.C. 10:86-3.2(b)lviii and 3.4(e)4; and

vi. The AFDC control group shall receive 12 months of post-AFDC Medicaid in accordance with N.J.A.C. 10:81-14.20 rather than 24 months in accordance with N.J.A.C. 10:86-7.2.

(b) This manual is an integral part of the AFDC program and the State's GA program and shall be used and interpreted in conjunction with N.J.A.C. 10:81, 10:82 and 10:85, as appropriate. Satisfying the FDP requirements will ensure compliance for GA employable persons with education/work/training requirements for receipt of GA benefits.

(c) The Family Development Program incorporates the requirements of the Family Support Act of 1988, Pub.L. 100-485, which established the Job Opportunities and Basic Skills (JOBS) program under Title II of that Act, the Federal education/work/training program for AFDC recipients. The Act also guarantees, through Title II provisions, necessary supportive services (that is, child care and participant allowances) for participation in program components. Satisfying the FDP requirements will ensure compliance for AFDC participants with the Federal JOBS work/training mandates for receipt of AFDC benefits.

(d) The FDP will be phased into the respective counties of the State on a schedule developed by the Division of Family Development (DFD), Department of Human Services. The FDP participation requirements shall apply to AFDC and GA applicants and recipients in accordance with that schedule. The FDP shall be established for both AFDC and GA in Camden, Essex and Hudson counties in the first year of the program beginning on or about October 1, 1992. During the first year of operation, a FDP demonstration project in the city of Trenton, Mercer County shall also be established for GA employables. If any rules herein contradict or conflict with existing rules or policies established at N.J.A.C. 10:81, 10:82, or 10:85, such material is superseded by this manual.

(e) Nothing in these rules shall be construed as conferring on AFDC and GA applicants and recipients an entitlement to the FDP services. If the fiscal or other resources necessary to provide the FDP services to an FDP participant or other family members are unavailable, that person shall not be deemed to have a right to such services. He or she shall be released from all obligations dependent upon the FDP service(s) under these rules until such services are available to him or her.

(f) This manual shall:

1. Identify individuals eligible for the FDP services;
2. Establish policy for the administration of the FDP; and
3. Identify services and activities offered through the FDP.

(g) The FDP requirements specific for each of the AFDC and GA programs are described in appropriate locations throughout this manual. DFD shall operate the FDP through coordination efforts with existing Departmental services and program resources available through the Department's Divisions of Youth and Family Services (DYFS), Medical Assistance and Health Services (DMAHS) and Mental Health and Hospitals (DMHH); through other State Departments, including the Departments of Labor, Education, Health, Community Affairs and Higher Education; and at the local level with the county welfare agencies (CWAs), municipal welfare departments (MWDs) and through contracted services.

(h) The policy provisions and terms in this subchapter are general provisions which are applicable throughout all subchapters of this manual concerning the FDP.

1. The policies and procedures set forth in this manual are binding on those agencies and organizations contracting with the Department of Human Services to provide services through the FDP and are enforceable through the DFD. Questions of interpretation shall be resolved by the DFD.

2. The FDP shall be administered within the framework of Federal and State law and regulations. Requirements, other than those established pursuant to Federal and State law and these rules, shall not be imposed as a condition of participating in the FDP.

(i) The FDP expands the education/work/training provisions currently available through REACH/JOBS to employable GA recipients. Additionally, the program emphasizes the availability of comprehensive, coordinated services and activities for AFDC and GA family members. The following principles guide the delivery of services through the FDP.

1. The FDP encourages family stability and self-sufficiency to help families escape a life of dependency and poverty. As such, the FDP addresses the need for families to overcome educational or skills deficiencies to break the cycle of poverty.

2. The FDP provides a choice of expanded activities and services to meet the various needs of AFDC and GA family members to help such individuals in their pursuit of economic opportunities in the attempt to secure permanent full-time jobs at wages which are adequate to support a family.

3. Central to the FDP is its focus on able-bodied public assistance recipients having the same opportunities and responsibilities as any other family not on assistance. Therefore, the FDP has broadened mandatory participation to all able-bodied AFDC parents or caretaker relatives regardless of the age of the youngest child.

4. The FDP references the fact that receipt of cash assistance is a temporary measure pending the AFDC parent's or an employable GA individual's achievement of self-sufficiency.

5. The FDP sets forth mutual obligations on the part of the FDP case manager and the FDP participant for the provision of the FDP services. The FDP is responsible for providing the services which are needed for an individual to achieve self-sufficiency in exchange for the individual's obligation to seek self-sufficiency. The obligations are made explicit in a mutually agreed upon contract, the FDP Agreement.

#### **10:86-1.2 Participant rights and responsibilities**

(a) The FDP participants shall be informed by the income maintenance (IM) worker or the MWD of their rights and obligations concerning the FDP participation. Information, program material and agency personnel shall be available to assist non-English speaking individuals. Minority program materials in languages other than Spanish may be prepared based on knowledge of the population served by the FDP.

(b) The FDP participants are in all instances the primary source of information about themselves and their families.

1. It is the responsibility of the FDP case manager to determine compliance with the FDP requirements based on the information provided by the FDP participant and, as necessary, to secure verification from secondary sources. Such verification shall be limited to those facts which are essential to participation and shall be obtained only with the known consent of the FDP participant.

2. The FDP case manager shall explain to the participant that verification of pertinent information may be necessary and that lack of consent on behalf of the FDP participant to authorize the acquisition of such information may result in the imposition of a sanction for non-cooperation with AFDC or GA program requirements.

#### 10:86-1.3 Atmosphere of mutual respect

(a) Assistance and services through the FDP shall be rendered to all FDP participants and their family members in an atmosphere of mutual respect by employees of the FDP provider entities.

(b) The FDP provider entities shall ensure that assistance and services are:

1. Extended in a manner and environment which increases a person's sense of importance, dignity and self-esteem;
2. Administered in a manner which respect the human and civil rights of persons receiving the FDP services; and
3. Provided in the least restrictive, most appropriate setting to ensure privacy and confidentiality and which is physically accessible by individuals with disabilities in accordance with the Americans With Disabilities Act (P.L. 101-336).

#### 10:86-1.4 Nondiscrimination

In the administration of the FDP, there shall be no discrimination on grounds of race; color; religious affiliation; sex; national origin; ethnic background; marital, parental or birth status; or disability or handicap by the Department, the Division or the other FDP designated agencies and organizations involved in provision of the FDP services in accordance with Title VI of the Federal Civil Rights Act of 1964 (P.L. 88-352) and, Section 504 of the Federal Rehabilitation Act of 1973 (P.L. 95-602), and the Americans With Disabilities Act (P.L. 101-336).

#### 10:86-1.5 Confidential nature of information

(a) Information about participants in the FDP shall be used and disclosed only for purposes directly connected with the administration of the FDP.

(b) The information requested by the Department and the FDP designated agencies shall be information that is required:

1. To determine eligibility for the FDP services without which the FDP services could not be provided;

2. For Federal/State reporting purposes; and
3. To determine the FDP participation in accordance with this manual.

#### 10:86-1.6 County planning process

(a) A county planning process, which integrates the local human services system and the local employment and training system, will be used for the FDP. The purpose of the county planning process is to:

1. Coordinate and ensure the delivery of employment, training, education, case management and supportive services for the FDP participants;
2. Maximize the use of existing resources from various Federal, State, county and private funding sources for the FDP services; and
3. Establish efficient and effective administration and decision making operations for the FDP management.

(b) The Commissioner of the Department of Human Services shall designate a person to serve as the Family Development Program Director in each county. In addition to serving on the FDP Planning Council as a voting member, the FDP Director shall be responsible for:

1. Implementing the FDP as established by the Planning Council;
2. Establishing the roles and responsibilities of CWA staff (including IM, Social Services, IV-D and case management where appropriate), MWD staff, and the FDP case management in the delivery of the FDP services;
3. Coordinating the efficient and effective transfer of information concerning the FDP participants among the agencies and organizations involved with the FDP;
4. Coordinating and managing the FDP components available to AFDC individuals by exercising administrative control of the FDP services and functions in a unitary structured organization;
5. Participating in the selection of service providers;
6. Ensuring that the FDP contract/interagency agreement process is administered with selected providers;
7. Ensuring that the IV-A Agency (DFD) reviews, prior to final approval, all service contracts initiated for the FDP components for AFDC/FDP participants;
8. Monitoring all activities to ensure compliance with Federal and State regulations and county and municipal procedural practices;
9. Analyzing the availability of services and the capacity of those operations to serve the needs of the FDP participants;
10. Establishing administrative functions necessary to the operation of the program;

11. Enhancing established connections to various referral networks;

12. Expanding AFDC case management operations/functions, as necessary, in order to service AFDC family members, in conjunction with the developed "Family Plan";

13. Developing Resource Centers in conjunction with program mandates/requirements;

14. Ensuring the informational exchanges occur among CWAs and MWDs, when applicable, to establish legally responsible relative linkages between GA individual(s) and AFDC family member(s); and

15. Establishing a MWD network to coordinate the FDP for the GA population.

(c) Each county is required to have a FDP Planning Council, established by the Commissioner of the Department of Human Services. The purpose of the county FDP Planning Council is to determine the most effective way to plan and organize services for AFDC and GA FDP participants in that county.

1. The FDP Planning Council shall consist of no less than 13 and no more than 15 persons and shall, at a minimum, include the following as voting members: the director of the FDP in each county, who shall be so designated by the Commissioner of the Department of Human Services; the Director of the CWA; a MWD director in the county; a member of the board of Chosen Freeholders or County Executive or a designee; a representative of the County Human Services Advisory Council; a representative of the local Private Industry Council; a representative of the county based child care entity in the county; a representative of the local community college; a representative of the county vocational school; a representative of private business or industry in the county; two recipients of the AFDC residing in the county (costs incurred by those AFDC recipients as a result of participation on the planning council will be reimbursed by the FDP as an administrative expense of FDP); a representative of the Commissioner of DHS; and a representative each of DFD, DYFS and DMAHS. Additionally, the FDP Planning Council may include, as non-voting ex officio members, representatives of the following agencies: the County Superintendent's Office; the Division of Employment Services in the Department of Labor; the Bureau of Adult Education in the Department of Education; the Division of Housing and Development in the Department of Community Affairs; local health and social service agencies and any other individuals/organizations that the county believes would provide a valuable contribution to the FDP planning and implementation process.

2. The Commissioner of the DHS shall appoint a person to serve as the FDP Planning Council Chairperson. The Chairperson may be any member of the Plan-

ning Council including the FDP Director. The person designated as Chairperson shall chair all Planning Council activities and meetings, as required, and ensure that the Planning Council carries out the following mandates in accordance with DHS established timetables:

i. Develop a FDP Implementation Plan in conjunction with other council members;

ii. Designate a single county agency as the coordinator of services for the FDP;

iii. Report on the progress of program implementation highlighting effectiveness and success;

iv. Examine how local resources can be utilized to obtain maximum effectiveness;

v. Address client needs, barriers and conditions through the established plan; and

vi. Recommend program training/education and support services necessary for the full implementation of the county program.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (c)1, substituted "county based child care entity" for "Lead Child Care Agency".

#### 10:86-1.7 County FDP implementation process

(a) The FDP Planning Council shall prepare and submit a County FDP Implementation Plan. At a minimum, the Plan shall:

1. Contain a needs assessment of the employment-related characteristics and problems (including a target population profile) in the county;

2. Describe the proposed County FDP structure (including a resource analysis and service delivery system description that addresses employment-directed activities and support services) made available to AFDC and employable GA participants;

3. Describe the flow of the FDP participant (both the AFDC and GA participant flow, if different) through the county FDP;

4. Specify the arrangements and methods by which employment, training, education and support services will be selected, integrated and provided to eligible AFDC and GA applicants and recipients in the FDP in that county; and

5. Ensure that the program components reflect local needs and existing resources and that supportive services provided to the FDP participants use existing local arrangements wherever possible.

(b) Upon completion of the County FDP Implementation Plan, the Plan shall be reviewed with the Planning Council and submitted to the DPD for approval.

**10:86-1.8 FDP client flow**

Upon application or redetermination of AFDC or GA eligibility, AFDC and GA clients will proceed through the FDP client flow. The FDP client flow begins with an orientation to the FDP by the IM worker at the CWA or the MWD. The IM worker or the MWD shall determine whether the AFDC parent or caretaker relative and/or other AFDC eligible unit members or the GA individual or spouse are exempt from participation, in accordance with N.J.A.C. 10:86-3. All AFDC parents or caretaker relatives and employable GA recipients shall be referred to the respective AFDC or GA FDP case management component for evaluation and completion of the Family Plan. This referral will initiate assignment of the individual to the FDP case management.

**10:86-1.9 Inter/intra agency coordination**

It is essential that an open and accurate exchange of information is maintained among the FDP entities and within the respective agencies/organizations involved in the FDP service delivery. Coordinated interaction is essential since all units (inter and intra agency) have an equal level of responsibility to ensure that the FDP participants and family members are afforded appropriate activities/services and that timely and appropriate action is taken on case actions to fulfill the FDP requirements.

**10:86-1.10 Issuance and availability of manual**

(a) The DHS, DFD shall issue the manual and amendments to the manual, as necessary. DFD shall follow current practice to publish such amendments in the New Jersey Register, in accordance with the provisions of N.J.A.C. 1:30, Rules for Agency Rulemaking. It is the responsibility of each holder of the manual to maintain its accuracy by inserting new material as it is issued and by removing obsolete pages promptly.

(b) Copies of the manual shall be provided to Department and Divisional administrative and other appropriate staff associated with the FDP. Those individuals are expected to be thoroughly familiar with its contents in order that policy and procedures may be consistently applied.

(c) DFD shall ensure that each FDP entity associated with the provision of an FDP service or activity is provided with the number of copies of the manual as requested for initial use by its staff. Additional copies shall be available from DFD through written request, at the cost of printing and mailing.

(d) Copies of this manual shall be made available to all staff members working with the FDP participants. Each staff member working with the FDP shall be familiar with the manual's contents, and shall apply the required policy and procedures consistently.

(e) One administrative copy of obsolete material related to this manual shall be kept by each FDP entity. Such material reflects time frames of changes in policies and serves as a historical reference for the agency.

(f) This manual is a public document. As codified in the New Jersey Administrative Code, it is available from the Office of Administrative Law. It is important that all copies in use be up-to-date. It is available as follows:

1. Copies are available for examination or review during regular office hours on regular work days in the DHS, DFD and in each CWA and MWD of the State.

i. Specific policy material necessary for a FDP participant or his or her representative to determine the basis for a fair hearing request, or to prepare for a hearing, shall be provided to such persons without charge.

2. Public and university libraries which have agreed with the Division's request to keep the manual up-to-date will have a copy available in accordance with the library reference procedures.

3. Each county legal services office shall be furnished with a copy of this manual.

4. County boards of social services and MWDs shall be provided copies of this manual.

5. Other welfare, social service and nonprofit organizations shall be furnished with a copy of this manual (at no cost) through written request to DFD.

6. Employment, education and training organizations (that is, vocational/technical schools, community colleges, JTPA offices) shall be furnished with a copy of this manual.

7. A current up-to-date copy of the manual, or any portion of the manual, is available from DFD through a written request by the interested person, at the cost of printing and mailing.

i. All supplementary updates will routinely be sent to those who have been supplied with the manual. A mailing list shall be maintained and updated by DFD.

**SUBCHAPTER 2. DEFINITIONS****10:86-2.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

“AFDC participant” means an individual as defined in N.J.A.C. 10:81, regardless of case segment affiliation (-C, -F, and -N), who is required to participate in FDP, except as otherwise provided at N.J.A.C. 10:86-3.2(b). Illegal aliens on AFDC-N are not eligible for participation in the FDP/EEDA Component activities with the exception of Community Work Experience Program (CWEP). Such individuals may be eligible to participate in other FDP components.

“Basic literacy level” means a literacy level that allows a person to function at the level of an individual who has proficiency at a grade 8.9 level.

“Case manager” means the individual in the AFDC/FDP case management component or GA/FDP case management component responsible for service coordination and participation by an individual in FDP, in accordance with this chapter.

“Compliance” means cooperation on the part of the adult(s) AFDC recipient and the employable GA recipient in the development of an FDP “Family Plan” and in the FDP evaluation/assessment component. Further, participation by eligible unit members who are not otherwise exempt, in appropriate education/work/training component activities is compliance as identified in the Family Plan, if the activity is available, as set forth and scheduled in the FDP Agreement.

“County based child care entity” means the child care agency or other agency or administrative entity established in each county to administer and implement DHS subsidized child care services/programs and to assist the JOBS/FDP participant in obtaining child care.

“County IV-A agency” means the county board of social services or the county welfare agency in the respective county.

“DFD” means Division of Family Development in the New Jersey Department of Human Services.

“EDA participant allowances” means an employment-directed activity/allowance for activities including non-educational employment-directed activities (that is, but not limited to: work supplementation programs, community work experience programs, interim worksite assignment, and on the job training) and educational employment-directed activities (that is, but not limited to: English as a Second Language, Adult Basic Education, secondary education or its equivalent, technical/vocational and post secondary educational/vocational programs).

“Eligibility participation period for participant allowances” means a period of time in which participant allowances are available up to the respective cumulative total amount of the particular type of participant allowance as delineated at N.J.A.C. 10:86-9.7.

“Education and Employment-Directed Activity (EEDA)” means the education/work/training component of the FDP.

“Employable GA recipient” means an individual in receipt of General Assistance maintenance payments who is an able-bodied person and who could be placed in employment/education or training.

“Excused participant” means a mandatory FDP participant who is temporarily excused from FDP participation for reasons set forth at N.J.A.C. 10:86-3.

“Exempt participant” means an AFDC or employable GA individual who is not required to participate in the FDP/EEDA Component for specific reasons set forth at N.J.A.C. 10:86-3.2(b). Exempt participants also include unemployable GA individuals who are unable to participate in work/training activities.

“Family member” (AFDC family for purposes of FDP) means a person other than AFDC eligible unit members, as defined herein, residing in the home of the AFDC eligible unit due to family circumstances. Family members may include: family members who are ineligible for AFDC due to receipt of SSI or Title IV-E foster care; family members excluded from the AFDC eligible unit due to reasons set forth at N.J.A.C. 10:82-1.11 (newborn excluded for cash assistance) or N.J.A.C. 10:82-2.10 (natural parent to AFDC child(ren), his or her non-needy spouse, and the spouse’s child(ren) not receiving AFDC); non-needy caretaker relative(s) of the AFDC eligible child(ren); other relatives in the home who, due to limitations as a result of physical or psychological need, are not on AFDC and for whom an AFDC adult is the primary caretaker; protective services child(ren) as identified by DYFS, placed in the home of the AFDC family; and any adult children on General Assistance. Family Development Program (FDP) referrals of those members identified in the Family Plan to FDP components shall be based on whether or not problems experienced by that family member create a barrier to the AFDC eligible unit in becoming self-sufficient.

“Family member” (GA family for purposes of FDP) means a person other than the employable GA recipient(s) and his or her spouse, as defined herein, who reside in the home of the employable GA recipient due to family circumstances. Family members who reside with the employable GA recipient may include: children of the GA recipient who have reached the age of majority; an emancipated child of the GA recipient in accordance with N.J.A.C. 10:85-3.1(e); an elderly parent or SSI child who, due to limitations as a result of physical or psychological need, resides with and for whom the GA employable recipient is the primary caretaker; and protective services child(ren) as identified by DYFS. Family Development Program (FDP) referrals of those members identified in the Family Plan to FDP components, shall be based on whether or not problems experienced by that family member create a barrier to the employable GA recipient(s) in becoming self-sufficient.

“Family Plan” means the plan developed by the adult(s) AFDC recipient or caretaker relative or the GA employable individual which is a detailed action agenda which sets forth the GA and AFDC/FDP participant/other eligible unit/members and other family members’ assessment results; the educational and employment-related goals of the adult(s)/caretaker(s)/AFDC individual(s) or GA employable individual; and the steps the FDP participant and other family members will need to take to achieve those goals; supportive services provided to permit FDP participation by eligible unit members; and the timetable for the provision of those services.

“FDP” means “Family Development Program” which is a program designed to offer intensified and coordinated services/activities to address the educational, vocational, and other needs of public assistance recipients and their family members in order to enable AFDC and employable GA recipients to prepare and achieve economic self-sufficiency through permanent full-time unsubsidized employment.

“FDP Agreement” means the agreement between the AFDC parent recipient or caretaker relative or the GA employable individual and the respective case management entity that sets forth the FDP participation obligations of the FDP participant(s) and the FDP case management agency for specific activities or services for FDP.

“FDP Components” means the various offerings/services of the FDP including the assessment/evaluation component; the job development component; the social services/special referrals component; the work/training component; and the supportive services component (including child care and participant allowances).

“FDP education and employment-directed activities” means FDP activities that are designed to lead to economic self-sufficiency through employment of AFDC and employable GA recipients, and include: FDP Job Search; FDP Work Supplementation Program; FDP Community Work Experience Program (CWEP); FDP vocational/technical training programs; FDP educational services; post-secondary educational opportunities; and job readiness activities.

“FDP participant” means any member of the AFDC adult recipient’s eligible unit, including the adult or caretaker relative who is not exempt from FDP participation; or, in General Assistance, any employable GA individual in the eligible unit.

“FDP selected entity” means the agency selected to administer a particular FDP function to either the AFDC/FDP or GA/FDP program. Such agencies or organizations include, but are not limited to, a county welfare agency, a municipal welfare department, JTPA agency, or other public or private (for either profit or non profit agency or organization).

“General Assistance” means financial and/or medical assistance provided by municipal welfare departments to needy persons currently ineligible for participation in any other public assistance program in New Jersey, or for Supplemental Security Income (SSI).

“Limited English proficiency” means the ability to speak, read, write or understand the English language to function in the community.

“Mandatory participant” means an individual who is receiving AFDC or GA cash assistance benefits who is required to participate in FDP and whose participation is not exempt. Participation may be required in one or more of the FDP components.

“MWD” means municipal welfare department.

“PAL” means participant allowance which may include a transportation (TRE) allowance, an employment-directed activity allowance (EDA); a job allowance (JOB); an allowance for an automobile repair or insurance (CAR); or an allowance to participate in the CWEP.

“Public Assistance” means assistance benefits provided to individuals/families through the Aid to Families with Dependent Children program or the General Assistance program.

“Satisfactory progress in an educational activity” means that the participant in any educational activity is meeting, on a periodically measured basis of less than one year, such as a term or quarter, a consistent standard of progress based upon a written policy that was developed by the educational institution or program in which the participant is enrolled, and approved by the appropriate State and/or local education agency and the county IV-A agency or municipal welfare department or GA case management entity (see N.J.A.C. 10:86-4.5(d)).

“Satisfactory progress in a training activity (that is, on-the-job (OJT), Community Work Experience (CWEP), and skills training)” means that the participant in a training activity is meeting, on a periodically measured basis of less than one year, such as quarterly, a consistent standard of progress based upon a written policy that was developed by the training provider, and approved by the county IV-A agency or municipal welfare department or GA case management entity (see N.J.A.C. 10:86-4.5(e)).

“Unemployable GA individual” means an individual who, because of a physical or medical impairment, incapacity, or age, cannot maintain employment due to circumstances which prohibit that individual from doing so. The period of time an individual is classified as unemployable may be for a short or temporary timeframe or may extend indefinitely.

“Voluntary participant” means an individual applying for or receiving AFDC who is not required to participate in the FDP, but who chooses to participate on a voluntary basis in the FDP work/training component.

“Work/training” means educational, vocational and employment-directed activities as well as employment.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Added “County based child care entity” and deleted “Lead child care agency”.

### SUBCHAPTER 3. FAMILY DEVELOPMENT PROGRAM PARTICIPATION

#### **10:86-3.1 General participation**

(a) All AFDC and required GA eligible individuals shall, except as otherwise provided in this manual, participate in FDP as a condition of eligibility for AFDC or GA. FDP services/activities are not limited to the adult public assistance recipient, but are extended to include the eligible recipient’s family members. Participation in FDP is two-fold:

1. Development of a Family Plan by the AFDC parent or caretaker relative and GA recipient to identify (through assessment) services/activities needed by family members;

i. The Family Plan is at the core of the FDP and is designed as an evolutionary tool to be modified periodically, as necessary, to address the changing needs/circumstances of the family; and

2. Individual family member participation (including the adult recipient) in activities/services targeted to meet his or her needs.

(b) The objective of the Family Plan is to direct member participation in one or more of the other available program core components: evaluation/assessment; social services/special referrals; and education and employment-directed activities (see N.J.A.C. 10:86-4 for full component descriptions).

(c) An AFDC parent or caretaker relative or an employable GA recipient shall participate in FDP components as follows:

1. Attend initial assessment of employability (evaluation/assessment of individual and family member needs), counseling and diagnostic sessions necessary for his or her placement in employment, education, or in employment-directed activities (including, but not limited to, on-the-job training/job search/vocational training/job readiness activities);

2. Participate in good faith at all sessions necessary to develop an FDP Family Plan (that is, family agreement for services/activities needed by individual family members); and

3. Comply in good faith with all provisions of the FDP Family Plan, including, but not limited to, ensuring that family members participate in activities or receive services provided through the FDP family agreement; attending activities specified in the Family Plan necessary to improve his or her skill levels or to address educational needs; participating in other services provided through referrals (such as medical services and/or rehabilitation for purposes of restoring or improving employability); or by maintaining employment, when appropriate.

i. An AFDC recipient whose youngest child is less than two years of age shall at a minimum (unless the provisions at N.J.A.C. 10:86-3.4(e)3 apply) participate in counseling, vocational assessment and in the development of a Family Plan. He or she may volunteer to participate in appropriate (as determined by the assessment process) FDP education or employment-directed activities. Special services include:

(1) Basic instruction and counseling in parenting skills and caring for a child's physical and emotional well-being;

(2) The provision of information on the availability of community resources for protection and development of children; and

(3) The identification of future educational, training and employment goals of the parent.

(d) Other AFDC and GA family members shall participate in FDP components based on an assessment of the family's needs as set forth in the Family Plan.

(e) The MWD will submit a written notice to the appropriate county welfare agency (CWA) when a General Assistance/Food Stamp Program employable recipient fails or refuses to comply with FDP requirements. Information provided shall include the recipient's name, address, Social Security number and the specific FDP requirement violated.

#### **10:86-3.2 Exemption from participation in the FDP Education and Employment-Directed Activity (EEDA) Component**

(a) AFDC and employable GA recipients are required to participate in employment or in the FDP Education and Employment-Directed Activity Component (EEDA) which includes educational programs, vocational training and work-directed activities, unless exempt from such participation as determined by the IV-A agency income maintenance (IM) worker or the municipal welfare department (MWD) in accordance with (b) below. An individual may claim at any time that he or she is entitled to an exemption.

1. The date of the determination of the exemption and the reason for the exemption shall be recorded in the individual's case record at the CWA or MWD.

2. Any authorized exemption which does not have a stated reevaluation period shall be reviewed at such time as the condition is expected to terminate, but no less frequently than at each redetermination of AFDC or GA eligibility. During the periodic review, if there is a change in the exemption status, the appropriate action shall be taken by the CWA or the MWD on the change in status and the recipient shall be notified of the change by the respective agency.

3. The term "unemployable" used to describe individuals in receipt of GA benefits is used interchangeably with the term "exemption" for compliance with the FDP/EEDA Component.

i. For purposes of GA, unavailability of employment cannot be the basis of a determination of unemployability.

4. Any individual who is not exempt from participation, for any of the reasons in (b) below, is considered mandatory for participation in the activities of the FDP/EEDA Component as determined by an assessment of that person's specific needs.

5. When appropriate, referral of the recipient to the Division of Vocational Rehabilitation Services (Form PA-14, Referral for Services, shall be used for this purpose) and/or to the Social Security Administration for Retirement, Survivors and Disability Insurance (RSDI) or Supplemental Security Income (SSI) benefits shall be made. Acceptance of referral for such service is optional with the individual and shall not affect a recipient's entitlement to AFDC or GA benefits.

(b) The following categories of individuals in Charts I and II are exempt from participation in the FDP/EEDA Component:

1. Chart I: FDP exemptions from education/work/training activities for AFDC are as follows:

- i. Persons who are under age 16 and who are dependent children;
- ii. Students between 16 and 18, enrolled or accepted for enrollment as full-time students for the next school term in an elementary, secondary, or vocational or technical school; or who are 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;
- iii. Persons who are 60 years of age or older;
- iv. Persons who are ill or injured;
- v. Persons who are incapacitated (includes alcohol and drug addiction impairments and periods of recuperation after childbirth due to complications during or after the birth);
- vi. Persons who are pregnant following the first trimester;
- vii. Persons who are required in the home to care for another member of the household on a substantially continuous basis when no other appropriate member of the household is available;
- viii. A parent or other caretaker relative of a child under two years of age who personally provides care for the child (see additional criteria at N.J.A.C. 10:86-3.4(e));
- ix. Persons who live in areas defined as "remote" (see N.J.A.C. 10:86-3.4(f));
- x. A parent or other caretaker of a child on AFDC-C, if another adult relative in the home is a mandatory FDP participant in the work/training component and has not refused to participate in the FDP or to accept employment without good cause;
- xi. The other parent who is not the principal earner in an AFDC-F family if the parent who is the principal earner is not exempt under these rules;

xii. The parent who is not the principal earner in the AFDC-N segment;

xiii. Any individual who is a full-time volunteer serving under the Volunteers in Service to America (VISTA) program pursuant to Title I of the Domestic Volunteer Service Act of 1973; and

xiv. A person who is working 30 or more hours per week.

2. Chart II: FDP exemptions from education/work/training activities for GA are as follows (†denotes GA unemployables):

- i. Persons who are under age 16 or who are under age 18 and are a full-time student;
- ii. Persons who are participating in a lawful strike or who are locked-out of a labor dispute;
- iii. Persons who are applying for or are receiving medical benefits only, without cash assistance;
- iv. Persons who are receiving inpatient hospital care and treatment;
- v. †Persons who are 65 years of age or older;
- vi. †Persons receiving inpatient hospital care and treatment who were or would have been classified as unemployable under these rules, prior to entering the hospital;
- vii. †Persons who are patients in long term care facilities;
- viii. †Persons in the first 12 months of residential treatment in centers licensed by the New Jersey Department of Health for the treatment of drug and alcohol abuse when medical evidence exists that residential treatment is necessary (the 12-month period starts anew for each commencement of treatment);
- ix. †Persons normally eligible to receive RSDI, SSI, or Railroad Retirement benefits on the basis of disability, but due to recovery of overpayments or administrative delays, such payments are being withheld;
- x. †Persons in the third trimester of pregnancy when an examining physician certifies to both the pregnancy and its term;
- xi. †Pregnant persons when an examining physician certifies that employment poses a threat to the mother of the fetus; or
- xii. †Persons who are required at home to care for one or more children under age six, or for disabled family members and no other appropriate member of the household is available.

(c) Any parent receiving AFDC-N cash assistance or any GA recipient who is not otherwise exempt from participation in the FDP/EEDA Component who is an illegal alien shall participate in FDP Community Work Experience program (CWEP) worksites only (see N.J.A.C. 10:86-5.5 for a description of the CWEP activity).

### 10:86-3.3 GA incapacity exemption from the FDP/EEDA Component (MWD function)

(a) GA recipients determined to be incapacitated by the MWD, and therefore exempt from participation in the FDP/EEDA Component due to a physical or mental impairment which prevents the individual from engaging in employment, shall be re-evaluated periodically by the MWD. A determination of incapacity is supported by any of the following circumstances.

1. The individual is unable to engage in any useful occupation for which he or she has formerly demonstrated competence. Written certification by an examining physician attesting to the individual's inability by reason of an identified physical or mental defect, disease or impairment shall be obtained by the recipient.

- i. Alcohol or drug addiction shall be considered physical impairments if the specific addiction prevents the individual from engaging in employment or training. If an individual evidences symptoms of alcohol or substance abuse or behavioral problems, referral for social services will be made. If such referral is not accepted or the individual stops participating in the treatment program, the individual shall no longer be exempt from FDP/EEDA participation and shall be required to participate in other FDP activities as set forth at N.J.A.C. 10:86-5.

2. The expressed period of the incapacity or the termination date of the incapacity contained in the written certification shall be observed as follows:

- i. A time period of "indefinite" shall be construed to mean three months unless renewed by the examining physician or extended by the GA Program Unit (GAPU) in the Division of Family Development (DFD) (see (b) below).

- ii. When no date or time period is indicated, the certification shall be renewed monthly or at an interval set by GAPU.

3. The individual has an obvious disability or impairment which makes employment unrealistic at the time of application/redetermination.

- i. Such determinations may be valid for up to three months or longer, as decided by GAPU.

4. The individual's history of unemployment and lack of vocational training and/or education, combined with medical evidence of the existence of a mental or physical disability or impairment, negates all possible employment.

- i. Facts leading to such a determination shall be recorded in the MWD case record.

- ii. A determination on this basis shall be valid for three months or longer, as determined by GAPU.

(b) The DFD/GAPU may prepare a "Written Record of Action." The MWD makes application for the Record through the submission of such documentary material to GAPU as the MWD deems appropriate. This material may include, but is not limited to, medical or hospital reports and the MWD's own statement of specific observations and recommendations. Public Assistance Form PA-5 (DRS-1), Examining Physician's Report, may be used in this process.

1. Social information submitted by the MWD should include, at a minimum, the recipient's age, educational level attained, experience (including vocational training and work history) and a general description of the individual, especially as that description may relate to employment.

2. The GAPU shall consider the social information submitted by the MWD as well as the physical or mental defects, diseases or impairments of the individual in determining whether the recipient shall be able to engage in any useful occupation for which he or she has competence, or of the individual's ability to engage in retraining.

### 10:86-3.4 Discussion of AFDC exemption criteria (IM function)

(a) An AFDC individual is considered incapacitated and therefore exempt from FDP/EEDA Component participation when it is verified that a physical or mental impairment, either by itself or in conjunction with age, prevents the individual from engaging in employment and/or training. Such an incapacity is expected to exist for a continuing period of at least three months (see N.J.A.C. 10:81-3.16(g)).

1. Physical or mental impairment shall be determined by a physician, or licensed or certified psychologist, or by the Disability Review Section, Division of Medical Assistance and Health Services.

2. Alcohol or drug addiction shall be considered physical impairments if they prevent an individual from engaging in employment or training.

- i. Where an individual evidences symptoms of alcohol or substance abuse or behavioral problems, referral for social services will be made. If such referral is not accepted or the individual stops participating in the treatment program, he or she shall no longer be exempt from FDP/EEDA participation.

3. Incapacity may include a period of recuperation after childbirth if prescribed by the woman's physician. Uncomplicated pregnancy of itself shall not be considered incapacitating; however, any claim to complications shall be verified in writing by a physician or licensed or certified psychologist by use of Form PA-5 (DRS-1), Examining Physician's Report, for an appropriate period of recuperation prescribed by her physician/psychologist.

4. If the individual could be served or employed if reasonable accommodation(s) for his or her condition were made, then the possibility of participation in FDP shall be encouraged rather than exemption of the individual for reason of incapacity.

5. When an individual claims exemption under incapacity or illness, but further verification is necessary (for example, a medical or psychological examination), verification of the exemption shall be made as expeditiously as possible, but may not take longer than 30 days. If such verification is not provided within 30 days, the individual shall be required to participate in the FDP/EEDA Component unless there is a legitimate delay in obtaining a medical appointment. In such instance, the 30-day limit may be extended to 45 days.

6. Individuals who have been determined to be exempt from FDP on the basis of incapacity shall be referred to the Division of Vocational Rehabilitation Services. Form PA-14, Referral for Services, shall be used for this purpose. Acceptance of referral for such services is optional with the individual and shall not affect a recipient's or family's entitlement to benefits.

(b) An AFDC individual is considered ill or injured when it is determined on the basis of medical evidence (such as a doctor's verification) or on some other sound basis that the illness or injury is serious enough to temporarily prevent participation in employment or in the FDP/EEDA Component. Reasons for exemption for illness or injury (which are of a temporary nature) include: observation of a cast on a broken limb; information of scheduled surgery; recuperation from surgery; or other instances where the condition will be of limited duration.

1. Exemption for illness or injury normally will not exceed 90 days.

2. As part of the AFDC income maintenance function (IV-A agency function), the case shall be reviewed every 30 days to determine changes in circumstances that may render the individual able to participate in FDP/EEDA Component activities or employment.

(c) An individual is considered to be "required in the home" and therefore exempt from FDP/EEDA Component participation when verification is obtained that a physical or medical impairment (as determined by a physician or licensed or certified psychologist) of another member of the household requires the individual's presence in the home on a substantially continuous basis, and no other appropriate member of the household is available.

(d) An individual is considered exempt from FDP/EEDA Component participation due to pregnancy after the first trimester, that is, months four through childbirth, with medical verification of the expected date of delivery.

(e) An AFDC parent or other caretaker relative who is exempt because he or she personally provides care for a child under two years of age is subject to the following additional criteria:

1. Only one parent or other relative in the family may be exempt from FDP participation for the reason of personally providing care to a child under two years of age.

2. Limited participation of 20 hours in any FDP/EEDA Component activity is required for a parent in an AFDC-C segment case and only one caretaker relative in a two parent AFDC-F family whose child is two years of age or greater, but less than age six if child care is available in accordance with N.J.A.C. 10:86-10 to enable the 20 hour participation unless the factors in (e)3 below apply to the AFDC parent or caretaker relative. The AFDC parent may volunteer to participate for greater than 20 hours.

3. Custodial parents under age 20 must participate in the FDP/EEDA Component regardless of the age of the youngest child, if the individual does not satisfy any of the other exemption criteria and the individual has not finished high school (or its equivalent) and child care is otherwise available in accordance with N.J.A.C. 10:86-10.

4. AFDC parents with a child under two years of age shall participate in FDP assessment, counselling and preparation of the Family Plan.

(f) An AFDC participant may satisfy an exemption for remoteness if despite the provision of support services, the commuting time between home and the site of the FDP employment-directed activity by available public or private transportation is not reasonable. Commuting time of one hour each way, exclusive of the time necessary to transport children to and from a child care facility, is considered reasonable. However, if normal round trip commuting time in the area is more than two hours, then the round trip commuting time considered reasonable shall be the generally accepted community standards for commuting as determined at the county level.

(g) The principal earner in an AFDC-F or -N segment family, if exempt from participation in FDP due to remoteness, shall register with the State Employment Service.

(h) AFDC individuals who are working not less than 30 hours per week in unsubsidized employment expected to last a minimum of 30 days are exempt from participation in other FDP/EEDA Component activities, even if there is a temporary break which is expected to last no longer than 10 working days.

1. The agency will endeavor to provide such supportive services as are available under these rules if they are needed to help the AFDC participant continue employment. However, to receive supportive services, the individual shall be referred by the IV-A agency income maintenance worker to AFDC/FDP case management and shall cooperate with applicable FDP requirements to be determined eligible for receipt of any supportive services of the FDP program (see N.J.A.C. 10:86-9 and 10).

2. The participant may voluntarily participate in other FDP training or education agreed upon by the AFDC/FDP case management entity if it appears that the current employment held by the AFDC individual will not result in the family becoming self-sufficient. FDP activities, as needed, shall be delineated to help the participant achieve this end.

**10:86-3.5 Volunteer participation in FDP/EEDA Component activities (AFDC program only)**

(a) Volunteers in the FDP/EEDA Component are defined as those AFDC individuals who meet the FDP exemption criteria at N.J.A.C. 10:86-3.2(b) and decide to participate in the FDP education/work/training component (EEDA) regardless of the exemption. The IV-A agency income maintenance worker shall inform all exempt AFDC-C, -F, and -N applicants and recipients of their right to voluntarily participate in FDP education/work/training component activities and of their right to stop participation at any time without loss of assistance payments.

1. During county phase-in to the FDP program, that AFDC individual who voluntarily agrees to participate in a FDP/EEDA Component activity and who is not a member of a required county phase-in group shall be treated as an FDP mandatory individual (one who is required to participate at that phase of the county's implementation of the FDP) unless the individual satisfies FDP exemption criteria at N.J.A.C. 10:86-3.2(b). If that AFDC individual is found to be exempt from FDP/EEDA Component activity and decides to participate, then the individual is a "volunteer in FDP."

(b) If an exempt AFDC individual "volunteers" to participate in FDP/EEDA, he or she is not subject to sanctioning due to nonparticipation (see N.J.A.C. 10:86-8).

(c) In determining the priority of participation within the FDP/AFDC target populations (see N.J.A.C. 10:86-3.6) in the FDP/EEDA Component, the agency shall give first consideration to applicants for or recipients of AFDC who are exempt but "volunteer" to participate in the FDP/EEDA.

(d) When a "volunteer for FDP" stops participation in a FDP/EEDA Component activity without good cause, that AFDC individual shall not be given priority to participate again so long as other AFDC individuals are actively seeking to participate, unless the individual loses exemption status and becomes FDP mandatory for participation in the FDP/EEDA Component.

**10:86-3.6 Specific AFDC participation requirements in the FDP/EEDA Component**

(a) As required by the Federal Family Support Act (JOBS), the FDP program targets services to certain AFDC populations for participation in the program.

(b) Those AFDC/FDP target groups are:

1. "Long term recipients"—Long term recipients receiving AFDC for any 36 of the preceding 60 months;

2. "Long term applicants"—Individuals who make application or reapplication for AFDC, and have received AFDC for any 36 of the preceding 60 months immediately preceding the most recent month for which application has been made;

3. "AFDC custodial parents under age 24 needing high school"—AFDC individuals who are custodial parents under the age of 24 and who have not completed a high school education, are not enrolled in high school nor in a high school equivalency course of instruction (General Education Development—GED);

4. "Custodial parent under age 24 with no work history"—AFDC individuals who are custodial parents under age 24 and who have little or no work experience in the preceding year; and

5. "Potentially ineligible AFDC families"—Families whose youngest child is age 16; that is, the youngest child is within two years of being ineligible for AFDC because of age (thereby rendering the entire family ineligible for AFDC).

(c) A State only target group is comprised of AFDC individuals/families being considered for or living in transitional housing (including temporary rental assistance under IV-A emergency assistance provisions) requiring participation, if not otherwise exempt, in an educational/work/training component as a condition of eligibility for that transitional housing; or living in a shelter when the shelter provides access to training/educational programs designed to encourage self-sufficiency which may be determined by the county as qualifying as FDP or REACH/JOBS participation; or who are on waiting list(s) for a rental subsidy or living in housing which is subsidized and which requires work/training participation (for example, Section 8 Programs, both State and/or Federal);

1. Transitional housing programs for purposes of the State only target group may encompass the following:

i. Self-Sufficiency Transitional Housing—Provided through the New Jersey Department of Community Affairs. This Program requires participation in the FDP/EEDA, REACH/JOBS or Project Self-Sufficiency;

ii. IV-A Funded Transitional Housing—Provided in accordance with the New Jersey Department of Human Services Comprehensive Homeless Assistance Strategy Guidelines (for example, Harmony House). FDP/EEDA or REACH/JOBS participation is required;

iii. IV-A Temporary Rental Assistance—As described under the emergency assistance provisions at N.J.A.C. 10:82-5.10(f)5;

iv. Demonstration Transitional Housing Sites—The four Demonstration housing sites in the counties of Monmouth, Middlesex, Passaic and Mercer require FDP/EEDA or REACH/JOBS participation; and

v. Other—County initiated transitional housing programs requiring work/training participation.

2. The State-only target group shall be used only if the AFDC family/individual does not first satisfy one of the five Federal target group definitions in (b) above, and the family meets the aforementioned State-only target group criteria. The State-only target group has been added for participation purposes of AFDC/FDP so that those families most in need of housing assistance can be targeted for services through the FDP.

3. Income maintenance staff at the CWA should address questions to AFDC individuals at intake and in AFDC redetermination interviews to determine family circumstances regarding housing issues to ascertain whether such individuals may be targeted for FDP services if other Federal target group definitions are not met.

4. CWA social services staff should immediately contact the family's IM worker alerting the worker to a family's situation so that IM can assure the proper target group designation for the family so that appropriate referral can be made to AFDC/FDP case management for FDP/EEDA participation.

(d) Target group status is established no later than the initial assessment of employability. IM determination of target group status during orientation is permissible. If the individual is identified as belonging to one of the five Federal target groups, that individual shall remain in that target group for the duration of AFDC/FDP participation, including the 12-month post-AFDC period. If the individual is identified as belonging to the State only target group, the target group status shall be changed when such individual satisfies Federal target group criteria as set forth in (b) above.

1. It is advantageous to the State and county to match the family/individual first to Federally mandated target groups if that criteria is met by the individual/family due to Federal JOBS funding policies.

(e) CWAs have an ongoing responsibility to assign target group status to new AFDC/FDP cases and to correct an inappropriately assigned AFDC target group status. The IV-A agency shall ensure coordination between IM and AFDC/FDP case management so that a participant's target group status is accurate.

(f) Title II of the Family Support Act, the Job Opportunities and Basic Skills Training (JOBS) program, requires that AFDC individuals with certain educational needs or certain family circumstances participate in prescribed employment-directed activities (EDAs) or participate subject to Federal limitations. These requirements include:

1. Activities for dependent children age 16 to 18 not attending school;

2. Educational requirements for custodial parents under age 20, including different requirements for parents under age 18 and parents age 18 or 19;

3. Educational requirements for individuals age 20 and older;

4. Participation requirements for AFDC-F segment principal earner; and

5. Limited participation for a caretaker of a child age two and older but under age six.

(g) Dependent children between 16 and 18 years of age, who are not parents and who are not attending high school, shall be mandatory AFDC/FDP participants in the FDP/EEDA Component. Such individuals should be encouraged and helped to remain in school or to participate in other educational or training activities as delineated in accordance with N.J.A.C. 10:86-5.

(h) The principal earner in an AFDC-F segment case shall participate for a total of at least 16 hours per week in a FDP work supplementation program (WSP), in a community work experience program (CWEP), or in an on-the-job training (OJT) program.

1. If the AFDC-F principal earner is under 25 years of age and has not completed high school (or its equivalent), he or she may participate in preparatory educational services in lieu of participation in WSP, CWEP or OJT.

i. The AFDC-F individual shall be considered to be meeting the above participation requirement if he or she is making satisfactory progress.

2. The AFDC-F principal earner participating in CWEP shall be considered to have met the 16 hours per week minimum participation requirement if he or she participates for the maximum number of hours of participation as permitted under that program's guidelines (see N.J.A.C. 10:86-5.5(e)4).

(i) For purposes of determining a State's participation rate for Federal Financial Participation, an AFDC participant is an AFDC recipient who is assigned to a FDP program component (including educational activities, including training, job skills training, job readiness activities, job search, OJT, WSP, CWEP and post-secondary education) for at least the minimum activity level. Minimum activity levels include making satisfactory progress in all educational activities, and participating at least 20 hours per week in the other components noted; except for OJT and WSP, the minimum level is the number of hours defined by the employer as full-time work for that position. For participants in CWEP, the minimum level is the lower of either 20 hours per week or the maximum CWEP hours calculated as allowable for that individual. An individual's hours of participation for the week can be a combination of the hours of participation in more than one activity.

1. An AFDC/FDP participant individual active only in assessment, employability development planning, or in services is not considered a participant for these purposes.

**Case Notes**

Petitioner not entitled to reimbursement for transportation expenses for attendance of English proficiency classes. *G.S. v. Passaic County Board of Social Services*, 94 N.J.A.R.2d (DEA) 5.

**10:86-3.7 Federal educational requirements for AFDC custodial parents**

(a) AFDC custodial parents under age 20, regardless of the age of the youngest child, who have not completed a high school education or its equivalent (for example, GED), and who are not exempt from participation in FDP/EEDA, must participate in FDP/EEDA preparatory educational activities, subject to the provisions below:

1. An AFDC custodial parent under age 18 with no high school diploma, regardless of the age of the youngest child, is required to complete a high school education or its equivalent and shall have the choice to return to high school or to enroll in a high school equivalency program. The AFDC/FDP case manager shall not excuse anyone from high school who is subject to the State's compulsory attendance requirement.

i. Attendance must be full-time (as defined by the educational provider) even though the youngest child may be under six years of age, unless good cause is demonstrated or child care is not available to support full-time attendance. Until child care becomes available, participation may be on a part-time basis or the AFDC individual may be temporarily excused.

ii. In exceptional circumstances the custodial parent may be excused from the high school attendance requirement, provided he or she is beyond New Jersey's compulsory attendance requirement of age 16 and participates in another FDP/EEDA preparatory activity or in skills training combined with education (for example, Job Corps) and:

(1) The determination of participation in the other preparatory activity is not based solely on grade completion but rather is based upon the results of an assessment and the participant's employment goal which indicate education is inappropriate for the individual; or

(2) The participant's local school district legally refuses to admit or readmit the participant and no alternative, appropriate educational components are available; or

(3) The participant has been determined developmentally disabled or in need of special educational programs for the learning disabled.

2. An AFDC custodial parent age 18 and 19 with no high school diploma regardless of the age of the youngest

child is required to participate in preparatory educational activities and shall attend the program full-time (as defined by the educational provider) even though the youngest child may be under six years of age, unless good cause is shown or child care is unavailable to support full-time attendance. Until child care becomes available, participation may be on a part-time basis or the individual may be temporarily excused.

i. The AFDC custodial parent who is age 18 or 19 may be required to participate in training or work activities (subject to the 20-hour limit addressed at N.J.A.C. 10:86-3.4(e)2, unless the individual volunteers to participate for more than the 20 hours limited participation) instead of educational activities if one of the following conditions is met:

(1) After placement in the educational activity, the AFDC custodial parent failed to make good progress in successfully completing educational activities; or

(2) Prior to the assignment of the individual to such educational activities it is determined, based on an educational assessment and the employment goal in the individual's Family Plan, that participation in educational activities is inappropriate for such parent. The participant must strongly indicate that he or she is not interested in participating in the educational component and one of the following conditions is met:

(A) The participant has a documented history of repeatedly failing to make progress in educational components (indicated by, for example, expulsion from high school, violent or disruptive behavior, threats, excessive absenteeism, failure to complete an alternate education component); or

(B) The initial assessment of employability indicates that: the participant's current literacy level is sufficient to achieve the employment goal in the FDP Family Plan; the participant has the basic literacy level; or the employment goal in the FDP Family Plan does not require a high school diploma or its equivalent.

(b) A mandatory FDP participant who has attained the age of 20 years and has not earned a high school diploma (or its equivalent) is required to participate in preparatory educational activities consistent with his or her employment goals as a component of the individual's FDP Family Plan. Any other FDP services or activities may not be permitted to interfere with participation in preparatory educational activities.

1. Participation in preparatory educational activities is not required if:

i. The individual demonstrates a basic literacy level needed for his or her employment goal; or

ii. The individual's employment goal, as identified on his or her FDP Family Plan, does not require a high school diploma (or its equivalent).

(c) A custodial parent regularly attending high school or a secondary vocational school is not required to participate in the AFDC/EEDA Component. Such individuals are not included as FDP/EEDA participants for Federal reporting purposes. Such individuals may be eligible for child care through FDP to help them remain in school if necessary and appropriate.

### 10:86-3.8 FDP Family Plan and FDP Agreement

(a) On the basis of the initial assessment of employability of the adult AFDC recipient(s) or caretaker relative, or the employable GA participant, the AFDC or GA FDP case manager shall develop a FDP Family Plan in consultation with the participant. The Family Plan shall take into account available program resources; the participant's supportive service needs; the skills level and aptitudes of the FDP adult participant; local employment opportunities; and, to the maximum extent possible, the preferences of the participant. The Family Plan shall also list the services/resources needed for each family member.

(b) A FDP Family Plan shall be completed for each FDP participant family. The FDP Family Plan shall be signed by the AFDC or GA FDP case manager and the AFDC parent or caretaker relative or GA participant and a copy retained in the FDP participant's case record. The participant shall also receive a copy of the plan.

(c) The FDP Family Plan is an outline of the activities and services needed by the AFDC parent or caretaker relative or GA participant to achieve an employment goal. The FDP Family Plan shall not be considered a contract but rather shows the path the AFDC adult or GA employable individual must follow to help him or her achieve an employment goal. The Plan also establishes services and activities needed by other family members.

(d) The FDP Family Plan shall be used in conjunction with the FDP Agreement which provides detailed information concerning specific FDP/EEDA Component activities and FDP supportive services needed to achieve the employment goal.

(e) The FDP Family Plan shall contain the following:

1. General case information;
2. An employment goal for the AFDC parent or caretaker relative or GA FDP participant developed in consultation with the AFDC or GA individual which should reflect the availability of jobs in the local and/or relevant market;

3. A list of the FDP/EEDA Component activities that will be undertaken by the participant to achieve the employment goal (the specific details of the FDP/EEDA activity, such as dates and hours of participation, shall be identified in the FDP Agreement);

4. The supportive services to be provided to enable FDP/EEDA participation such as child care, transportation and other supportive services (the specific details concerning services to be provided, such as the name of the provider, dates, time, and so forth, shall be identified in an FDP Agreement);

5. Any other needs of the AFDC or GA FDP family members, identified during assessment, that might be met through FDP;

6. The AFDC or GA FDP participant's literacy level, including date assessed, and the name of the specific test used to assess the literacy level; and

7. The participant's education level, that is, highest grade completed.

(f) Final approval of the FDP Family Plan rests with the AFDC or GA FDP case manager.

(g) The AFDC or GP FDP case manager shall make changes to the FDP Family Plan as follows:

1. Update the literacy level when the FDP participant(s) completes a preparatory educational activity, such as GED, Adult Basic Education (ABE) or English as a second language (ESL), as appropriate;

2. Record satisfactory progress in a noneducational employment-directed activity at the time of completion of the activity or every three months, whichever occurs first;

3. Record satisfactory progress in an educational component on a periodic basis of less than one year, such as a term or quarter, which is consistent with the progress report policies set by the educational institution, program, or the training provider;

4. Complete a new AFDC or GA FDP Family Plan when there is a change in the participant's employment goal or to reflect new activities or services needed by family members.

(h) The FDP Agreement will set forth provisions for both the AFDC or GA FDP participant and the agency to comply with under the principle of mutual obligation. Each participant will sign an initial FDP Agreement with the AFDC or GA FDP case manager affirming participation, provision of supportive services (such as child care and transportation) and commitment to self-sufficiency. The final FDP Agreement places the AFDC or GA participant in employment or an employment-directed activity, and will be adapted to each participant's skills and necessary employment activities. A Spanish language version of the FDP Agreement is available for any participant whose primary language is Spanish.

1. All AFDC or GA FDP participants will be required to complete and sign a FDP Agreement as a condition of continued eligibility for the AFDC or GA programs.

2. All AFDC/FDP participants no longer receiving AFDC will be required to complete and sign a FDP Agreement as a condition of receiving post-AFDC extended medicaid and transitional child care benefits. If the participant would be penalized by the employer for taking time off from work, the Agreement may be mailed to the participant with the approval of the AFDC or GA FDP case management supervisor.

(i) Failure or refusal of the AFDC or GA FDP participant to sign the Family Plan or FDP Agreement without justification will result in sanctions set forth in N.J.A.C. 10:86-8. Justification shall include good faith disagreements about the particular employment or educational or employment-directed activity proposed by the AFDC or GA FDP case manager or about the specific supportive services that will be required. If the FDP case manager can demonstrate with available and pertinent information that there is no reasonable basis for the participant's position, then the disagreement will be deemed to be without justification.

1. Inadvertent failure of the AFDC or GA FDP case manager, as the agency representative, to sign the Family Plan will not relieve the FDP participant or the agency of compliance with the terms of the Family Plan or FDP Agreement and sanctions for noncompliance.

2. Prior to being asked to sign the FDP Agreement, each AFDC or GA FDP participant shall be advised that legal responsibilities are involved and that the FDP participant has three business days to have the Agreement reviewed by an attorney or other adviser.

(j) If, after evaluation and assessment, the AFDC or GA FDP participant is not satisfied with the terms of the Agreement, including the results of the assessment, the scheduled FDP/EEDA activities or supportive services set forth in the Agreement, and if, after three days, the FDP case manager cannot resolve the disagreement, then the following conciliation procedures shall be applied:

1. The AFDC or GA FDP participant shall be offered the opportunity to immediately voice his or her dissatisfaction to the supervisor of the case manager. The supervisor will review the assessment and proposed Agreement, listen to the concerns of the participant and, within one working day, make a decision.

2. If the participant still has disagreement about the Agreement terms the FDP participant shall be advised orally and in writing that he or she has a 10-day period to request a fair hearing (N.J.A.C. 10:81-6 and 10:85-7) as to whether the participant's position is without reasonable basis.

(k) The FDP Family Plan and/or Agreement are continuous and have no automatic or periodic expiration date.

Once signed, those documents remain in force until any of the following occurs:

1. The individual becomes ineligible for AFDC or GA for a reason other than employment or receipt of unemployment insurance benefits or temporary disability insurance; a sanction is imposed; the individual moves to another county or municipality; or the participant completes the last scheduled activity with no subsequent activity scheduled.

2. In absence of a change in AFDC or GA eligibility, an FDP Agreement will expire on the ending date of the last activity unless the FDP case manager and participant amend the Agreement with a new activity. To ensure continuous participation in FDP, the AFDC or GA FDP case manager shall review the individual's progress, Family Plan and/or schedule an appointment with the participant, and jointly update the Family Plan and/or Agreement with the participant within two weeks of the ending date of the last FDP activity set forth in the Agreement.

3. The FDP Family Plan and Agreement may be amended or updated at any time. Amendments may reflect changes in skills, education levels of the participant and changes in assignment to employment-directed activities, as well as any other agreed change in terms concerning family members.

4. A review of the Family Plan and Agreement shall be completed at time of the redetermination of AFDC or GA eligibility. At a minimum, the case manager and the participant shall review compliance with the existing Plan/Agreement.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (h)2, inserted "transitional" preceding "child care benefits".

### 10:86-3.9 Employment

(a) AFDC or GA individuals who are working not less than 30 hours per week in unsubsidized employment which is expected to last a minimum of 30 days are exempt from participation in other FDP/EEDA Component activities, even if there is a temporary break which is expected to last no longer than 10 working days.

1. The individual may voluntarily participate in FDP/EEDA Component activities.

2. Supportive services shall be provided, as available under these rules, if needed to continue employment. To receive supportive services, the individual shall cooperate with FDP requirements for receipt of those supportive services.

(b) FDP is designed to allow each AFDC or GA FDP participant to maximize his or her individual abilities. Every effort will be made to place FDP participants in jobs which offer the greatest range of responsibility, opportunity for advancement, and rate of pay, given the FDP partici-

part's abilities and experience. If a job which maximizes the participant's abilities and experience is not available, the AFDC or GA FDP participant may be encouraged to take another job. Where such a participant's assessment(s) indicate the ability to hold a job requiring more advanced skills, but the FDP participant is impeded from securing such a position because of lack of experience, education or training, reasonable efforts will be made through the FDP/EEDA Component to place the participant in education or employment-directed activities which would provide the necessary experience, education or training, whether or not the FDP participant is contemporaneously working at another less skilled position.

#### 10:86-3.10 Social Services

(a) Social services as related to FDP AFDC or GA participation are intended to address problems such as substance abuse (including alcohol and narcotic abuse) or behavioral problems that may prevent or seriously impair an individual's ability to participate in the FDP program. Examples include mental health services, vocational rehabilitation, drug and alcohol treatment programs, and health care.

(b) Acceptance of social services is optional. For the period the individual is receiving these services or participating in treatment programs, he or she will be deemed to be complying with FDP requirements.

1. If an individual does not accept these services or stops participating in a treatment program, the individual will not be subject to sanctions at N.J.A.C. 10:86-8. In such instances, the individual will be required to participate in another designated activity of need as set forth in the Family Plan.

#### 10:86-3.11 Net loss of income (AFDC only)

(a) Regarding calculation of net loss of cash income through employment as good cause for nonacceptance of the job, AFDC individuals shall have good cause for refusing a specific employment opportunity, as set forth at N.J.A.C. 10:86-8, if accepting that job would result in a net loss of disposable cash income for the family of the participant. This calculation shall ensure that the family of a participant is not penalized by having less disposable income after employment than would be available to the AFDC family while receiving assistance. The calculation is a manual process which is done on a case-by-case basis by income maintenance at the time of the offer of employment if the participant requests a determination of "good cause" for nonacceptance of a job. If the agency makes direct payments for the actual costs of child care up to the maximum limits established by DHS, or makes a supplemental payment for child care costs over the disregard limits, then good cause for net loss of cash income does not exist. Any child care supplemental payment shall be computed monthly on a case-by-case basis.

(b) Net loss of cash income means that actual work-related expenses which would otherwise not be incurred shall be subtracted from the AFDC family's gross income to determine whether the resulting disposable income is at least equal to the AFDC cash assistance benefit which would be received at the time employment is offered. The cash assistance payment is equal to the AFDC payment standard less any unearned income.

1. Gross income includes, but is not limited to, earnings from the offered job, any unearned income the family receives, and the adjusted grant determined based on the income at the time the employment is offered, including the application of the appropriate earned income disregards.
2. The determination of net loss of cash income is a comparison of actual expenses incurred from the job versus the applicable AFDC earned income disregards.
3. The net loss of cash income is a manual calculation which shall be computed on a case-by-case basis at the time the participant gains employment.
4. The value of the family's Food Stamp allotment is not included in the calculation.
5. Actual work-related expenses due to that specific job shall be used in the computation. Work-related expenses to be considered are mandatory payroll deductions, union membership fees, transportation costs, required uniforms/clothing, and/or necessary equipment or tool costs.

(c) The calculation is a simultaneous, two-step process: Step I is the determination of the adjusted grant through the application of applicable earned income disregards; Step II is the determination of the net loss of income determined by subtracting the actual work expenses incurred from the gross income (including the adjusted grant from Step I when the grant is \$10.00 or more) and then making a comparison to the cash assistance payment that would be received by the family if they did not accept the offer of employment.

1. In Step I, subtract from the gross earned income, the \$90.00 work expense disregard; the \$30.00 and one-third disregards (if applicable) and the disregard of child care/incapacitated care (if applicable). Next, add any unearned income. The resulting available income is subtracted from the appropriate payment standards for the family size; the resulting adjusted grant shall be used in Step II if the grant is \$10.00 or greater. If the resulting adjusted grant is less than \$10.00, then there is no adjusted grant to be carried over for the computation in Step II.
2. In Step II, subtract from the gross earned income, the actual work expenses and actual child care costs; add the adjusted grant from Step I (if greater than \$10.00).

3. Determine the difference between the resulting income figure from Step II and the cash assistance payment (that is, the payment standard less any unearned income) for the family.

4. The resulting difference is the net loss of cash income.

**10:86-3.12 Excused participation (AFDC and GA)**

(a) FDP participants shall be temporarily excused from participation if the FDP component (including social ser-

vices) for which they are scheduled as set forth in the FDP Agreement is not currently available or if a supportive service set forth in the FDSP Agreement is not available. Excused participation is reviewed once every week up to once every month, depending on the circumstances surrounding the excuse.

1. During the excused period, the FDP participant and the AFDC or GA FDP case management entity will be expected to comply with the other FDP Agreement terms.

2. Another FDP activity which is suitable for the participant and for which necessary supportive services are available may be substituted as an alternative form of participation.

(b) Absence from a particular day or session of employment or any FDP/EEDA Component activity shall be excused, and therefore approved by the AFDC or GA FDP case manager, because of:

1. Illness of the FDP participant, a child of the participant, or any other member of the participant's household or immediate family who is or becomes by reason of the illness dependent upon the participant.

2. Death of a spouse, parent, child, sibling, or grandparent within the preceding three working days; or

3. 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.

#### SUBCHAPTER 4. FAMILY DEVELOPMENT PROGRAM (FDP) COMPONENTS

##### 10:86-4.1 FDP Components—general description

The FDP is designed as a comprehensive approach in addressing the educational, vocational and other needs of public assistance recipients and their families by providing for the delivery of multiple and interrelated services to meet those needs. This subchapter describes the core components which constitute the structure of the FDP. It is compulsory upon the county planning council to ensure that FDP components are organized and administered effectively within the respective county for both AFDC and GA individuals, in order that the goals and objectives of the FDP are met. The FDP is a network of available social, health-related, educational and vocational resources and services that may be accessed through the FDP case management referral process to assist both AFDC and GA family members.

##### 10:86-4.2 Case Management Component

(a) The Case Management Component is the nucleus of and catalyst for the other FDP core components in that it sets forth the direction for a cohesive family effort toward achieving economic self-sufficiency. The Case Management Component shall be the integral link among the different subsystems of the FDP including assessment; social, health and remedial services; educational and employment-directed activities; and supportive services (that is transportation, participation allowances, and child care). In each county, the case management function may be handled by one or more entities to serve the AFDC/FDP and GA/FDP populations. The county planning council shall select the AFDC/FDP case management entity. The DFD may determine the case management provider(s) for GA employable individuals in the various municipalities of a county in accordance with established State bidding procedures.

(b) The AFDC/FDP Case Management Component shall provide the necessary linkages to assist AFDC families in obtaining necessary services/activities for family members through referrals to provider entities for appropriate services. The AFDC/FDP case management provider will communicate with the various units of the CWA including, but not limited to, income maintenance, child support and paternity and social services to ensure the transfer of accurate and up-to-date information concerning AFDC families. The FDP is dependent upon the cohesive interaction of these CWA units and AFDC/FDP case management; an open exchange amongst these units is central to an effective AFDC/FDP program. Family member participation in FDP depends on the eligibility of the family for AFDC cash assistance as FDP also satisfies the education/work/training requirement of the AFDC program. When phased in each respective county, FDP becomes New Jersey's Federal JOBS program.

(c) Likewise, the GA/FDP Case Management Component shall assist GA employables referred by the MWD and their family members to obtain needed services through referrals to provider entities of GA/FDP components. The GA/FDP case manager shall make referrals of employable GA individuals and their family members to appropriate health, social or rehabilitative services; to educational or employment-directed activities of the FDP/EEDA Component; and provide the related supportive services necessary for participation in FDP activities. The GA/FDP case manager shall communicate with the MWD as GA/FDP participation is dependent upon the MWD's assessment of GA employability including the periodic review of incapacity cases for possible referral to FDP, its role in determining GA eligibility in computing worksite participation hours and in imposing sanctions for noncompliance with GA/FDP requirements.

(d) The Case Management Component, through a designated representative (usually a case manager), shall be responsible for preparing a FDP Family Plan, the key element of the FDP. The Family Plan is to be developed mutually with each GA and AFDC/FDP participant to set goals and find solutions for overcoming obstacles to economic achievement. An assessment shall be conducted to determine the health-related, social, educational and vocational needs of the participant and/or other family members in order to identify employment barriers and to establish appropriate employment goals for those individuals. The Family Plan identifies the necessary activities/services needed for each family member.

1. The Family Plan is a detailed action agenda which sets forth the GA and AFDC/FDP participant/family's assessment results, their educational and employment-related goals and the steps the participant and other family members will need to take to achieve those goals; supportive services which provided shall be to permit FDP participation by the individual; and the timetable for the provision of those services.

2. The FDP mandates that each AFDC parent caretaker or relative and GA employable participant from each eligible family be responsible for participating in the development of a Family Plan for that eligible family.

i. The Family Plan consists of an FDP Employability Plan, which sets employability goals and the pathway to self-sufficiency, and the FDP Agreement, which sets forth the FDP activities and supportive services needed to achieve the employability goals. Both the FDP Employability Plan and the FDP Agreement shall be mutually developed and signed by the FDP participant and an appropriate case management representative.

ii. Since the Family Plan is designed as a tool to address the needs of AFDC and GA FDP participants and their family members to achieve educational and employment related goals, the FDP Family Plan and FDP Agreement may be amended or updated periodically, as appropriate.

(e) The AFDC parent or caretaker relative or employable GA participant is responsible for mutually developing the Family Plan with AFDC or GA FDP case management.

1. If the responsible AFDC individual fails or refuses to cooperate, without good cause, with the Family Plan process, he or she shall be subject to a sanction penalty of 20 percent of the AFDC payment standard for the family size subtracted from the AFDC grant.

2. If the responsible GA employable participant fails or refuses to cooperate with the Family Plan process without good cause, he or she is subject to a sanction of three months of ineligibility for receipt of GA cash assistance.

3. Any subsequent instances of non-compliance with the FDP family plan requirements shall result in subsequent sanctions of three months' ineligibility for benefits, for both AFDC and GA FDP responsible participants.

#### **10:86-4.3 Vocational Assessment and Counselling Component**

(a) The Vocational Assessment and Counselling Component is intended to assist individuals in exploring their employment options. This Component is available to all FDP age appropriate AFDC and GA participants. This core Component is provided to assess the AFDC or GA FDP participant's recent work history, marketable job skills, and reasonable prospects of successfully completing the academic requirements of a high school or equivalency program of study or possible participation in other educational or employment-directed activities as needed.

(b) If an adult AFDC or GA FDP participant fails or refuses to comply with the Vocational Assessment and Counselling Component, as agreed in the FDP Agreement and Family Plan, the individual shall be subject to FDP mandated sanctions, as set forth at N.J.A.C. 10:86-8.

(c) The Vocational Assessment and Counselling Component helps to determine the services and activities needed by the AFDC parent or caretaker relative or GA employable individual, as well as other possible referrals or activities for all family members needed to support the FDP participant so that he or she can achieve success in escaping welfare dependency for himself and his or her family.

#### **10:86-4.4 Social Services/Special Referrals Component**

(a) The Social Services/Special Referrals Component is designed to provide special individualized services for those FDP participants and their families who face multiple barriers that may prevent or seriously impair an individual's ability to participate in the FDP. This Component shall provide for the coordination and utilization of existing resources that are available in each community and includes, but is not limited to, the following:

1. Mental health services;
2. Vocational rehabilitation;
3. Substance and alcohol abuse treatment and/or counselling;
4. Family/individual counselling;
5. Parental skills training and development;
6. Remedial, educational or tutorial services;
7. Individual job training services;
8. Health care; and
9. Blind and visually impaired services.

(b) If it is determined that social services/special referrals are needed, such services/referrals may serve as an FDP activity; however, noncompliance on the part of a participant and/or a family member with such an activity shall not be subject to sanction penalties. The network of available social, health-related, and remedial activities such as tutoring do not satisfy FDP/EEDA component requirements but rather assist AFDC or GA family members in confronting barriers to their success in the FDP/EEDA component activities.

#### **10:86-4.5 Education and Employment-Directed Activity (EEDA) Component**

(a) The objective of the Education and Employment-Directed Activity (EEDA) Component is to promote self-sufficiency by creating productive, competitive workers who can secure permanent full-time jobs at wages that are adequate to support the participants and their families.

1. This Component contains the educational, and work-related activities necessary to promote an individual's employability. The activities comport with Federal regulatory requirements of the Job Opportunities and Basic Skills (JOBS) program, the mandatory work/training program for AFDC participants.

2. The FDP/EEDA Component stresses a strong foundation in basic educational areas and provides such activities to strengthen the FDP individual's success in later employment-directed programs. Higher education opportunities are encouraged through the FDP/EEDA Component and State financial assistance through programs can be accessed for FDP participants in post-secondary colleges (both community colleges and four-year institutions) and vocational training programs.

3. The FDP/EEDA Component provides job readiness activities to help prepare FDP AFDC/GA participants for work by ensuring that participants are familiar with general workplace expectations and can exhibit work behavior and attitudes necessary to compete successfully in the labor market.

(b) FDP preparatory services, educational and employment-directed activities, job readiness skills, the ability to practice work skills on the job, and employment searches are activities contained with the FDP/EEDA Component. Detailed descriptions of specific activities are delineated at N.J.A.C. 10:86-5.

(c) Mandatory AFDC/FDP participants and non-exempt GA employable FDP participants must comply with the participation requirements of the EEDA Component and are subject to sanction penalties, unless good cause exists.

(d) The case manager shall determine satisfactory progress in an educational activity on a periodically measured basis of less than one year, such as a term or quarter, using a consistent standard of progress based upon a written policy that was developed by the educational institution or program in which the participant is enrolled, and approved by the appropriate State and/or local education agency and the county IV-A agency or municipal welfare department or GA case management entity.

1. The standard shall include a qualitative measure of the participant's progress, such as a satisfactory grade point average or performance, and quantitative measure, such as a reasonable time limit by which a student is expected to complete his or her studies.

2. Upon review and approval by the State or local education agency and the county IV-A agency or municipal welfare department or GA case management entity, the standard shall provide that a student who does not meet the institution's or program's progress standard is nonetheless making satisfactory progress during a probationary period, or shall be deemed to be making satisfactory progress because of mitigating circumstances. Such circumstances include the death of a relative, injury or illness of the FDP participant or other special circumstance.

(e) The case manager shall determine satisfactory progress in a training activity (that is, on-the-job (OJT), Community Work Experience (CWEP), and skills training) on a periodically measured basis of less than one year, such as quarterly, using a consistent standard of progress based upon a written policy that was developed by the training provider, and approved by the county IV-A agency or municipal welfare department or GA case management entity.

1. The standard shall include both a qualitative measure of the participant's progress, such as competency gains or proficiency level, and a quantitative measure, such as a reasonable time limit for completion of the training program.

2. Upon review and approval by the county IV-A agency or municipal welfare department or GA case management entity, the standard may provide that a student who does not meet the training program's progress standard is nonetheless making satisfactory progress during a probationary period, or shall be deemed to be making satisfactory progress because of mitigating circumstances. Such circumstances include the death of a relative, injury or illness of the FDP participant or other special circumstance.

#### 10:86-4.6 Job Development Component

(a) The Job Development Component encompasses job placement activity. The FDP in each county of the State that has implemented the program shall provide the JOB Development Component to outreach public and private employers to discover job openings or to establish positions for placement of AFDC or GA FDP participants. Additionally, this Component may also develop new employment-directed activity positions in the public and private sectors for the subsidized WSP and OJT activities and the unsubsidized CWEP activity.

(b) Each county, as mandated by P.L. 1991, c.523, shall have one or more person(s) in the position(s) entitled "Job Developer" for this expressed purpose.

(c) The Component shall be responsible for marketing the FDP participant populations in both AFDC and GA for such jobs, including securing job interviews for FDP participants.

#### 10:86-4.7 Supportive Services Component

(a) The FDP Supportive Services Component allows for payment to cover expenses incurred by FDP participants for services that are necessary for participation in AFDC or GA FDP activities. Supportive services include primarily participant allowances (PALs) and child care, as well as extended post-AFDC Medicaid benefits.

(b) The following PALs may be provided:

1. For AFDC and GA FDP participants:

i. Transportation-related expenses (TREs), up to \$6.00 a day during enrollment in an FDP activity;

ii. Employment-directed activities (EDAs) allowances, up to \$100.00 cumulative allowance for clothing, tools or other supplies necessary to participate in FDP educational or employment-directed training activities; and

iii. A \$100.00 cumulative JOB allowance for expenses necessary to accept or maintain employment.

2. For AFDC only FDP participants:

i. Automobile-related expenses (CAR) allowance, up to \$500.00; and

ii. CWEP \$10.00 allowance.

(c) Child care supportive service benefits shall be made available through the FDP to the extent that such child care is necessary to permit an AFDC eligible family member to accept employment, to remain employed, to participate in FDP educational or employment-directed activities or to complete the initial assessment of employability. Child care benefits shall also be provided during the one-year transitional child care period, subject to co-payment requirements, to ease the transition from public assistance.

1. The maximum child care rates established by the Department of Human Services and published in this manual shall be adhered to and are determined according to the type of child care arrangements, age of the child(ren) and hours of care necessary for FDP participation.

i. For an AFDC FDP participant who is waiting to enter an FDP educational or employment-directed activity or to start employment, FDP child care benefits are available on a limited time basis to bridge the period between such FDP activities.

(d) For individuals who are no longer eligible for AFDC, extended post-AFDC Medicaid benefits shall be provided during the 24-month post-AFDC eligibility period in accordance with N.J.A.C. 10:86-7.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (c), substituted "transitional" for "post-AFDC".

## SUBCHAPTER 5. FDP EDUCATION AND EMPLOYMENT-DIRECTED ACTIVITIES (EEDA) COMPONENT

### 10:86-5.1 General description

The FDP Education and Employment-Directed Activities (EEDA) Component is designed to provide the means to prepare FDP eligible unit members for economic self-sufficiency through a variety of available activities that will lead to securing permanent full-time unsubsidized employment. Such activities shall consist of, but are not limited to, educational activities, job skills training, job readiness activities and the Community Work Experience Program (CWEP). Other work/training activities may be selected by the County Planning Council to encompass such activities as job search (individual or group), On-the-Job (OJT) Training and Work Supplementation (WSP). Participants for this Component shall include, unless otherwise exempt in accordance with provisions at N.J.A.C. 10:86-3.2(b), AFDC adults or caretaker relatives and employable GA recipients and, as need determined, their respective family members. This subchapter describes in detail the requirements for the activities under this Component, including Federal JOBS provisions which have been incorporated herein.

### 10:86-5.2 Educational activities for AFDC and GA FDP participants

(a) FDP offers certain educational activities directly. Other educational programs, although not offered directly through FDP, may nevertheless be accessed as acceptable educational activities that will satisfy FDP participation requirements and may be included as such in the FDP Agreement. The need for educational services will be determined during FDP assessment.

(b) The following educational activities may be available in the respective county through the FDP for both the AFDC and GA populations:

1. Post-secondary education which includes educational opportunities at colleges (four-year and community colleges) and in post-secondary vocational training programs that lead to recognized careers for which there is or will be a demand in the job market. Such programs may often lead to a recognized college credential such as a certificate or an associate's or bachelor's degree.

i. Any scholarships, grants or similar financial aid obtained by the FDP participant in conjunction with FDP post-secondary educational activities shall be treated in accordance with specific public assistance policies in determining eligibility and grant amounts.

ii. Within the limits of available funds, financial assistance through the New Jersey Educational Opportunity Fund established pursuant to P.L. 1968, c. 142 (N.J.S.A. 18A:71-28 et seq.) and other State student assistance programs, such as the Tuition Assistance Grant (TAG) program, may be provided to FDP participants. Such funds shall be made available in an amount sufficient to cover all tuition and educational expenses to each AFDC parent/caretaker relative participant or GA employable individual or other family member(s) who has been accepted into an institution of higher education, including public four-year colleges and community colleges, or a post-secondary vocational training program.

2. Preparatory educational activities (also known as remedial educational activities) are activities designed to remedy educational deficiencies and which provide the FDP participant with the basic skills necessary for entry into the labor market. A high school diploma, the ability to speak and understand the English language, basic literacy, and minimum competency in basic mathematics and writing skills are desirable for increasing employability potential. Such educational activities include the following:

i. Programs for completion of a high school education or the equivalent, such as a General Educational Development (GED) certificate, are available to individuals who lack a high school education.

ii. Limited English proficiency educational programs are mandatory educational components for participants who are non-English speaking or who have limited competency in the English language and such competency in English as a second language (ESL) is needed for the participant to obtain employment or to achieve his or her long term employment goal.

(1) "Limited English proficiency education" means instruction which provides the individual with the ability to speak, read, write or understand the English language to function in his or her community.

iii. Basic and remedial educational activities are compulsory FDP activities to help certain individuals achieve a basic literacy level. Many individuals do not have a high school diploma, or its equivalent, and the participant's long term employment goal may not require a high school education. Others may have a high school diploma but cannot read or write or perform arithmetic functions to secure employment. Adult Basic Education (ABE) programs are provided for such individuals who lack basic competency in reading, writing and mathematics necessary for achieving the basic literacy level, to enable the individual to enroll in job training, obtain an equivalency diploma or to obtain employment.

(1) "Basic literacy level" means a literacy level in English that allows a person to function at the level

of an individual who has proficiency at a grade 8.9 level.

### 10:86-5.3 FDP job search activities for AFDC and GA FDP participants

(a) Job search is an employment-directed activity (EDA) in which mandatory GA and AFDC participants and AFDC voluntary participants engage in activities with the immediate goal of obtaining full-time employment. Job search is directed to the individual participant's needs and local job market conditions and may serve participants in either group or individual job-seeking activities, or in a combination of both methods. Group job search shall be used as much as possible over individual job-seeking/job search activities. Before a participant is placed and required to participate in job search activities, the job search provider entity shall take steps to ensure that the participant can read and complete a job application and is otherwise able to present himself or herself properly for employment. Steps may include the necessary referrals to job readiness activities.

1. Job search activities include referrals to potential employers, the provision of employment counseling, job seeking skills training, information dissemination and guidance in the participant's efforts in actively contacting employers to secure employment. Group job search is a group setting where participants are taught job-seeking skills, and which may include a phone bank from which participants contact potential employers.

2. Job search is an appropriate activity for job ready individuals who have basic workplace skills and experience applicable to the labor market. Job search for those who are skills deficient shall be coupled with other educational and training activities based on the needs of the individual as determined during assessment.

3. All FDP participants in the FDP Education and Employment-Directed Activities Component may participate in FDP job search. Participation in FDP job search may be postponed while an individual is participating in another FDP employment-directed activity, in an educational program, or when referred to a social service activity for rehabilitation purposes.

4. Assignment to job search activities and the duration of such activities will be based on individual employability potential and geographic location.

(b) FDP Job search activities for AFDC and employable GA individuals include:

1. Job contacts which are defined as contacts made by the FDP participant with a prospective employer. The job search provider may assist the participant by providing a list of employers. The following apply to job contacts:

i. A referral to an employer shall be considered a job contact provided the participant presents himself or herself to the employer as available for employment.

ii. To be considered a job contact initiated by the participant, the participant must present himself or herself to the employer as available for work and the employer must ordinarily employ persons in the areas of work that the participant is reasonably qualified for by means of experience, training or ability.

iii. Depending upon the position sought, the job contact requirements may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by the county job search provider to be a generally accepted practice, including telephone contacts when the job offer or advertisement lists a telephone number.

iv. The participant cannot count the contact of the same employer more than once in a four-week period unless the employer indicates that vacancies in additional positions may soon exist, or a subsequent advertisement is made by the employer.

v. The participant will be required to report the result of all job contacts to the job search provider at a prescheduled time. The time may vary with the job search participation requirements set forth in the FDP Agreement.

(1) Job contacts shall be reported in writing in a manner prescribed by the job search provider at the time the FDP Agreement is signed. This writing requirement shall be reasonable, given the participant's language abilities. While such reporting will not require the employer's written confirmation of the job contact, the participant shall be required to sign written documentation to attest to its validity. The written report shall be submitted to the job search provider at the participant's follow-up interview. The participant shall be responsible for providing the job search provider with any additional information concerning job contacts.

vi. The job search provider shall review the participant's job contacts and determine if the participant has completed the assigned number of job contacts as set forth in the FDP Agreement.

2. FDP group job search activities may include the classroom group job search training and supervised job clubs.

3. The job search provider shall review the individual's participation in job search and determine if participation should continue or if assignment to another FDP education or employment-directed activity is appropriate. If reassignment is appropriate, the job search provider must notify the respective FDP case manager so that the FDP Agreement may be updated.

(c) Supportive services (including child care and transportation), as determined appropriate, are available to FDP participants in job search activities.

(d) Participation in the job search component, for AFDC/FDP participants only, is subject to the following administrative requirements and limitations:

1. Job search requires that an AFDC/FDP individual participate for an equivalent of at least 20 hours per week for Federal participation purposes.

2. The AFDC/FDP individual may participate in job search for Federal participation purposes for a period of eight weeks, or its equivalent, in any period of 12 consecutive months of continuing receipt of AFDC cash assistance. Should an AFDC/FDP individual leave AFDC, upon filing a new application (reopened case), he or she becomes eligible for a new eight week job search participation period.

3. Participation in job search for an AFDC/FDP participant (who is in continuous receipt of AFDC cash assistance) beyond the eight week (or its equivalent) participation period in a 12 consecutive month timeframe is permissible. However, participation in job search beyond this compulsory eight-week timeframe is an unmatchable FDP activity for Federal financial participation (FFP) purposes. In order for the IV-A/FDP case management agency to claim FFP, the AFDC/FDP individual must participate in another FDP activity (such as education or training) and job search becomes part of that other FDP activity. FFP is available for administrative and supportive service costs of the job search-related portion of the other approved FDP activity. Participation in the job search component beyond the Federal eight-week limit (in a 12 consecutive month period) as an AFDC/FDP activity is State funded only.

(e) Since the majority of GA recipients receive Food Stamps, the Food Stamp Employment and Training Program (FSETP) shall be explored as a resource for GA employable participants by the GA/FDP provider entity for job search activity.

1. FSETP/job search may be a viable activity for employable GA participants who have marketable job skills and experience in lieu of FDP participation.

#### 10:86-5.4 WFNJ/TANF Work Supplementation Program

(a) Under the FDP Work Supplementation Program (WSP), AFDC funds are used to develop and subsidize employment for AFDC/FDP participants as an alternative to aid provided to such AFDC recipients. While in WSP status, the AFDC/FDP participant is in a subsidized job. WSP can be used extensively with minimal investment of FDP or other employment and training financial resources.

(b) Any appropriate job may be provided or subsidized under the WSP, but acceptance of any such position by an AFDC/FDP participant shall be voluntary. The job positions which may be provided for AFDC recipients must be of the following general types:

1. A job position provided to an eligible individual by the Department of Human Services, Division of Family Development, CWAs, the Department of Labor or Job Training Partnership Act (JTPA); or

2. A job position provided to an eligible individual by any other public or private employer for which all or part of the wages are paid by the FDP entity selected to administer the WSP wage pool.

(c) The county FDP provider entity may use whatever means are appropriate to provide or subsidize jobs for participants in WSP. The FDP provider entity may make whatever arrangements it deems appropriate with regard to the type of work provided, the length of time the position is to be provided or subsidized, the amount of wages to be paid to the AFDC/FDP recipient receiving the work supplemented job, the amount of subsidy to be provided and the conditions of participation.

(d) The following provisions apply to conditions of employment under AFDC/FDP WSP:

1. The county FDP provider entity is not required to provide employee status to any eligible individual to whom it directly provides a job position under the AFDC/FDP WSP.

2. The county FDP provider entity is not required to ensure that eligible individuals filling job positions provided by other employers under AFDC/FDP WSP be granted employee status by such employer during the first 13 weeks during which they fill such positions. Employee status confers on the individual the benefits available to regular employees of that employer (for example, insurance coverage and vacation leave).

3. Wages paid to participants in the AFDC/FDP WSP shall be counted as earned income and are subject to the prospective budgeting requirements set forth at N.J.A.C. 10:82.

4. No AFDC/FDP WSP participant can be assigned to fill any established, unfilled position vacancies at the site of employment.

(e) The AFDC/FDP WSP wage pool is an administrative tool used to provide wage subsidies to employers who hire AFDC/FDP WSP participants. AFDC monies saved through participation of AFDC individuals in the AFDC/FDP WSP activity are diverted to the AFDC/FDP WSP wage pool in the county for use in setting up WSP activity contracts with employers for other AFDC recipient family members. During AFDC/FDP WSP participation, the calculated grant received by the family, if any, is termed a residual grant. The residual grant is determined at the time of placement in the supplemented job by the county IV-A agency income maintenance (IM) worker. Case management shall contact income maintenance to determine the WSP calculation. The residual grant is recalculated periodically at time of the next redetermination or when a change in circumstances is reported to income maintenance based on information supplied by the individual. IM shall advise the AFDC/FDP case management provider of any changes resulting from the subsequent periodic recalculations as such changes may affect FDP participation status.

1. After application of AFDC earned income disregards, the resulting calculated earned income (CEI) monies are diverted to the AFDC/FDP WSP wage pool. The AFDC/FDP WSP participant will receive a residual grant equal to the difference between the CEI and the AFDC payment standard for the family unit.

2. If the resulting CEI monies are greater than or equal to the AFDC payment standard for the family unit, then the entire assistance payment is diverted to the AFDC/FDP WSP wage pool and the participant will not receive a residual grant; however, extended Medicaid benefits may be continued as set forth at N.J.A.C. 10:86-7.

(f) Mandatory and voluntary AFDC/FDP participants are eligible to participate in the AFDC/FDP WSP if they are eligible for AFDC and to the extent that such jobs through WSP are available in the county FDP. Placement in AFDC/FDP WSP is defined as the date on which the county FDP provider agency and the employer agree on the terms of the placement and on the specific person to participate.

1. There is no specific limit on the number of times an individual may participate in AFDC/FDP WSP, but participation shall not exceed a lifetime cumulative total of nine months for each AFDC individual.

(g) If the individual becomes otherwise ineligible for AFDC benefits (such as youngest dependent child reaching the AFDC age limits), the individual shall continue in the AFDC/FDP WSP job until the AFDC/FDP WSP contract expires. All monies from the AFDC grant for those individuals are diverted AFDC grant funds to the AFDC/FDP WSP wage pool. Because of contractual arrangements with the employer, changes which render an individual ineligible for AFDC, such as a change in family composition, do not render him or her ineligible to continue in AFDC/FDP WSP.

(h) A FDP participant shall not simultaneously participate in WSP and in OJT. No one is allowed to be in both activities at the same time.

(i) If more than one individual in the AFDC family unit is participating in WSP, the amount of the Federal reimbursement to the State will not exceed the AFDC standard payment allowance for that family (see N.J.A.C. 10:82-1).

(j) An AFDC/FDP WSP participant is eligible for supportive services as a participant in FDP. Since the participant is working, he or she is treated as any AFDC individual who finds employment. The individual may be eligible for the JOB and CAR Allowances as set forth at N.J.A.C. 10:86-9. Transportation costs are covered through the AFDC \$90.00 work expense disregard. Child care payments for necessary child care services will be made directly (when possible) to the child care provider as set forth at N.J.A.C. 10:86-10.

(k) Medicaid coverage is provided for the duration of an AFDC/FDP WSP contract to the participant and family members so long as the family remains eligible for AFDC. If the family loses eligibility for AFDC, the family may be eligible for extended Medicaid benefits as set forth at N.J.A.C. 10:86-7.

(l) If the family loses WFNJ/TANF eligibility during the WFNJ/TANF WSP contract, the individual would continue participating in WSP; however, child care payments after loss of WFNJ/TANF eligibility shall be treated as transitional child care benefits if the individual meets those requirements set forth at N.J.A.C. 10:86-10. After fulfilling the WFNJ/TANF WSP contract, the individual shall be eligible for transitional child care benefits for the number of months remaining in the 24-month transitional child care period.

(m) The Income Maintenance (IM) worker shall apply the AFDC earned income disregards set forth at N.J.A.C. 10:82-4.4 to WSP participants. A WSP case with earned income is computed the same as any other AFDC case with earnings.

1. The Federal \$90.00 work expense disregard shall apply to earned income of WSP participants.

2. The Federal \$30.00 and one-third disregard shall be extended for the entire period of an individual's participation in WSP, up to a maximum of nine months. The participant is eligible for the Federal \$30.00 and one-third disregard under WSP regardless of the prior application of that disregard to non-WSP earned income while receiving AFDC.

i. Example: A FDP participant has received AFDC benefits for three years. During the first year of public assistance the FDP participant was employed for a period of six months; the participant received four months of the \$30.00 and one-third disregard and two months of the \$30.00 disregard during that time. The participant has remained continuously on assistance. Under WSP participation, this individual is entitled to the \$30.00 and one-third disregard for each month of participation in WSP up to a maximum of nine months.

ii. Example: A WSP participant completed four months of WSP participation in January and subsequently continued to receive AFDC benefits. Participation in WSP resumed on June 1 and continued through October 31, completing a total of nine months in WSP. The participant is eligible for the \$30.00 and one-third disregard for the entire nine months of WSP participation even though entitlement to that disregard had been exhausted under previous non-WSP employment.

3. The WSP participant who has never had the benefit of the \$30.00 and one-third disregard is entitled to the \$30.00 and one-third disregard for each month of WSP participation and may, at the end of this WSP participation period, be eligible for any of the remaining months of the \$30.00 and one-third disregard or the \$30.00 disregard regularly applied to earned income as set forth at N.J.A.C. 10:82-4.4.

i. Example: An individual who has had no previous employment participates in WSP from January 1 through September 30 (the nine month maximum time permitted for WSP participation) and receives the \$30.00 and one-third disregard during the entire nine-month period. The individual then enters unsubsidized employment on October 1 and is eligible for the \$30.00 disregard for three months (through December 31).

ii. Example: An individual who has had no previous employment participates in WSP from January 1 through March 31 and receives the \$30.00 and one-third disregard for those three months. The individual then enters unsubsidized employment on April 1 and is eligible for the \$30.00 and one-third disregard for one additional month (through April 30) and for the \$30.00 disregard for another eight months (through December 31).

4. The child care disregard is not applied to WSP earned income. Payment for child care will be made directly to the provider as a vendor payment as set forth at N.J.A.C. 10:86-10.

5. The State disregard is applied last in the AFDC WSP calculation process (see N.J.A.C. 10:82-4.4).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (l), substituted "transitional" for "post-AFDC" and inserted "child care" preceding "period".

Amended by R.1997 d.298, effective July 21, 1997 (operative August 1, 1997).

See: 29 N.J.R. 1655(a), 29 N.J.R. 3283(a).

Amended section name; in (l), substituted "WFNJ/TANF" for "AFDC/FDP" and for "AFDC"; and substituted "24-month transitional" for "12-month transitional".

**10:86-5.5 FDP Community Work Experience Program for AFDC and GA/FDP participants**

(a) The purpose of the FDP Community Work Experience Program (CWEP) is to provide work experience and training for AFDC and employable GA recipients when and to the extent that such experience is necessary to enable them to adjust to and learn how to function in an employment setting. The CWEP activity serves as a training environment to improve the employability potential of the

participant. Participants in CWEP activities may not otherwise be able to obtain employment. CWEP replaces the "workfare" assignments for employable recipients of GA. A participant shall not be placed in a CWEP position simply to give him or her employment when the participant is fully qualified and able to engage in unsubsidized employment but is unable to do so because of the absence of available jobs. The FDP CWEP will operate community work experience programs which serve a useful public purpose.

1. The AFDC or GA case management entity may provide necessary reimbursement for transportation, child care and other costs that are incurred by FDP CWEP participants and which are directly related to participation in the FDP CWEP as set forth in the FDP agreement. A CWEP allowance (see (a)1iii below) meets the cost of "other needs" for AFDC individuals while participating in an FDP CWEP assignment. Likewise, GA participants' "other needs" are paid for through the individual's employment-directed activity allowance (EDA) as described at N.J.A.C. 10:86-9.

i. AFDC or GA participants shall be reimbursed for transportation costs directly related to their participation by mutual agreement between the CWEP participant and the FDP GA or AFDC case manager or MWD (GA cases only) based on the availability of transportation in that locality.

ii. AFDC participants shall be reimbursed for child care costs in such amounts as are determined by the AFDC case manager to be reasonable, necessary, and cost-effective, or by direct payment to the child care provider. Child care payments shall be made in accordance with N.J.A.C. 10:86-10.

iii. An additional \$10.00 per month per participant CWEP allowance shall provide reimbursement for costs that FDP/AFDC case management determines are necessary and directly related to participation in CWEP as incurred by an AFDC participant. Such costs include clothing and personal care items, materials and supplies and similar expenses related to applying for or accepting employment. The EDA allowance (see N.J.A.C. 10:86-9) is not available for AFDC CWEP participation in accordance with Federal regulations.

iv. Participants may not be required to use their AFDC or GA grant or their own income or resources to pay CWEP participation costs which are within the limits specified as allowable in (a)1i through iii above.

(b) The FDP will designate CWEP sponsors to operate each CWEP project or, at the sponsor's option, more than one project (worksites). Only public agencies which include, but are not limited to, Federal offices or agencies, county and municipal offices, and nonprofit organizations may be CWEP sponsors. For purposes of this provision, Federal offices or agencies include agencies of the Executive branches of the Federal government, Congressional offices, and Federal courts.

(c) CWEP worksites established by MWDs shall remain as an FDP CWEP assignment option, subject to the approval of the GA/FDP provider entity. Such worksites may be established with CWEP sponsors in municipal government or with non-profit agencies or institutions under contract to the municipality. The GA/FDP shall make maximum use of existing MWD worksites previously established under the General Assistance Employability Program (GAEP). Arrangements for use of the MWD GAEP worksites and any subsequently developed MWD worksites shall be part of an agreement established between the GA/FDP provider entity and the respective MWD.

1. Municipal CWEP worksites established by MWDs shall also be used as assignment sites for illegal aliens receiving GA who cannot participate in FDP, as well as by other employable GA/FDP participants.

2. Established MWD worksites may not be available to FDP participants in a municipality where an employable GA recipient receives his or her assistance grant. The GA/FDP provider entity shall assume the responsibility in such instances, for the development of CWEP sites for employable GA participants in the FDP within their respective municipalities, where possible.

3. To assure that worker's compensation coverage is provided for all MWD worksite participants at worksites developed by the MWD, a Municipal Worksite Agreement (MWSA) shall be signed by both the MWD and the MWD worksite agent. The worksite agent is a designated paid employee with the authority for conducting on site supervision of GA employable participants, including the maintenance of time and attendance reports, at the agency office or institution where the CWEP worksite activity is being performed.

i. The MWD will supply the GA/FDP provider entity with an MWSA for each worksite established by the MWD. Only one MWSA is necessary for the same MWD established worksite, regardless of the number of GA participants assigned to the worksite.

ii. No GA recipient shall report to a MWD developed worksite until the GA/FDP provider entity has received the signed MWSA. The GA/FDP provider entity shall notify the MWD in writing of receipt of the MWSA via a form established for this purpose. Likewise, the form shall be supplied by the MWD to the GA/FDP provider for each GA individual subsequently assigned by the MWD to a previously established and approved MWD worksite.

iii. The GA/FDP provider entity shall evaluate the MWD established worksite within 14 days after receipt of the MWSA from the MWD. During this 14 day period, the MWD shall monitor the attendance of the GA participant at the worksite.

(1) The criteria used by the GA/FDP provider entity to evaluate the MWD established CWEP worksite is set forth in (d) and (e)1 and 2 below.

(2) If any of those criteria are not met, the GA/FDP provider shall reassign the GA/FDP participant to another activity or CWEP worksite, as appropriate.

iv. The participant shall be provided by the MWD with a copy of an Individual Worksite Agreement. This notice shall contain the participant's worksite schedule, the wage rate used to determine the GA participant's CWEP schedule, the person to whom the participant is to report at the worksite, and the worksite address. The notice also advises the participant of the penalty for failure or refusal to perform satisfactorily in the CWEP project.

(d) AFDC/GA FDP CWEP worksites must satisfy all of the following requirements:

1. The worksite shall serve a useful public purpose in fields such as health and social services, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety and day care;

2. Employment of the AFDC/GA FDP CWEP participant shall not result in the displacement of persons currently employed or the filling of established, unfilled position vacancies at the worksite. This means that AFDC or GA CWEP participants shall not perform tasks which would have been undertaken by employees or which have the effect of reducing the work of employees. However, CWEP participants may perform the same type of tasks as performed by employees;

3. The worksite shall not be in any way related to political, electoral or partisan activities;

4. The worksite shall not be in violation of applicable Federal, State or local health and safety standards, and provide reasonable work conditions; and

5. The worksite shall not have been developed in response to, or in any way associated with, the existence of a strike, lockout or other bona fide labor dispute, or violate any existing agreement between employees and employers.

(e) The following participation requirements shall apply to CWEP:

1. Assignments to FDP CWEP projects will take into consideration, to the extent possible, the prior training, proficiency, experience and skills of a participant.

2. AFDC or GA FDP participants will not be assigned without their consent to projects which require that they travel unreasonable distances from their homes or remain away from their homes overnight.

3. Part-time participation of AFDC and GA individuals in a CWEP activity combined with other FDP education or employment-directed activities may be required and negotiated in the FDP Agreement.

4. No AFDC or GA individual shall be required to participate in CWEP for more than the number of hours which would result from dividing the family's or individual's monthly grant amount by the State minimum wage. For AFDC purposes, the child support collection assigned to the CWA minus the \$50.00 pass-through, which represents a portion of the recipient's assistance payment, is deducted from the AFDC payment allowance (see N.J.A.C. 10:82-1) before computation of the maximum number of hours that the AFDC individual is required to participate in CWEP.

5. The FDP case management provider (GA or AFDC) shall coordinate among CWEP, the job search program and other FDP employment-directed activities provided in the FDP for the AFDC or GA population to ensure that job placement will have top priority over participation in CWEP. FDP case management (GA or AFDC) also has the responsibility to ensure that individuals eligible to participate in more than one activity under FDP are not denied AFDC or GA on the grounds of failure to participate in one such activity if they are actively and satisfactorily participating in another.

6. Nothing in this section shall be construed as authorizing the payment of AFDC or GA as compensation for work performed nor shall a participant be entitled to a salary or to any work or training expenses provided under any other provision of law by reason of the individual's participation in a CWEP program.

7. CWEP participants who perform work in the public interest for a Federal office or agency shall not be considered for any purpose as Federal employees.

8. CWEP participants who claim "good cause" for refusing or failing to participate in CWEP must meet the criteria set forth at N.J.A.C. 10:86-8.3.

9. Participation in CWEP shall be reevaluated at least once every three months and at the conclusion of each CWEP assignment by the appropriate program FDP case manager for AFDC or GA, to determine if CWEP and the specific worksite are still appropriate for that AFDC or GA individual. The FDP case manager shall provide a reassessment and revision, as appropriate, of the family's plan which includes the AFDC or GA individual's employment goal.

i. After an AFDC individual has been assigned to a CWEP position for a total of nine months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than the family's grant (minus the \$50.00 pass-through for child support) divided by the State minimum wage, or the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site, whichever is higher.

(f) Workers' compensation accident insurance protection shall be provided for both AFDC and GA FDP CWEP participants under a Statewide umbrella policy of the Department of Human Services for persons participating in FDP. Workers' compensation shall be provided to those participants in FDP CWEP assignments for Federal offices or agencies to the same extent as it is provided to other FDP CWEP participants at other CWEP sites. Claims shall be sent directly to the insurance company. DFD shall provide the name of the insurance company and the policy number to the CWAs and MWDs participating in FDP.

(g) The following categories of AFDC or GA employable recipients may not be required to participate in FDP CWEP:

1. An AFDC or GA individual who is exempt from participation in FDP in accordance with N.J.A.C. 10:86-3.2(b); the exception to this rule is an employable illegal alien on GA or an AFDC-N illegal alien who is not otherwise exempt from FDP participation. Such individuals may be required to participate at local work-sites established by the MWD (GA program only), subject to the approval by the FDP/GA provider entity contracted for such services, or at AFDC/FDP CWEP sites;
2. An AFDC individual who is both currently employed for at least 80 hours per month and earning not less than the legally established or defined State minimum wage for such employment (for jobs which do not have an established minimum wage, recipients currently employed 80 hours must be exempt from FDP CWEP regardless of wage level);
3. An individual who was denied AFDC or GA solely because the amount of his or her grant would have been less than \$10.00 (for AFDC) or \$5.00 (for GA) per month;
4. An AFDC individual who would have been a mandatory participant due to care of a child at least two years old, but appropriate child care cannot be secured to enable participation in the work experience project; or
5. An applicant for AFDC.

#### **10:86-5.6 FDP employment and training activities for AFDC and GA FDP participants**

(a) FDP employment and training services are designed to provide job training and other preparatory services for FDP participants (both GA and AFDC recipients). Such services include, but are not limited to, instructional skills training, on-the-job training, work experience and retraining. Such training should be utilized wherever there is potential for upgrading a participant's skills and employment prospects.

1. Training and employment programs allowable under Pub.L. 97-300, Job Training Partnership Act, sections 204, 205, 251 and 303 are permissible programs for FDP participation.
2. All occupational training programs funded through FDP will be in accordance with guidelines established by the private industry councils established under the JTPA.
3. Employment and training programs funded through FDP are intended to supplement, not supplant, existing programs and resources available to the FDP participant.
4. FDP employment and training services will be provided as set forth in the FDP agreement.
5. Employment and training activities may include, but are not limited to, training programs in the private or

public sector, vocational exploration and pre-apprenticeship programs.

(b) FDP on-the-job (OJT) training is an employment opportunity which includes training. Under this component, an AFDC or GA FDP participant is hired by a private or public employer and receives training that provides knowledge or skills essential to the full and adequate performance of the job. The employment is subsidized under contract between the employer and the AFDC or GA FDP provider agency. At the end of the OJT, as established in contracts between the FDP provider entity and the employer, the participant shall be retained by the employer as a regular employee if the individual has made satisfactory progress during the OJT contract period. Assignment for FDP OJT is dependent on the participant's previous knowledge and/or experience in the area of the specific job position under consideration.

1. Employers will provide increased supervision and training through contract with the FDP provider agency, pursuant to which the FDP provider agency will reimburse the employer for the extraordinary costs of such training and additional supervision. The AFDC or GA FDP provider agency shall monitor the satisfactory progress of the AFDC or GA individual in the OJT assignment for an increase in a participant's skills and competencies.

- i. Payments to an employer through FDP for on-the-job training shall not exceed 50 percent of the wages paid by the employer to the participant during the period of OJT training.

2. For purposes of AFDC or GA benefits, FDP OJT participants are considered to be employed and wages paid to participants are earned income for purposes of these provisions. However, FDP OJT participants shall be required to complete the OJT agreement period and are considered mandatory FDP participants during the agreement period.

3. A FDP participant in OJT shall be compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable law but in no event less than the applicable State minimum wage.

4. If a participant in OJT becomes ineligible for AFDC or GA pursuant to the rules applicable to earned income (see N.J.A.C. 10:82 and 10:85-3), or pursuant to the 100-hour rule in the case of a principal earner in an AFDC-F case (see N.J.A.C. 10:81-3.18(b)1), he or she shall remain an FDP participant for the duration of the OJT contract.

- i. If the family loses AFDC or GA eligibility, they may be eligible for appropriate supportive services available to individuals with earned income (including the JOB and AFDC CAR allowances). Transportation costs shall be paid from the AFDC \$90.00 or GA \$60.00 work expense disbursements.

ii. Child care benefits for AFDC participants may continue to the end of the OJT contract period. If the family loses AFDC eligibility while participating in OJT the individual would continue participating in the OJT; however, child care payments after loss of AFDC eligibility shall be treated as transitional child care benefits if the individual meets those requirements set forth in N.J.A.C. 10:86-10. After fulfilling the OJT contract, the family shall be eligible for transitional child care benefits for the number of months remaining in the 12-month transitional child care period.

iii. When the family loses eligibility for AFDC, they may be eligible for extended Medicaid. Post-AFDC Medicaid coverage shall begin with the first month subsequent to the loss of AFDC eligibility subject to timely and adequate notice requirements.

(c) Vocational training is an activity involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting. AFDC and GA FDP participants receive instruction in specific occupational areas. FDP participants shall be directed to those vocational training resources available in the respective county that reflect the current job market for that area (for example, homemaker, culinary arts or nurse's aide).

1. Vocational training programs in the FDP shall be provided through the existing service delivery system established by the JTPA. The AFDC or GA FDP provider entity shall coordinate and contract with the local JTPA entity.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (b)4ii, substituted "transitional" for "post-AFDC".

#### **10:86-5.7 Client-selected activity participation of AFDC or GA individuals**

(a) Individuals classified as mandatory AFDC or GA FDP participants who are scheduled to begin FDP participation but who are self-enrolled in a client-selected education or training program or activity shall be treated as follows:

1. The individual will complete an initial assessment of employability and develop an employability plan as part of the process to develop a Family Plan to determine the appropriateness of the self-enrolled activity to the AFDC or GA individual's employment goal. The AFDC or GA FDP case manager shall determine if an eligible individual has a reasonable and feasible plan for full-time (as defined by the educational/training institution) vocational/educational training, other than the normal secondary school curriculum, which will lead to gainful employment and which meets the following criteria:

i. The AFDC or GA individual has a specific vocational objective and there is a reasonable expectation that employment will be available in the area of the objective in the local job market;

ii. The AFDC or GA individual has not left gainful employment solely for the purpose of additional training unless such training is designed to increase his or her earning capacity; and

iii. A new AFDC or GA applicant who has been self-sustaining has not ceased his or her employment within the past three months for the purpose of going to school and applying for AFDC or GA cash assistance.

2. If the AFDC or GA FDP case manager determines that the client-selected activity meets the criteria in (a)1 above and the AFDC or GA individual can demonstrate that he or she is enrolled (in good standing) and making satisfactory progress in the school or course sufficient to receive credit for the program, then participation in the activity shall be considered participation in FDP. The activity shall be included in the final AFDC or GA FDP Agreement.

i. The AFDC or GA FDP case manager in making the decision to approve the client-selected activity for FDP participation shall also consider the length of time for completion of the program, within a reasonable time, as defined by the AFDC or GA FDP provider entity based on average completion time-frames for AFDC or GA FDP participants in the county in similar activities.

ii. The AFDC or GA FDP case manager shall inform the individual at the time the approval of the client-selected activity is granted, that the approval is subject to periodic review at the end of each term and at such other times as the AFDC or GA FDP case manager deems necessary; and that, if necessary, a change could be made in the approval status. The AFDC or GA FDP case manager shall periodically review with the participant, his or her employability plan; revisions to the plan based on changed circumstances (for example, improved job market) may alter the approval status of the client-selected activity. In that instance the AFDC or GA individual may be required to accept unsubsidized employment (other than OJT or WSP) with the potential of leading to self-sufficiency.

iii. The AFDC or GA FDP case manager shall not permit other FDP activities to interfere with participation in the approved client-selected activity.

iv. The client-selected activity may be approved as AFDC or GA FDP participation; however, if FDP funds through State student assistance programs (see N.J.A.C. 10:86-5.2(b)) are not available to pay the tuition for the client-selected activity, the individual shall assume responsibility for all tuition costs. If FDP funds are available, the agency may pay for costs incurred from the date of approval. Under no circumstances shall AFDC or GA FDP pay for costs incurred by the AFDC or GA individual for participation in the self-enrolled activity prior to the date of approval.

v. AFDC or GA participants in approved client-selected activities may be eligible for child care and other supportive services as set forth in this Chapter. AFDC or GA FDP participants in unapproved self-enrolled activities are ineligible for FDP supportive services.

3. If the AFDC or GA FDP case manager determines that the client-selected or self-enrolled activity is not in accordance with (a)1 and 2 above, participation in the activity shall not be considered participation in FDP and the activity shall not be included in the final AFDC or GA FDP Agreement. The individual shall be required to participate in other FDP activities unless he or she satisfies the exemption criteria in N.J.A.C. 10:86-3.2(b).

4. An AFDC or GA individual who disagrees with the denial of his or her selected activity may appeal this determination through the process set forth at N.J.A.C. 10:86-6 and 10:81-6 or N.J.A.C. 10:85-7.

#### **10:86-5.8 Other employment-directed activity initiatives for AFDC and GA FDP participants**

(a) AFDC/FDP participants may be able to participate in a special initiative that designates 600 slots Statewide, among certain counties for AFDC recipients to satisfy FDP participation as child care providers.

1. Slots are allocated among counties based on a county's proportionate share of the AFDC population.

2. The AFDC/FDP participant must become a registered family day care provider in accordance with the Family Day Care Provider Registration Act (see N.J.A.C. 10:126). The FDP provider entity shall assist the AFDC/FDP participant in becoming a registered child care provider.

i. The AFDC/FDP individual may provide care for any children, but must give priority to the children of AFDC recipients also participating in the FDP and participants in the FDP transitional period.

3. Income earned by AFDC parents from providing child care for children of FDP participants and other AFDC recipients shall be considered income from self-employment, and shall be treated in accordance with (a)3i through iii below (the exception is noted in (a)3i below).

i. In determining gross earned income for purposes of the maximum income level at N.J.A.C. 10:82-1.2, an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded. The remaining income is compared to the maximum income limits at N.J.A.C. 10:82-1.2 based on the eligible family size. However, in the instance of the birth of a child in accordance with N.J.A.C. 10:82-1.11, the AFDC/FDP participant serving as a child care provider shall have the option of having income budgeted in accordance with the provisions of this section, or may choose to have the earned income disregards

applied as set forth at N.J.A.C. 10:82-2.8 and 4.4 to include application of the State disregard in lieu of the provisions of this section.

ii. In determining prospective need, an amount equal to one-half (50 percent) of the total income earned from providing child care shall be disregarded. The remaining income is then compared to the Schedule II payment standard at N.J.A.C. 10:82-1.2 for the eligible family size to determine if the family is prospectively eligible.

iii. In determining the calculated earned income for the AFDC-C, -F and -N segments, from the total gross earnings from providing child care, deduct an amount equal to one-half (50 percent). The remaining income shall be counted in computing the AFDC grant. No additional deductions shall be made for expenses of producing self-employment income set forth at N.J.A.C. 10:82-4.3, or for the Federal and State disregards set forth at N.J.A.C. 10:82-2.8 and 4.4.

(b) The New Jersey Youth Corps (NJYC), administered primarily through the Department of Community Affairs, is designed to recruit, train and employ young persons (between the ages of 16 and 25) who are high school dropouts in urban renewal projects that include housing rehabilitation, repair of public facilities and delivery of certain educational, health and social services.

1. The program provides in-depth assessment, job/life skills instruction, and basic education and work experiences. The NJYC program is six months in duration, but may be modified to extend to nine months, if necessary, for an FDP participant (AFDC or GA) to attain a GED certificate through the program. Participation in NJYC serves as a FDP activity placement. NJYC currently is operational in 13 city sites throughout the State.

2. Participants receive stipends in exchange for services provided as well as the vocational training and education services necessary to perform program assignments and to enhance future employability.

i. Stipends extended to NJYC participants are to be treated as an "exempt resource" in accordance with applicable AFDC and GA program exempt resource provisions.

(c) Specific Job Readiness Skills for Adolescents (JRSA) programs are available to adolescent custodial parents age 19 and under who are participants in the FDP/EEDA Component and engaged in another activity of the EEDA.

1. The adjunct EEDA JRSA focus on adolescent concerns to help prepare that FDP participant group to enter employment.

2. Job readiness workshops may include topics such as, but not limited to: parenting skills, family planning, motivation and self-esteem, HIV and drug abuse, techniques of job hunting, interviewing for a job, dressing for

success, resume preparation, maintaining employment, relating skills to job functions and nutritional counseling.

3. JRSA programs shall be provided concurrently with participation in FDP educational or employment-directed activities.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a)2i, substituted "transitional" for "post-AFDC".

### 10:86-5.9 Employment

(a) The goal of the FDP and of those activities offered through the program is the realization of regular jobs for FDP participants in unsubsidized employment. Subject to the provisions of this chapter, all mandatory FDP participants will be required to accept a reasonable offer of employment unless good cause exists.

1. Case management shall assist the GA or AFDC participant in job placement activities, as necessary, in accordance with the Family Plan.

## SUBCHAPTER 6. FAMILY DEVELOPMENT PROGRAM (FDP) HEARINGS AND NOTICES

### 10:86-6.1 Hearings

(a) The provisions governing fair hearings at N.J.A.C. 10:81-6 or N.J.A.C. 10:85-7 shall apply to the FDP. The hearing process is maintained by the Office of Administrative Law and is applicable to all AFDC or GA FDP participants concerning FDP requirements which are unrelated to wage and hour statutes. These decisions must be reviewed for final decision by the Director, DFD. It is the right of every AFDC or GA FDP participant adversely affected by the agency to request a fair hearing if the individual is dissatisfied with components of AFDC or GA FDP participation including, but not limited to:

1. The determination of the AFDC or GA FDP individual's participation requirements, (for example, computation of hours of CWEP and WSP participation);
2. The determination of the AFDC or GA FDP individual's exempt or excused participation status;
3. The supportive services being offered the AFDC or GA FDP individual;
4. The sanction or adverse actions being imposed upon the AFDC or GA FDP individual; and
5. The determination of all issues concerning the reasonableness of the elements of the FDP Agreement and the participant's cooperation and noncooperation with the Agreement in accordance with N.J.A.C. 10:86-3.

### 10:86-6.2 Notices

(a) Adverse actions taken by the agency or designee pursuant to Federal regulation, are subject to timely and adequate notice provisions. Notices of action taken by the CWA or designee pursuant to Federal regulation concerning AFDC/FDP participants are subject to the provisions of N.J.A.C. 10:81-7.1. Likewise, notices of action taken by the MWD concerning GA/FDP participants are subject to the provisions of N.J.A.C. 10:85-7. Notices shall be provided in a Spanish language version for any AFDC or GA FDP participant whose primary language is Spanish.

1. Changes in the manner of payment of FDP supportive services (including PALS and child care) do not require timely notice unless they result in a discontinuation, suspension, reduction or termination of FDP supportive service benefits or they force a change in child care arrangements.

(b) Provisions concerning continuation of FDP child care and other supportive service benefits (see N.J.A.C. 10:86-9 and 10), pending a hearing, are as follows:

1. If the AFDC/FDP individual had been receiving FDP child care or an AFDC or GA FDP participant was receiving transportation benefits and is awaiting a hearing because such benefits were reduced, he or she is not entitled to receive FDP child care or transportation benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing.

2. If the AFDC/FDP individual had not been receiving any child care benefit or the AFDC or GA FDP participant had not been receiving a specific FDP supportive service benefit (PALS), as delineated at N.J.A.C. 10:86-9, for which he or she believes he or she is eligible and is awaiting a hearing due to non-receipt of those benefits, he or she is not entitled to receive the that child care benefit or the specific FDP supportive service benefit pending the hearing.

3. If the AFDC/FDP individual had been receiving FDP child care benefits or the AFDC or GA FDP participant had been receiving transportation benefits and is awaiting a hearing because such benefits were discontinued or terminated, he or she is not entitled to receive those FDP benefits pending the hearing.

4. If the AFDC/FDP individual is contesting the amount of the FDP child care benefits received and is awaiting a hearing, he or she shall continue to receive FDP child care benefits in the amount previously established by the agency, pending the hearing. Likewise, if the AFDC or GA FDP individual is contesting the amount of a specific FDP supportive service benefit received, the amount of the benefit shall remain in the amount previously established by the AFDC or GA FDP case management provider, pending the hearing.

(c) Violations of New Jersey wage and hour statutes are appealed through the New Jersey Department of Labor's Divisions of Workers' Compensation and Workplace Standards. Employees' complaints concerning issues such as work assignments, working conditions, and wage rates of individuals who are employed are handled by those Divisions through existing procedures.

1. The term "employees" as used in this subsection refers to OJT/WSP participants as well as other workers hired by the employer (not under FDP contract).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a), inserted references to designee.

## SUBCHAPTER 7. FAMILY DEVELOPMENT PROGRAM (FDP) MEDICAL ASSISTANCE

### 10:86-7.1 General provision

This subchapter contains provisions concerning extended post-AFDC Medicaid benefits as set forth in the Family Development Act, for AFDC/FDP families losing assistance and entering the post-AFDC period on or after July 1, 1992, in those counties which have implemented the FDP. As other counties are phased into FDP, the FDP extended Medicaid provisions will be applicable to those families losing AFDC benefits on or after the date of implementation of FDP in each county.

### 10:86-7.2 Post-AFDC assistance Medicaid coverage

(a) When an AFDC-C, -F or -N family becomes ineligible for AFDC (including families deemed to be recipients of AFDC) for any of the reasons listed in (b) below, the members of the family shall continue to receive Medicaid for a period of 24 months.

(b) To be eligible for the 24-month Medicaid extension, the family must lose AFDC eligibility for any one of the following reasons:

1. Earnings or increased earnings from employment, including earnings from new employment;
2. Loss of the \$30.00 or one-third disregards of earning income (see N.J.A.C. 10:82-4) because of the time-limited application of those disregards;
3. Increased hours of employment; or
4. Receipt of New Jersey State unemployment or temporary disability insurance benefits.

(c) The following additional requirements apply to the 24-month Medicaid extension:

1. The family must have received AFDC in the month preceding the month in which the family became ineligible for AFDC.

2. Eligibility for the 24-month Medicaid extension is not available for any month to any individual who, except for income, resources or hours of employment, is not otherwise eligible to receive AFDC.

3. New members added to the eligible family during the 24-month extension period are not included under the extended coverage with the exception of a child born to the family during the 24-month extension period. When a child is born to the family during this period, the child and the mother may be eligible for additional coverage if the 60-day postpartum period of guaranteed Medicaid eligibility for the mother continues beyond the termination of the 24-month post-AFDC extension period applicable to the remainder of the household, or if the child's 12-month guaranteed period (from date of birth) of Medicaid eligibility continues beyond that termination date of the post-AFDC extended Medicaid period (see N.J.A.C. 10:81-8.22(e)). In either case, Medicaid eligibility terminates at the end of the guaranteed eligibility period, if that termination date is later than the termination date of the 24-month Medicaid extension.

4. The Department of Human Services may require that the individual or family periodically report certain information, such as health insurance coverage from an employer or absent parent, earnings and continued employment, to ensure that the individual or family continues to be eligible for Medicaid. Eligibility for the 24-month Medicaid extension will be discontinued if the individual or family does not comply with such reporting requirements.

(d) The 24-month post-AFDC Medicaid extension period begins with the month AFDC is terminated, but no later than the month following termination of assistance due to a change in circumstances, subject to timely and adequate notice provisions. If the family fails to report the change in circumstances causing ineligibility, the 24-month extension shall begin with the first month in which the family became ineligible for AFDC.

1. Example: A client receives increased earnings in January and reports the increase timely to the agency. The increased earnings render the family ineligible for AFDC; assistance is terminated effective for the February payment month. Extension of Medicaid benefits shall begin with February, the month for which assistance was terminated.

2. Example: In January a family receives increased earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June. The 24-month Medicaid extension shall begin in January, the month in which the earnings causing ineligibility were first received.

SUBCHAPTER 8. FDP NONCOMPLIANCE; GOOD CAUSE; SANCTIONS

**10:86-8.1 Noncompliance**

(a) The FDP principles of self-sufficiency through employment, mutual agency/participant obligation, dignity and self-respect of the individual, and flexible program design, are all directed to encourage participation by the AFDC or GA FDP individual. However, it is recognized that situations may occur in which the individual may not comply with the FDP participation requirements.

1. Noncompliance of the AFDC parent(s) or caretaker relative or the GA employable individual in the completion of the FDP Family Plan for the respective family members and with vocational assessment shall result in the imposition of a penalty since these FDP program requirements are compulsory for such individuals regardless of exemption of these same persons from participation in the FDP/EEDA Component.

2. Likewise, noncompliance of any AFDC or employable GA eligible unit member, as age appropriate, who is not otherwise exempt from FDP participation, with vocational assessment or with the requirements of the FDP EEDA Component shall result in a penalty of ineligibility of the individual for AFDC or GA cash assistance for a period of not less than 90 days. Sanctions are described in detail in N.J.A.C. 10:86-8.6 and 8.7.

3. If an AFDC individual classified as a voluntary participant (that is, exempt from FDP participation, see N.J.A.C. 10:86-3) for the EEDA Component discontinues participation in an activity of that FDP Component, the individual and the individual's family are not subject to the procedures and sanctions set forth in this section. However, under the principles of the FDP program, the AFDC/FDP case manager may wish to discuss with the individual the circumstances surrounding the decision not to participate in the education or employment-directed activity and the benefit of his or her continuing voluntary participation in the EEDA Component. However, all AFDC adult or caretaker relatives who are recipients of AFDC cash assistance, regardless of exemption from FDP/EEDA Component activity participation, shall be subject to compliance with the Family Plan development and vocational assessment.

(b) The following situations are not identified as noncompliance with the FDP Education and Employment-Directed Activity (EEDA) Component requirements:

1. Supportive services set forth in the FDP Agreement are guaranteed to those AFDC or GA eligible unit members in need of such services; however, if resources necessary to provide supportive services (see N.J.A.C. 10:86-9 and 10) to an AFDC or GA FDP participant are unavailable to meet that individual's needs, then the individual is temporarily excused from participation in the FDP activity.

2. AFDC volunteers as defined at N.J.A.C. 10:86-3 are not subject to sanctioning due to nonparticipation or noncompliance with the EEDA Component (see (a)3 above for FDP compliance requirements for AFDC volunteers).

3. If the AFDC or GA individual is scheduled to participate in more than one FDP activity and a "conflict in scheduling" of those activities results in the AFDC or GA FDP participant not being able to participate in the activity, then noncompliance does not exist in that circumstance. The AFDC or GA individual shall be temporarily excused from participation in the other activity or an alternative activity shall be considered in its place for the individual.

(c) A GA or AFDC eligible unit member is deemed to be in noncompliance with assessment or EEDA Component requirements of FDP when he or she refuses a specific referral for vocational assessment and counselling; a definite offer of training, education or employment; or ceases participation in an assigned FDP activity without good cause. Indications of noncompliance may be reported to the AFDC or GA/FDP case manager or may become apparent to the AFDC or GA/FDP case manager during client participation. Indications of noncompliance with the FDP program requirements include, but are not limited to, situations in which the AFDC or GA FDP participant:

1. Did not cooperate in the development of the Family Plan or the FDP Agreement;
2. Did not sign the FDP Agreement;
3. Did not participate in vocational assessment;
4. Did not make a bona fide application for employment;
5. Did not accept the type of employment agreed upon and specified in the FDP Agreement without good cause;
6. Terminated employment or reduced earnings without good cause;
7. Was discharged from employment for cause; for example, gross misconduct connected with such employment, or failing to meet reasonable job requirements;
8. Did not participate or ceased participation without good cause, in any FDP education or employment-directed activities;
9. Refused necessary and appropriate supportive services without good cause as determined by the AFDC or GA FDP case manager or designee pursuant to Federal regulation, which permit participation in FDP activities or employment without providing alternative arrangements or showing that such refusal will not prevent or interfere with FDP participation; or

10. Disrupted a FDP activity or behaved in a manner that constituted a threat or hazard to other staff or fellow participants.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (c)9, inserted reference to designee.

### 10:86-8.2 Notification of noncompliance

(a) When AFDC or GA FDP participant noncompliance occurs for evaluation and Family Plan development, vocational assessment or other FDP requirements, the AFDC or GA FDP case manager shall notify the CWA income maintenance (IM) worker or the MWD accordingly of the indicated noncompliance. In turn, the IM worker or MWD shall provide timely and adequate notice to the AFDC/FDP or GA/FDP individual.

1. The IM worker or the MWD shall move to impose the sanction no later than the date of receipt of such notification from case management.

2. The IM worker or the MWD shall notify the respective FDP case management entity on the date he or she takes action on the notification of noncompliance by telephone and in writing via a FDP referral indicating the effective date of imposition of the sanction and the reason for the sanction.

### 10:86-8.3 Good cause

(a) If in any single instance an AFDC or GA FDP participant is unable to comply, but good cause exists, he or she shall not be deemed to be willfully refusing to comply with the requirements of the FDP or of the FDP Agreement. The AFDC or GA FDP participant is responsible for providing the necessary information so that a good cause determination can be made. The AFDC or GA FDP case manager shall indicate in writing in the case record the good cause reason for nonparticipation in the FDP by the individual. Good cause for failure to participate in the FDP, or refusal to accept employment, shall be found if:

1. An AFDC/FDP individual is the parent or other relative personally providing care for a child under age six and the employment would require such individual to work more than 20 hours per week;

2. The acceptance of the job would result in the family of an AFDC/FDP participant experiencing a net loss of cash income. Net loss of cash income results if the AFDC family's gross income, less necessary actual work-related expenses, is less than the AFDC cash benefit the family would receive at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income and the AFDC cash benefit as determined in the calculation process delineated at N.J.A.C. 10:86-3. If payment for the family's child care costs is met by direct payments through FDP to the provider of care, or if child care costs are met through the

AFDC child care disregard procedure and AFDC/FDP case management or designee pursuant to Federal regulation supplements the cost of care over the disregard limits, then good cause does not exist;

3. The mandatory AFDC or GA FDP participant is physically or mentally unable to engage in such education, training or employment;

4. The mandatory AFDC or GA FDP participant is unable to get to and from the particular educational facility, training or employment by available transportation;

5. The conditions of education, training or employment are a risk to the AFDC or GA FDP individual's health and safety;

6. Conditions violate the rights of the AFDC or GA FDP participant or applicable law;

7. The totality of circumstances surrounding the AFDC or GA FDP participant's ability and willingness to comply with the participation requirements prevent or seriously impair participation. Such circumstances beyond the AFDC or GA FDP participant's control are often short-term situations such as, but not limited to, inclement weather, breakdown of transportation and/or child care arrangements, short-term illness requiring a doctor's care, a family emergency, temporary loss of driver's license or insurance only when no other transportation is available. These circumstances shall be reviewed on a case-by-case basis;

8. No bona fide offer of employment was received by the AFDC or GA FDP individual; or

9. An offered job was available solely because of a strike or walkout of other regular employees of the employer or organization offering employment.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a)2, inserted reference to designee.

### 10:86-8.4 Decision to impose sanction

(a) No participant shall be subjected to a sanction if he or she is willing to comply with participation requirements. Sanctions shall be imposed only in cases where the case manager finds that there has been an inference of willful refusal without good cause to comply with the FDP requirements or the FDP Agreement.

1. The case manager may infer willful refusal from the participant's past conduct and the other facts and circumstances of a case, provided that there is substantial and reasonable basis for such an inference.

2. If in any single instance a participant is unable to comply but good cause exists, he or she shall not be deemed to be willfully refusing to comply with the requirements of the FDP or the FDP Agreement.

(b) Sanctions will be imposed if a mandatory FDP participant has willfully refused to comply with the requirements of the FDP or the FDP Agreement. The AFDC or GA FDP case manager shall advise the participant at the time of referral for imposition of a sanction, orally if possible, and in writing, that the participant can voluntarily remove the sanction by coming into compliance with requirements of the FDP and the FDP Agreement before the sanction period begins. If a mandatory participant complies with the FDP or the FDP Agreement requirements before the sanction period begins, any sanction proceedings which had been initiated shall cease.

1. The sanction periods in N.J.A.C. 10:86-8.7 and 8.8 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 timely and adequate notice.

i. If a mandatory participant complies with the FDP or the FDP Agreement requirements before the sanction period begins, the AFDC or GA FDP case manager shall notify the CWA income maintenance unit supervisor or the MWD via a FDP referral form that the individual shall not be sanctioned. IM or the MWD shall take appropriate action and ensure restoration of correct grant amount, if necessary.

#### 10:86-8.5 Appeals

(a) Any appeals resulting from sanctioning for noncompliance with the FDP requirements will be handled according to established procedures for fair hearings (see N.J.A.C. 10:81-6 or N.J.A.C. 10:85-7). Eligibility for continued AFDC or GA benefits at an unreduced level shall be determined in accordance with N.J.A.C. 10:81-6.9 for AFDC or N.J.A.C. 10:85-7 for GA. Agency records of action taken by the CWA, designee pursuant to Federal regulation or MWD on the indicated noncompliance shall be made available to the Administrative Law Judge should a fair hearing be requested by the participant.

1. An AFDC or GA FDP participant who has been sanctioned has the right to review, personally or through a representative, his or her file contents pertaining to the noncompliance at any time during regular business hours of the CWA, designee pursuant to Federal regulation or MWD.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a) and (a)1, inserted reference to designee.

#### 10:86-8.6 Sanctions for AFDC/FDP participants

(a) The following sanctions shall apply for failure or refusal to comply with the AFDC/FDP requirements:

1. AFDC families shall be sanctioned if the AFDC adult(s) caretaker relatives, who is a mandatory participant by virtue of the fact that such individual(s) must develop the Family Plan and sign the FDP Agreement for the family members, fails to complete the Plan and to sign the FDP Agreement. A penalty of a 20 percent reduction of the appropriate payment standard in Schedule III for the family's size as set forth at N.J.A.C. 10:82-1.2, shall be deducted from the AFDC cash benefit for the family for one payment month or until the failure to comply ceases, whichever is longer.

2. Any mandatory AFDC eligible unit member shall be sanctioned for his or her failure to comply as age appropriate, if not otherwise exempt from FDP participation, in vocational assessment or with the appropriate EEDA Component activities identified in the Family Plan for his or her FDP participation. The individual shall be penalized for a period of ineligibility for AFDC cash assistance for a period of at least three payment months, or until the failure to comply ceases, whichever is longer.

3. Subsequent penalties for willful refusal to comply with FDP requirements by an AFDC adult or caretaker relative or by other eligible unit members for noncompliance with EEDA Component activities, shall result in a period of ineligibility for AFDC cash assistance for the individual for a period of at least three payment months, or until the failure to comply ceases, whichever is longer.

(b) If the AFDC mandatory participant is a caretaker relative and his or her needs are deleted for a period of at least three payment months for noncompliance as described in (a)2 and 3 above, then the AFDC grant shall be provided in the form of protective or vendor payments (see N.J.A.C. 10:81-4.5); except that, if after making all reasonable efforts, the CWA is unable to locate an appropriate individual to whom protective payments can be made, the CWA may continue to make payments on behalf of the remaining members of the eligible family to the sanctioned caretaker relative.

(c) If the AFDC-C parent or other caretaker relative who is required to participate in FDP (both applicants and recipients alike) and who is not otherwise exempt, has work experience, a high school diploma, or equivalent, and is determined in the course of the FDP evaluation assessment to be "job ready" and capable of self-support, but fails without good cause to seek employment, accept a bona fide offer of employment or terminates employment or reduces earnings without good cause, then the needs of the parent or caretaker relative shall be deleted in the determination of eligibility and in the calculation of the AFDC assistance payment for a period of at least three months, or until the failure to comply ceases, whichever is longer.

(d) If the AFDC-F mandatory participant is the principal earner (see N.J.A.C. 10:81-3.18(a)), that individual's needs shall not be taken into account in determining the family's eligibility for AFDC and the amount of the assistance payment for a period of at least three months, or until the failure to comply ceases, whichever is longer. The needs of the second parent also shall not be taken into account in determining the family's eligibility for AFDC and the amount of the assistance payment for the same period, whether or not he or she would otherwise be exempt, unless that second parent is participating (or agrees to participate) in the FDP. This penalty reflects the mutual obligation of both parents to support their dependent children; therefore, if one parent is not participating, the other is obliged to do so. The penalty is not imposed on the dependent children.

1. The principal earner must satisfy the employment criteria set forth at N.J.A.C. 10:81-3.18(b) to qualify for AFDC-F eligibility and shall also cooperate with the FDP requirements in actively seeking employment and shall be required to accept a bona fide offer of employment or retain employment if determined "job ready" and capable of self-support in the evaluation/assessment process. If the principal earner fails without good cause to accept employment or terminates employment or reduces earnings without good cause, then the needs of the principal earner (and possibly the needs of the second parent as well, if he or she is not participating in the FDP) shall be deleted for a period of at least three months, or until the failure to comply ceases, whichever is longer in the determination of eligibility and in the calculation of the AFDC-F assistance payment. The penalty for failure or refusal without good cause shall continue until such time as the individual demonstrates willingness to cooperate (that is, the failure to comply ceases) as described below, at N.J.A.C. 10:86-8.9.

(e) Noncompliance with the mandatory participation requirements of the FDP by the AFDC-N principal earner

will result in both parents being deleted from the eligible family for a period of at least three months, or until the failure to comply ceases, whichever is longer.

(f) If the mandatory participant is the only dependent child in the AFDC-C or -F segment, only the needs of the dependent child are removed in the determination of the family's eligibility for AFDC and the amount of the assistance payment for a period of at least three months, or until the failure to comply ceases, whichever is longer; the caretaker relative(s) may continue to receive AFDC-C or -F benefits if otherwise eligible. If the mandatory participant is the only dependent child in the AFDC-N segment, the family becomes ineligible for assistance.

(g) If the mandatory participant is one of several dependent children in the AFDC-C, -F, or -N segment, that child's needs shall not be taken into account in determining the AFDC grant of the eligible family for a period of at least three months, or until the failure to comply ceases, whichever is longer.

(h) The following additional sanctions shall apply in AFDC-N segment cases for voluntary cessation of employment. If financial eligibility is the result of voluntary cessation of employment within 90 days prior to the date of application or at any time during receipt of assistance, the following shall apply:

1. If financial eligibility is the result of voluntary cessation of employment (including cessation of employment due to inappropriate work habits) by either of the applicant parents, regardless of reason, within 90 days prior to the date of application, neither of the parents shall be included in the eligible family. This penalty shall extend for a period of 90 days beginning with the date of the termination of employment. However, eligibility shall be considered for the children.

i. At the end of the penalty period, the parents may be granted assistance so long as eligibility continues to exist.

2. If an employed principal wage earner recipient voluntarily ceases employment for whatever reason without good cause, both parents' needs shall be deleted in the determination of eligibility and in the calculation of the assistance payment under AFDC-N. Refusal of an unemployed principal wage earner to accept a job or training, without good cause, will likewise result in both parents being deleted from the eligible family for a period of at least three months, or until the failure to comply ceases, whichever is longer.

i. The parent, determined to be the principal wage earner for the family as delineated in N.J.A.C. 10:81-3.18(a), shall be promptly referred to the State Employment Service, New Jersey Department of Labor.

(i) Any adult individual, or child 16 to 18 years old sanctioned for noncompliance with the FDP/EEDA Component requirements remains eligible for Medicaid so long as other Medicaid eligibility criteria are met (all segments).

#### 10:86-8.7 Sanctions for GA/FDP participants

(a) Any employable GA individual who fails or refuses without good cause to comply with FDP requirements, or who voluntarily ceases employment without good cause or who has been involuntarily terminated from employment for reasons attributable to his or her own negligence, is considered for purposes of the FDP unwilling to work and shall be sanctioned. A penalty of ineligibility of the GA/FDP individual for GA cash assistance for a period of at least three months, or until the failure to comply ceases, whichever is longer shall be applied.

1. In an eligible unit of more than one, when a person incurs a penalty of ineligibility, the GA grant shall be reduced by the penalized person's pro-rata share.

2. The MWD shall be notified by the GA/FDP case manager of the noncompliance and shall discontinue assistance to the GA individual subject to the provisions of timely and adequate notice when good cause does not exist.

#### 10:86-8.8 Duration of sanction

(a) If a sanctioned individual reapplies for AFDC or GA but the sanction period has not expired, the AFDC or GA FDP individual will remain ineligible for AFDC or GA for the entire sanction period or until the failure to comply ceases, whichever is longer.

1. Example: A mandatory AFDC participant is sanctioned for three payment months, effective January 1 through March 31. Effective February 1, the remaining AFDC eligible unit members become ineligible for assistance due to excess resources. The family spends the excess resources and on March 1 reapplies for AFDC.

The sanctioned individual will remain ineligible for AFDC through at least March 31.

(b) If a sanctioned individual satisfies exemption criteria after the sanction period has begun, the individual shall remain in sanction status for the full length of the imposed sanction period. Eligibility for AFDC or GA assistance may be reestablished at the end of the sanction period based on the individual's circumstances and willingness to participate with the FDP program requirements.

(c) Continued noncompliance with the FDP requirements or the FDP Agreement after expiration of the sanction period will result in continued sanction of the AFDC or GA FDP individual.

(d) Individuals who are sanctioned may again participate in the FDP after the expiration of the sanction period, upon application and indication to the AFDC or GA FDP case manager of willingness to participate.

#### 10:86-8.9 Determining when failure to comply ceases

(a) The AFDC or GA FDP individual may again participate after completion of the respective sanction period. The AFDC or GA FDP case manager shall determine the date that failure to comply ceases, based on a demonstrated willingness by the individual to participate in the FDP after the applicable sanction period has ended. The date that failure to comply ceases is determined as follows:

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

i. If the AFDC or GA FDP individual successfully participates in the activity for the period of time required to satisfy the FDP requirement, the sanction shall cease as of the day the individual agrees to participate.

(1) Example: If a sanctioned FDP/GA individual whose sanction was scheduled to end on January 31, agrees on February 3 to participate by attending a scheduled FDP evaluation session and successfully completes the activity by attending that session, the FDP/GA individual's sanction will end as of February 3, the date the individual agrees to participate, and therefore the date the noncompliance ceased.

(2) Example: A sanctioned individual whose sanction was scheduled to end on March 31, agrees on April 6 to participate by attending group job search. During that week and the following week, the individual attends the group on the required days of

participation. Since the participant demonstrates a willingness to comply, the sanction shall end as of April 6, the date the individual agrees to participate and therefore the date the noncompliance ceased.

ii. If no activity is available for the individual, the sanction shall cease on the day he or she agrees to participate.

iii. If the individual fails to participate during the trial period, the sanction will continue until such time as he or she successfully demonstrates a willingness to participate with FDP requirements and ceases the non-compliance.

2. At such time that the AFDC or GA FDP case manager determines that the failure to comply ceases, case management shall notify income maintenance or the MWD to lift the sanction and to calculate the assistance payment for the individual for the month of reinstatement back to the date the individual agrees to participate and therefore the date the noncompliance ceased. Income maintenance or the MWD shall likewise inform the AFDC or GA FDP case manager that the individual was reinstated.

3. During the trial period of participation, the AFDC or GA FDP individual shall be eligible for supportive services and, if appropriate, child care which the FDP case manager determines are necessary for participation.

#### 10:86-8.10 Notice to end sanction

(a) The CWA income maintenance worker or the MWD worker will remind, in writing, any AFDC or GA FDP individual whose failure or refusal to participate in the FDP has continued for three months of the individual's option to end the sanction. Form FDP-15, FDP Sanction Reminder Notice, shall be used to inform the AFDC or GA individual when he or she has been in sanction for at least three months. The reason for and time period of the sanction indicated on Form FDP-15 are the same as those recorded on the Notice of Adverse Action, at the time the individual was sanctioned for noncompliance with the FDP requirements. Income maintenance or the MWD shall inform the AFDC or GA FDP case management of the action by sending a referral in writing with a copy of the notice attached (Form FDP-15).

1. Any individual wishing to end the sanction must contact the AFDC or GA FDP case manager (indicated on Form FDP-15). At such time that the AFDC or GA FDP case manager determines that the failure to comply ceases, case management shall notify income maintenance or the MWD to lift the sanction and to calculate the AFDC or GA assistance payment for the month of reinstatement back to the date the individual agrees to participate (date the noncompliance ceased).

2. The three-month notice requirement is applicable to any sanction period which has continued beyond its scheduled expiration date. In situations where individuals in the one-month or three-month sanction periods neglect to contact the agency concerning their eligibility reinstatement for AFDC or GA benefits at the end of the sanction period, and the sanction has continued for at least three months, those AFDC or GA individuals shall be notified via Form FDP-15.

3. The Form FDP-15 advises that the individual may immediately terminate the sanction by participating in the program or accepting employment.

#### 10:86-8.11 Other AFDC sanctions

(a) The CWA IM worker shall advise the IV-D unit in the CWA when an AFDC/FDP sanction is imposed or lifted, to avoid communicating the wrong case status information to the AFDC family and to ensure that no conflict exists with a possible concurrent IV-D sanction concerning AFDC eligible unit members. Likewise, AFDC/FDP case management shall be advised by the IM workers of action taken to impose sanctions (both IV-A and IV-D) on individuals in the AFDC/FDP.

1. If an AFDC eligible unit member is sanctioned for IV-A or IV-D related reasons, then that individual cannot participate in FDP activities for the duration of the sanction period.

### SUBCHAPTER 9. FAMILY DEVELOPMENT PROGRAM (FDP) PARTICIPANT ALLOWANCES

#### 10:86-9.1 FDP supportive services: participant allowances (PALs) for transportation and education/employment-directed activity/work expenses (AFDC and GA)

(a) This subchapter describes various types of participant allowances (PALs) available through the Family Development Program, to cover supportive service expenses (other than child care provider services described at N.J.A.C. 10:86-10) incidental to FDP participation of AFDC/GA public assistance recipients. These rules do not confer an entitlement to participant allowances for FDP participants. If fiscal or other resources necessary for provision of PALs are unavailable, the case management provider shall be released from the obligation of providing the participant allowance. The various types of participant allowances (PALs) are: transportation-related expenses (TRES), allowances for employment-directed activities (EDAs), expenses required to accept or maintain employment (JOBS), FDP cumulative payments for automobile-related expenses (CARs) for AFDC adult family member participants only, and the Community Work Experience Program (CWEP) allowance (AFDC participants only).

(b) FDP participant allowances (PALs) shall be paid or reimbursed to the FDP GA or AFDC participant for costs of transportation and other education/work/training-related supportive services if the case manager determines that such services are necessary for an individual to participate in FDP and those services are not provided through existing resources. Transportation/education/work/training allowances are utilized when such costs are not available from or paid by any other existing funding source and it is determined that a need to help defray such costs exists. FDP remains the payor of last resort, outside of any FDP contractual agreements.

(c) Amounts paid to FDP participants as PALs incident to participation in FDP activities are excluded as income for purposes of the Food Stamp Program.

(d) The case manager will determine the projected need for supportive services based on the participation requirements in assessment, employment or in employment-directed activities set forth in the FDP Agreement. In determining need for services, the participant will be encouraged to use all sources already available to him or her. The services available through the participant's sources will be compared to the projected service needs.

#### 10:86-9.2 TREs for AFDC and GA FDP participants

(a) Transportation costs for regularly employed AFDC individuals or AFDC participants in Work Supplementation (WSP) and FDP On-the-Job-Training (OJT) are not covered under this subchapter (with the exception of the situation of starting employment in (d)3 below) as those costs are accounted for through the \$90.00 work expense disregard of earnings in accordance with AFDC rules at N.J.A.C. 10:82. Likewise, no payment shall be authorized under this section for employed GA individuals or for those GA individuals participating in OJT for transportation needs, as those costs are accounted through the \$60.00 work expense disregard of GA earned income specified under the General Assistance program at N.J.A.C. 10:85.

(b) In determining necessary transportation expenses, the case manager shall consider the most available and economical means of transportation based on the accessibility of private and public transportation from the individual's home to the site of the activity. No payment shall be made under the authority of this section for travel which is available without charge. The AFDC/GA FDP participant shall be encouraged to make use of his or her available transportation resources.

(c) Transportation costs are usually direct reimbursement payments made retrospectively to participants. Transportation costs, however, shall be paid prospectively for sessions involving evaluation and assessment, development of the FDP Agreement, or for the initial two weeks of an activity if the individual is unable to participate without the payment. However, if an arrangement for transportation has been

developed for FDP participants by means other than established transportation (through the contracting process), then the AFDC or GA participant may request to use that source of transportation and direct that his or her transportation allowance be paid directly to the provider of the transportation as a vendor payment.

1. Example: A rural county with minimum public transportation has contracted with a vendor to provide transportation in a specific geographic area for AFDC/FDP participants from their homes to training and job search sites. To offset the cost of this transportation and to ensure availability of transportation, an AFDC participant would request that the \$6.00 per day transportation allowance (see (e) below) be paid directly to the contracted vendor. Once the AFDC participant completed the activity in the geographic area served by the vendor, he or she would discontinue the arrangement of payment to the vendor.

(d) Payment or reimbursement shall be provided for transportation costs for participation in certain FDP activities (see exceptions in (a) above) approved by the case manager as follows:

1. FDP preparation activities for persons mandated to participate in FDP preparation activities such as evaluation, completion of the Family Plan, assessment, and FDP Agreement conferences, for the duration of participation in such activities, for costs of transportation that are reasonably necessary for attendance.

2. Employment-directed activities (EDAs) which include both educational and non-educational activities for purposes of the EDA allowance.

i. Educational activities include training programs or education services for participants in approved education and training courses preparatory to employment, such as General Education Development (GED), English as a Second Language (ESL), and Adult Basic Education (ABE), job skills training and job readiness activities, for the duration of their participation in such educational programs/services;

ii. Approved FDP non-educational employment-directed activities include, but are not limited to, Job Search and CWEP.

3. Payments for transportation for employed individuals are issued only in instances when a participant is starting employment. For such participants, transportation payments may be issued until the first paycheck is received to ease the transition into employment. Those payments shall not exceed one month.

(e) Transportation allowances shall be provided to the FDP participant (AFDC or GA) during the period of need which may begin with participation in the first FDP activity following orientation by the income maintenance worker at the CWA or the MWD, and may end with the receipt of the

first paycheck from employment. However, payment for transportation is based on the actual length of the participation period for the specific activity.

1. For AFDC and GA participants an allowance of up to \$6.00 per day (\$30.00 per week) may be paid for transportation needs. However, payment shall be the actual cost of transportation incurred by the participant.

2. For AFDC participants only, if actual transportation costs exceed the above limit, a higher amount to cover actual costs may be provided up to a maximum of \$15.00 per day (up to a maximum of \$60.00 per week) with the approval of the AFDC/FDP case management supervisor, provided that:

i. The actual cost of the transportation exceeds \$6.00 per day;

ii. The transportation to be used is the lowest priced transportation reasonably available and accessible to the participant;

iii. The activity or service needed by the AFDC participant is not available in the vicinity of the participant's home or at a location accessible to the participant by less expensive means of transportation; and

iv. The county has documented the circumstances, including costs of transportation, surrounding the need for the higher TRE in the FDP case record and approval has been given by the supervisor of the case manager.

3. For AFDC participants only, allowances in excess of \$15.00 per day may be provided in extraordinary situations as determined on a case-by-case basis by the AFDC/FDP case manager. Before an AFDC case manager issues allowances in excess of the \$15.00 maximum standard (or \$60.00 per week maximum), the case manager must have obtained written approval from DFD.

(f) In addition to the standard transportation allowances for AFDC participation in FDP as delineated in (d) above, a non-FDP Title IV-A transportation allowance may be made for actual costs up to the rate of \$10.00 per week maximum per child, for the cost of transportation of an AFDC FDP participant's child(ren) to and from a licensed child care center or day camp which includes transportation in its costs as the child care provider has transportation services available (see N.J.A.C. 10:82-5.2(e)1). The payment for the cost of transporting a "special needs" child of a FDP participant to and from the child care site may be authorized through Title IV-A funds for actual costs up to a maximum of \$10.00 per week per child as set forth at N.J.A.C. 10:82-5.2(e)2. Amounts paid for such transportation costs are excluded as income for purposes of the Food Stamp Program.

**10:86-9.3 \$100.00 cumulative allowance for AFDC or GA individual participation in FDP employment-directed activities (EDAs): EDA Allowance**

(a) Allowance payments based on need up to a maximum cumulative capped total of \$100.00 per eligibility participation period are provided for necessary expenditures to permit participation by AFDC or GA individuals in approved FDP employment-directed activities (EDAs) during the participation period, including training programs, educational services and non-educational employment-directed activities. Such payments shall be made in preparation of and during participation in the specific activity. The case manager shall determine that the costs of participation are not available or paid by any other funding source (for example, JTPA). FDP remains the payor of last resort, outside of any FDP contractual agreements.

1. Allowable expenditures include, but are not limited to, the following: books; supplies; equipment; uniforms; tools for a particular training or employment-directed activity; licensing fees; testing fees; clothing (that is, special shoes or boots, protective devices such as safety glasses, gloves and helmets or other clothing necessary or within reason for a participant to attend training); and other materials required for participation in FDP EDA activities. Payment for regular clothing items is not permitted. Items purchased become the property of the participant.

(b) Approved non-educational FDP employment-directed activities, include, but are not limited to, Job Search and CWEP (for GA participants only). AFDC participants in CWEP cannot use the EDA allowance for CWEP participation. FDP/AFDC CWEP participants may use the CWEP allowance in N.J.A.C. 10:86-9.6 for costs incurred for participation in that activity.

1. OJT and WSP program participation are also non-educational employment-directed activities. However, these activities are not eligible for the \$100.00 cumulative EDA allowance payments since such activities are classified as subsidized employment activities. Participants in those activities may be considered for the JOB allowance.

(c) Each eligibility participation period covered by the cumulative \$100.00 EDA allowance fund begins with enrollment in the first FDP/EEDA Component activity and ends with the last day of participation in the final education or employment-directed activity in the eligibility participation period (see N.J.A.C. 10:86-9.7 for further clarification of eligibility periods).

1. The \$100.00 cumulative total EDA Allowance fund shall cover needed payments made for expenditures of AFDC or GA individuals for combined participation in all FDP activities during the eligibility participation period.

(d) In extraordinary circumstances, determined on a case-by-case basis by the case manager, EDA payments exceeding the \$100.00 maximum in the eligibility participation period may be made. Written approval from DFD shall be obtained before the payment can be issued. The AFDC or GA/FDP case management entity should exercise extreme prudence in making the decision to seek DFD approval for EDA Allowance issuances above the normal \$100.00 limit. The case manager shall document the particular circumstances surrounding the payment in the case record.

1. Additional monies for this purpose shall be capped at \$50.00 over the \$100.00 EDA Allowance per eligibility participation period (that is, the \$100.00 EDA Allowance value plus the ability to approve additional payment(s) of up to \$50.00 more, when warranted, or \$150.00 maximum for the EDA Allowance). Under no circumstances shall DFD approval be granted for amounts which exceed the \$150.00 EDA Allowance maximum.

**10:86-9.4 \$100.00 cumulative allowance to accept or maintain employment (JOB): JOB Allowance for both AFDC and GA/FDP participants**

(a) Allowance payments (JOB) based on need, up to a maximum cumulative total of \$100.00 per eligibility participation period (see N.J.A.C. 10:86-9.7 for explanation of an eligibility participation period), are provided for actual expenses necessary to permit an AFDC or GA individual to accept or maintain employment. Such payments shall be issued in preparation for and during the course of employment. The AFDC or GA FDP case manager shall determine that JOB expenditures are necessary and not available from, or paid by, any other funding source. FDP remains the payor of last resort, outside of any FDP contractual agreements.

1. The JOB Allowance is capped at \$100.00 per eligibility participation period. Therefore, no payments beyond the \$100.00 maximum JOB Allowance shall be authorized.

(b) Each eligibility participation period covered by the cumulative \$100.00 JOB fund begins with the first day the participant receives a firm job offer and accepts the position and ends 90 days after loss of eligibility for GA or for AFDC cash assistance. Therefore, employed individuals receiving transitional child care (see N.J.A.C. 10:86-10) and/or Medicaid, if determined in need of monies available through the JOB Allowance, may be authorized for payment of that allowance or of the remaining portion of that allowance fund only for the first 90 days following the AFDC case closing. The eligibility participation period for the JOB Allowance for AFDC WSP and GA or AFDC OJT participants begins with the effective date of the activity, and ends no later than 90 days after loss of eligibility for cash assistance in either program, or the expiration date of the OJT contract, whichever occurs first.

1. Example: If an AFDC individual enters a six month OJT or WSP activity in January and loses AFDC eligibility effective March 1, he or she would remain eligible for the JOB Allowance as an FDP participant through May 29 in the post-AFDC period which encompasses the 90-day limited timeframe for Federal financial participation (FFP). Although there are four months remaining in the activity contract period through June, the final month of participation in the activity, no authorization for participant allowances can be made for that final month.

(c) AFDC-C, -F, and -N recipients who become ineligible for assistance due to income from employment and who were not participating in FDP may be eligible for JOB Allowance payments, provided the individual complies with FDP requirements for such payments, including signing a FDP Agreement. In those circumstances, the JOB Allowance may be an incentive for the individual to remain employed. The AFDC/FDP case manager shall advise the individual that he or she may only be eligible for the remaining balance of the JOB cumulative total of \$100.00 should the individual return to AFDC within a two-year period from the date of termination of AFDC.

(d) Allowable JOB expenditures include, but are not limited to, the following: clothing (that is, special shoes or boots, protective devices such as safety glasses, gloves and helmets, waterproof garments, uniforms or other clothing necessary or within reason for a participant to attend work); tools and equipment for a particular type of employment (for example, welder's torch and supplies); union dues (see (d)1 below); books; and other items needed for employment that are not available from an employer or other funding source (for example, JTPA). Payment for regular clothing items is not permitted.

1. Union dues are paid on an initial one-time basis where such membership is a prerequisite to employment, including initiation fees. Documentation from the employer concerning the fact that union membership is mandatory is required before the JOB payment can be issued. If initial union dues are automatically deducted from the participant's paycheck, the participant may be reimbursed for those costs.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (b), substituted "transitional" for "post-AFDC".

**10:86-9.5 FDP \$500.00 cumulative motor vehicle related (CAR) expense allowance for AFDC FDP adult or caretaker relative participants only**

(a) Allowance payments based on need, up to a maximum capped cumulative total of \$500.00 per eligibility participation period, are available for AFDC parents or caretaker relatives who are FDP participants who own motor vehicles to make those vehicles operational to transport the AFDC/FDP parent or caretaker to FDP/EEDA

activities or employment. CAR allowances are not an entitlement and are issued based on need, only for actual expenses incurred. CAR allowance payments are available beginning with participation in the first FDP activity and ending no later than 90 days after loss of eligibility for AFDC in the post-AFDC period.

1. Example: A former AFDC FDP or REACH/JOBS participant has been employed and is in receipt of transitional child care services. The AFDC case closed as of August first. On November 15, the recipient requests a CAR allowance of \$50.00. In this instance, AFDC/FDP case management cannot authorize payment from the CAR allowance fund since the 90-day authorization period has expired.

(b) The \$500.00 cumulative total CAR fund may not exceed the \$500.00 limit for a participant except in extraordinary circumstances, determined on a case-by-case basis by the AFDC/FDP case manager. Payments in excess of the \$500.00 limit may be issued only after obtaining the written approval by DFD. Again, extreme prudence should be used by the AFDC/FDP case management entity in making the decision to seek DFD approval. The AFDC/FDP case manager must document the particular circumstances surrounding the payment(s) in the case record.

1. Additional monies for this purpose shall be limited to \$500.00 over the normal capped CAR allowance per eligibility participation period (that is, the \$500.00 CAR allowance plus the ability to authorize, with DFD approval, additional payment(s) of up to \$500.00 more, when warranted, or \$1,000 maximum for the CAR allowance). Under no circumstances shall DFD approval be granted for amounts which exceed the \$1,000 CAR allowance maximum.

(c) Allowable expenditures include motor vehicle servicing and repairs, including necessary tune-ups and tires if needed to make the vehicle operable, roadworthy or as required in order to pass the State safety inspection; and payment of motor vehicle insurance (including mandatory surcharges by the insurer due to the participant's past driving record) or other costs clearly related to the participant's use of his or her own automobile. CAR allowance payments shall not be used to purchase or rebuild a motor vehicle, pay for its licensing or registration, for routine maintenance, or for radio and air conditioning repairs.

(d) Payments from the \$500.00 cumulative CAR allowance may be issued provided that the following circumstances are considered first:

1. No less expensive alternative means of transportation is available to the AFDC/FDP parent or caretaker relative;

2. The motor vehicle under consideration for a CAR expenditure is owned by the AFDC/FDP parent or caretaker relative or a member of his or her immediate family living in the same home who is eligible for AFDC as a member of the same filing unit or as an essential person, and the vehicle will be at the participant's disposal for traveling to and from FDP activities or a job. Car allowance payments are not available for a vehicle that is registered (for any reason) in the name of another relative outside the eligible family as described above;

3. The actual repair or service expenditure cannot be met through the regular transportation cost (TRE) process even at maximum funding (of up to \$15.00/day but no more than \$60.00/week) for AFDC participants;

4. The parent or caretaker relative who is the AFDC/FDP participant has documented the need for necessary motor vehicle repairs or service with a written estimate from a bona fide auto mechanic;

5. The general overall condition of the vehicle justifies the cost of repairs (as determined by a bona fide auto mechanic);

6. The repairs (including towing and road service) or part replacements are necessary to make the vehicle operable, roadworthy or are required for it to pass the State safety inspection;

7. The FDP activity or service needed by the AFDC/FDP parent or caretaker relative is not available in the vicinity of the participant's home or at a location accessible to the participant by less costly means of transportation; and

8. The county AFDC/FDP has provided all FDP activities or services needed by the AFDC/FDP parent or caretaker relative (especially individual evaluation and assessment) thus far through its resources through a site visit either to the participant's home or to a location in the vicinity of the participant's home and the participant is in need of activities/services beyond the scope of those activities already provided.

(e) The county AFDC/FDP case management agency may develop a list of "FDP-approved mechanics" to perform CAR repairs; however, any mechanic whose rates and services meet the requirements of this section and are otherwise competitive for repair/service costs shall not be excluded when his or her service can be rendered in these situations.

(f) CAR allowance payments for insurance purposes are limited to the quarterly premium for the minimum insurance required under New Jersey State law for a private vehicle. Payment may include mandatory surcharges by the insurer due to the parent or caretaker's participant's past driving record.

1. The AFDC/FDP parent or caretaker participant shall be financially able to continue to pay insurance costs after the quarterly premium is paid.

2. If the AFDC/FDP parent or caretaker participant cancels the insurance policy after the quarterly premium has been paid via a CAR allowance payment and receives reimbursement of the premium, that reimbursement is an overpayment subject to recovery (see N.J.A.C. 10:86-11).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a)1, substituted "transitional child care" for "post-AFDC child care".

#### **10:86-9.6 \$10.00 CWEP reimbursement (AFDC participants only)**

The AFDC/FDP case management entity shall provide reimbursement for costs which are determined necessary and which are directly related to participation of an AFDC participant in CWEP. Such costs incurred by the CWEP participant include clothing and personal care items, materials and supplies and similar expenses related to applying for or accepting employment through CWEP. This amount shall not exceed \$10.00 per month for each AFDC participant. The CWEP allowance is used in lieu of the EDA allowance by AFDC participants in CWEP activities.

#### **10:86-9.7 Determining the eligibility participation period for EDA, JOB and CAR allowances**

(a) An eligibility participation period is that period of time during which expenditures are made from the EDA, JOB and CAR funds up to their respective maximum cumulative totals (\$10.00, \$100.00 and \$500.00).

1. The FDP participant who has been off GA or AFDC assistance (including post-AFDC extended benefits) for at least one full year (12 consecutive months) shall be entitled to a new eligibility participation period with full maximum EDA or JOB allowances or the AFDC/FDP parent/caretaker only CAR allowance upon resumption of AFDC/GA FDP participation.

2. The FDP participant who leaves GA or AFDC assistance (including post-AFDC extended benefits) and remains off assistance for less than one year and then returns to AFDC or GA and FDP participation, will be eligible only for the remaining balance of the cumulative total of his or her EDA or JOB allowances or the AFDC/FDP parent/caretaker only CAR allowance.

#### **10:86-9.8 Payment procedures for EDA, JOB and CAR allowances**

(a) Allowances for EDA, JOB and CAR are on a cumulative account basis. The participant is eligible to receive up to the maximum amount of the allowance during the relevant participation period as determined in accordance with N.J.A.C. 10:86-9.7.

1. Payments are to be issued to cover actual expenses, either as a one-time lump sum payment, or in a number of smaller payments during the course of the eligibility period.

2. Payments may be issued retrospectively as reimbursements or prospectively if needed, on or after the effective date of the FDP activities.

3. Payments are to be issued as vendor payments when possible.

4. Payments may be issued directly to the AFDC or GA FDP participant as a reimbursement of expenditures already made.

5. Costs currently paid through FDP contracted service providers (for example, contracted through JTPA) or other providers servicing FDP participants shall not be transferred to the FDP TRE, EDA, JOB, or CAR allowances.

#### **10:86-9.9 Administration of TRE, EDA, JOB, CAR, TCC, and CWEP funds**

(a) The county FDP case management entity(ies), both AFDC and GA, shall be responsible, to the greatest extent possible, for ensuring the prudent administration of the TRE, EDA, JOB, CAR, TCC, and CWEP funds by:

1. Providing FDP activities or services on site, when possible, at participants' homes or at locations which are accessible to participants by less expensive means of transportation. This may be applicable to groups of participants living in the same general area and to homeless participants living in the same shelter accommodations;

2. Scheduling participants to complete more than one FDP activity on the same day when possible; and

3. Enrolling participants in equivalent non-FDP contracted activities or services provided in the vicinity of their homes (for example, GED programs are offered at most local high schools).

### **SUBCHAPTER 10. FAMILY DEVELOPMENT PROGRAM (FDP) CHILD CARE**

#### **10:86-10.1 WFNJ/TANF supportive services: child care WFNJ/TANF families only**

(a) The general provisions in this subsection apply to all child care benefits available through the FDP, including transitional child care benefits.

1. To the extent that such child care is necessary to permit an AFDC eligible family member to accept employment, to remain employed, to remain in high school if an adolescent parent, to participate in activities of the

FDP/EEDA component (including job search by an AFDC applicant), or to complete the Family Plan or initial assessment, FDP child care is available based on the individual needs of each family.

i. FDP child care benefits and transitional child care benefits are guaranteed for the following children:

(1) A child who is under age 13; or is physically or mentally incapable of caring for himself or herself, based on a determination by a physician or a licensed or certified psychologist, as verified by the county, designee pursuant to Federal regulation or CWA and who would be a dependent child, if needy;

(2) A child age 13 or older, as determined on a case-by-case basis, due to extenuating circumstances (for example, environmental conditions or maturity level of child), which shall be documented in the case record, through State funds only.

(3) A child who would be a dependent child except for the receipt of benefits under Supplemental Security Income under Title XVI or foster care under Title IV-E; or

(4) A child who meets the requirements of (a)1i (1), (2), or (3) above but who is excluded from the eligible unit for cash assistance purposes in accordance with N.J.A.C. 10:82-1.11 and who would otherwise be a dependent child.

ii. Payments through FDP for child care shall not be made for care provided by the child's own parents, legal guardians, or members of the participant's AFDC family unit (including essential persons) whose needs are met through AFDC benefits on the basis of their responsibility of caring for the child(ren).

2. The case manager or designee pursuant to Federal regulation shall be responsible for assessing and determining the need for child care and referral to the county based child care entity and authorizing issuance of FDP child care payments.

3. The county based child care entity will assist the case manager or designee pursuant to Federal regulation, and participant in obtaining appropriate child care based on the parent's and child's needs; will assist in identifying child care resources available for a participant during orientation, assessment, participation in education or employment-directed activities and employment; and shall verify and document that the child care arrangements meet the criteria as specified at N.J.A.C. 10:86-10.3 and 10.4.

4. The case manager or designee pursuant to Federal regulation, the participant, and the county based child care entity shall mutually arrange for child care for the FDP participant's child(ren) as set forth in the FDP Agreement and as described below.

i. Child care arrangements shall be in the best interests of the child and shall consider the individual needs of the child, including the reasonable accessibility of care to the child's home and school, and the appropriateness of the care to the age and special needs of the child.

ii. Child care arrangements shall be agreeable to the participant and located within reasonable commuting distance from the participant's home, place of employment or site of the educational or employment-directed activity. The hours provided or claimed for reimbursement are reasonably related to the hours of participation or employment and shall be sufficient to accommodate the hours required by the employer or FDP activity.

iii. The entity providing child care shall allow parental access.

iv. Child care arrangements shall meet applicable standards of State and local law.

5. Each county AFDC/FDP case manager, designee pursuant to Federal regulation or county based child care entity shall:

i. Inform families requesting FDP child care benefits of their rights and responsibilities;

ii. Respond to a request for FDP child care benefits within a reasonable period of time; and

iii. Assist the caretaker relative to explore all types of child care arrangements authorized for payment through the FDP (that is, licensed child care centers, registered family day care homes, in-home care, school-age child care programs and summer camps) and provide the caretaker relative the opportunity to choose his or her child care arrangement from those available options, including those other programs for which the caretaker relative or child may be eligible under (a)6 below.

6. FDP child care activities and transitional child care shall be coordinated with existing child care resource and referral agencies; with early childhood education programs in the county, including Head Start programs, preschool programs funded under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35), school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children); and with Federal and/or State demonstration programs, such as the Urban Prekindergarten Pilot program, the REACH Capital Expansion Program, the Mini-Child Care Center program and the New Jersey Cares for Kids Program.

7. AFDC recipients are entitled to hearings and notices under the provisions at N.J.A.C. 10:81-6 and 10:81-7 on issues concerning the appropriateness of, denial of, prompt issuance of, or intended actions to discontinue, terminate, suspend or reduce FDP child care benefits.

i. Changes in the manner of payment are not subject to timely notice requirements unless they result in a discontinuation, suspension, reduction or termination of benefits, or they force a change in child care arrangements.

ii. The provisions at N.J.A.C. 10:81-6.9 regarding aid paid pending a hearing do not apply. Therefore, if the individual had been receiving FDP child care benefits and is awaiting a hearing concerning those benefits because such benefits were reduced, he or she is not entitled to receive FDP child care benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing. If the individual had not been receiving any child care benefits and is awaiting a hearing due to nonreceipt of child care benefits, he or she is not entitled to receive any FDP child care benefits pending the hearing.

8. A mandatory FDP participant may refuse available and appropriate FDP child care or transitional child care benefits if the participant can arrange other child care, or can show that such refusal will not prevent or interfere with participation in FDP or employment.

i. Refusal of FDP child care benefits may be inferred if the participant does not select a child care provider within one month of the date the participant and the case manager, designee pursuant to Federal regulation or county based child care entity, as appropriate, evaluate the participant's child care needs and preference of providers and made referral(s) to appropriate child care provider(s).

ii. Refusal of transitional child care may be inferred if the participant does not request transitional child care benefits, that is, fails to respond to a notification of FDP benefits available; does not provide the information necessary for determining eligibility and fee amount, including verification of earnings; does not sign a FDP Agreement for the period of transitional child care; or does not report participation in post-AFDC FDP activities.

iii. Refusal of FDP child care benefits and transitional child care benefits shall be documented in the case record.

iv. In instances where refusal of child care is disputed, it is the responsibility of the county based child care entity or case manager, as appropriate, to show that referrals for appropriate care were made, and it is the responsibility of the participant to show that he or she complied with the referrals timely, and in good faith.

9. The AFDC/FDP case manager or designee pursuant to Federal regulation shall take reasonable precautions to guard against fraud and abuse in the funding and provision of FDP child care benefits, including following the provisions at N.J.A.C. 10:81-7.40.

(b) Payment for the cost of child care to support WFNJ/TANF participation is available through the WFNJ/TANF program at rates established by the Department of Human Services. Authorization of provider payments for child care is limited to providers satisfying requirements set forth at N.J.A.C. 10:86-10.4, when child care expenses are not otherwise provided through other resources.

1. When child care that is in the best interests of the child has been arranged, the case manager or designee pursuant to Federal regulation has the responsibility to determine eligibility and authorize payment for the child care that will obtain the maximum Federal financial participation for the particular activity. In determining payment of the cost of child care, the following sequence will be applied:

i. The participant's own sources of child care involving no payment for child care through FDP;

ii. Federally matched child care costs while an individual is participating in FDP job search, work supplementation, and community work experience programs;

iii. Federally matched child care costs while an individual is participating in education, in training for employment, or in a program of vocational rehabilitation;

iv. The participant's funds for the amount of the required transitional child care co-payment in accordance with N.J.A.C. 10:86-10.5; and

v. State FDP funds.

(1) Payment for child care using State FDP funds may be made when the participant's own source of Federally matched child care funds are not available or not sufficient to pay for the cost of child care. The priority of funding sources in (b)1ii through v above will be automatically incorporated into every FDP child care payment through fiscal procedures and reporting from the CWA or designee pursuant to Federal regulation to DFD, unless otherwise specified.

2. FDP child care payments will be available as each county begins the operation of the FDP and phases out the REACH/JOBS program.

3. Participants who are in receipt of TANF cash assistance and employed shall contribute toward the cost of child care.

i. The amount of the required co-payment shall be based on the family's annual gross level, family size, hours of care needed, and number of children in care.

ii. Once the co-payment is determined, it shall remain unchanged for the duration of the annual eligibility period unless there is a change in family size, gross family income or a change in care from full-time to part-time or vice versa. The participant shall notify the designated child care entity of any changes occurring in the family related to family size, income, work status or training/educational program attendance. The designated child care entity shall then determine any changes in the co-payment based on reported circumstances affecting co-payment calculation.

(1) An exception shall be made in the case of co-payment for school-age children. The designated child care entity shall determine a part-time co-payment in accordance with N.J.A.C. 10:86-10.6(b) for all school-age children, unless the school-age child is in full-time child care for the entire period of the 12 months benefit period. Only in this instance, the co-payment determination shall be based on the full-time arrangement.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee and substituted "transitional" for "post-AFDC" and "county based" for "lead" throughout; and in (a)3, substituted "child care entity" for "child care agency".

Amended by R.1997 d.298, effective July 21, 1997 (operative August 1, 1997).

See: 29 N.J.R. 1655(a), 29 N.J.R. 3283(a).

Amended section name; in (b), substituted "WFNJ/TANF" for "FDP"; and added (b)3.

### 10:86-10.2 Types of care and duration of child care payments

(a) FDP child care payments are available for care of an infant, toddler, preschool child, school-aged child (up to age 13 years) or child with special needs in various types of arrangements, including full and part-time day care and care before and after school.

1. "Special needs" is defined as serious physical, emotional, mental or cognitive conditions for which day care is recommended as part of a treatment plan.

i. Records of children referred because of special needs situations shall contain documentation of the result of a standardized developmental or psychological test given by a certified individual, written verification by a physician identifying and delineating the special needs of the child, or documentation by the case manager, approved by the case management supervisor, attesting to a child's special social or emotional needs.

ii. When it is essential for physical health and safety, the cost of transporting a handicapped child to and from the family day care home may be authorized (see N.J.A.C. 10:82-5.2(e)2).

2. Payment for care of school-aged children, which is normally limited to part-time or before/after school hours during the school year, shall be made at the full-day rates during summer vacations and recognized vacations and holidays during the school year, for example, Christmas, spring vacation, and so forth.

3. Payment may be made for the cost of transportation of a child to and from a day care center while participating in an FDP activity or employment in accordance with N.J.A.C. 10:86-9.2(f).

(b) WFNJ/TANF child care benefits are routinely available to participants for participation in an activity of the WFNJ/TANF/EEDA for a limited time to bridge the period between participation in WFNJ/TANF activities, or between a WFNJ/TANF/EEDA activity and employment; for an adolescent parent to remain in high school; for the post-employment period after commencement of employment that does not result in ineligibility for WFNJ/TANF, that is, while a participant is employed and receiving WFNJ/TANF, as a direct payment to supplement as necessary, child care paid by the participant as required by the Social Security Act (see N.J.A.C. 10:86-10.3(a)4; and after the commencement of employment that results in ineligibility for WFNJ/TANF, for two years of transitional child care benefits, subject to transitional child care co-payment requirements specified at N.J.A.C. 10:86-10.5

1. The transitional child care period begins with the first week in which a participant is employed and receiving WFNJ/TANF, and expires when the participant is either ineligible for WFNJ/TANF for reasons other than sanction or penalty or is no longer employed. Such payments may be made as direct payment of child care costs or, as supplemental payments for families using the disregard process if the costs of child care exceed the Federal child care disregard limits set forth at N.J.A.C. 10:82-2. Payment is made only when the care is provided through a WFNJ/TANF authorized child care arrangement (see N.J.A.C. 10:86-10.3).

i. If an employed participant becomes ineligible for WFNJ/TANF for a reason other than a sanction or similar penalty for noncompliance with WFNJ/TANF program requirements, the participant shall be eligible for payment of child care through the WFNJ/TANF for the two year transitional child care period while the participant is employed, subject to (c) below.

2. For a participant who is waiting to enter a FDP/EEDA activity or to start employment, FDP child care benefits are available to bridge the period between FDP activities:

i. For a period not to exceed two weeks; or

ii. For a period not to exceed one month (defined as five weeks to accommodate calendar months of up to 31 days for operational purposes) where child care arrangements would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(c) Transitional child care benefits are available for two years following the loss of eligibility for WFNJ/TANF assistance, to families whose eligibility for WFNJ/TANF has ceased due to increased earnings, increased hours of employment (including new employment) which result in increased earnings, or as a result of the loss of earned income disregards due to the expiration of time limits at N.J.A.C. 10:82-4, for eligible children described at N.J.A.C. 10:86-10.1(a)1i.

(d) The maximum child care payment rates, set forth in Tables I, II and III below, specify weekly and daily rates for the various age categories of children based on the hours of care provided.

1. Table I includes maximum rates for licensed child care centers, school-age programs and day camps.
2. Table II includes maximum rates for registered family day care provider homes.
3. Table III includes maximum rates for approved family day care provider homes.

**IV-A CHILD CARE MAXIMUM RATES**

**Table I**

These rates shall be utilized for:

**LICENSED CHILD CARE CENTERS, SCHOOL-AGE PROGRAMS, SUMMER DAY CAMPS**

Child's Service Category	Hours of care provided			
	Full-Time	Three-Quarter Time†	One-Half Time†	One-Quarter Time†
Infants/Toddlers (0 up to 2 yrs.)	6 hrs. or more per day	4 or 5 hrs. per day	2 or 3 hrs. per day	1 hour per day
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$123.40	\$92.55	\$61.70	\$30.85
Daily	\$ 24.68	\$18.51	\$12.34	\$ 6.17
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09

Child's Service Category	Hours of care provided			
	Full-Time	Three-Quarter Time†	One-Half Time†	One-Quarter Time†
(2.5 up to 19 yrs.)	6 hrs. or more per day	4 or 5 hrs. per day	2 or 3 hrs. per day	1 hour per day
Weekly	\$101.80	\$76.35	\$50.90	\$25.45
Daily	\$ 20.36	\$15.27	\$10.18	\$ 5.09

† Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

**IV-A CHILD CARE MAXIMUM RATES**

**Table II**

These rates shall be utilized for:

**REGISTERED FAMILY DAY CARE HOMES**

Child's Service Category	Hours of care provided			
	Full-Time	Three-Quarter Time†	One-Half Time†	One-Quarter Time†
Infants/Toddlers (0 up to 2 yrs.)	6 hrs. or more per day	4 or 5 hrs. per day	2 or 3 hrs. per day	1 hour per day
Weekly	\$ 97.50	\$73.10	\$48.75	\$24.40
Daily	\$ 19.50	\$14.62	\$ 9.75	\$ 4.88
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$ 97.50	\$73.10	\$48.75	\$24.40
Daily	\$ 19.50	\$14.62	\$ 9.75	\$ 4.88
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$ 76.40	\$57.30	\$38.20	\$19.10
Daily	\$ 15.28	\$11.46	\$ 7.64	\$ 3.82
Kindergarteners & School-Agers (5-13 yrs.)				
Weekly	\$ 76.40	\$57.30	\$38.20	\$19.10
Daily	\$ 15.28	\$11.46	\$ 7.64	\$ 3.82
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$118.70	\$89.05	\$59.35	\$29.70
Daily	\$ 23.74	\$17.81	\$11.87	\$ 5.94
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$118.70	\$89.05	\$59.35	\$29.70
Daily	\$ 23.74	\$17.81	\$11.87	\$ 5.94
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$ 97.50	\$73.10	\$48.75	\$24.40
Daily	\$ 19.50	\$14.62	\$ 9.75	\$ 4.88

† Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

**IV-A CHILD CARE MAXIMUM RATES**

**Table III**

These rates shall be utilized for:

**APPROVED HOME DAY CARE**

Child's Service Category	Hours of care provided			
	Full-Time	Three-Quarter Time†	One-Half Time†	One-Quarter Time†
Infants/Toddlers	6 hrs. or more per day	4 or 5 hrs. per day	2 or 3 hrs. per day	1 hour per day

Child's Service Category (0 up to 2 yrs.)	Full-Time 6 hrs. or more per day	Hours of care provided		One-Quarter Time† 1 hour per day
		Three-Quarter Time† 4 or 5 hrs. per day	One-Half Time† 2 or 3 hrs. per day	
Weekly	\$58.50	\$43.85	\$29.25	\$14.60
Daily	\$11.70	\$ 8.77	\$ 5.85	\$ 2.92
Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$58.50	\$43.85	\$29.25	\$14.60
Daily	\$11.70	\$ 8.77	\$ 5.85	\$ 2.92
Pre-Schoolers (2.5 up to 5 yrs.)				
Weekly	\$45.85	\$34.35	\$22.90	\$11.45
Daily	\$ 9.17	\$ 6.87	\$ 4.58	\$ 2.29
Kindergartners & School-Agers (5-13 yrs.)				
Weekly	\$45.85	\$34.35	\$22.90	\$11.45
Daily	\$ 9.17	\$ 6.87	\$ 4.58	\$ 2.29
Special Needs Infants/Toddlers (0 up to 2 yrs.)				
Weekly	\$71.20	\$53.40	\$35.60	\$17.80
Daily	\$14.24	\$10.68	\$ 7.12	\$ 3.56
Special Needs Early Pre-Schoolers (2 up to 2.5 yrs.)				
Weekly	\$71.20	\$53.40	\$35.60	\$17.80
Daily	\$14.24	\$10.68	\$ 7.12	\$ 3.56
Special Needs Child(ren) (2.5 up to 19 yrs.)				
Weekly	\$58.50	\$43.85	\$29.25	\$14.60
Daily	\$11.70	\$ 8.77	\$ 5.85	\$ 2.92

† Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

Amended by R.1993 d.396, effective August 16, 1993.  
See: 25 N.J.R. 1692(a), 25 N.J.R. 3772(b).  
Amended by R.1994 d.206, effective April 18, 1994.  
See: 26 N.J.R. 296(a), 26 N.J.R. 1636(a).  
Amended by R.1995 d.532, effective October 2, 1995.  
See: 27 N.J.R. 2517(a), 27 N.J.R. 3786(a).  
Amended by R.1996 d.171, effective April 1, 1996.  
See: 28 N.J.R. 222(a), 28 N.J.R. 1850(a).  
Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).  
See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).  
In (a), inserted text "(up to age 13 years)"; in (b), substituted "transitional" for "post-AFDC"; in (b)1, substituted "transitional" for "post-employment"; in (b)1i, substituted "transitional child care period" for "post-AFDC period"; and in (c), substituted "Transitional" for "Post-AFDC".  
Amended by R.1997 d.298, effective July 21, 1997 (operative August 1, 1997).  
See: 29 N.J.R. 1655(a), 29 N.J.R. 3283(a).  
In (b) and (c), substituted "WFNJ/TANF" for "FDP" and for "AFDC"; and in (c), substituted "two years" for "one year".

### 10:86-10.3 Payment/reimbursement procedures

(a) FDP funds are expended for child care as direct vendor payments to providers or as direct payments to participants.

1. Vendor payments to providers are the primary method for issuing child care payments in FDP. Under this method, a voucher is issued to the child care provider. The provider completes the voucher, lists the hours of care and payment required, and returns it to the agency or designee pursuant to Federal regulation responsible for issuing payment. Upon verification of the voucher information, the agency or designee pursuant to Federal regulation issues a FDP child care payment to the provider. The agency or designee pursuant to Federal regulation shall only issue payment to a child care provider for vouchers which have been received no later than 60 days from the end of the designated service period or from the date of issuance, whichever is later. Failure to submit completed voucher forms for receipt by the county agency or designee pursuant to Federal regulation within the established timeframe shall result in loss of payment to the child care provider for services claimed on the voucher.

2. In exceptional or emergency situations, payment for child care provided may be made directly to the participant. As with the child care voucher, payment is issued upon verification of the child's attendance and care provided.

3. Child care services may be authorized by the case manager or designee pursuant to Federal regulation when deemed appropriate for special circumstance situations, such as emergency needs, drop-in care or approved interim care to another provider during illness of a child.

4. The preferred method of payment of FDP child care benefits for employed AFDC-C, -F or -N FDP participants shall be by direct vendor payment to authorized providers of service that meet those requirements set forth at N.J.A.C. 10:86-10.4.

i. When the FDP participant reports the start of employment or is participating in a WSP or OJT assignment, the income maintenance worker shall determine eligibility for AFDC. Additionally, actual expenditures made by the FDP family for care of an incapacitated adult living in the AFDC-C, -F or -N household shall be disregarded in the eligibility determination and benefit calculation in accordance with N.J.A.C. 10:82-2.8. Cost of care of the incapacitated adult remains the responsibility of the FDP family; no supplemental monies for incapacitated adult care are provided through FDP in excess of the disregard limits. Such adult care costs if incurred by the family shall always be disregarded regardless of the method of payment of FDP child care costs. No disregard shall be applied in the prospective eligibility determination for FDP child care purposes (except as delineated in (c) below) as those costs are made by direct vendor payment by the agency or designee pursuant to Federal regulation.

ii. If the employed FDP family remains prospectively eligible for AFDC, the costs of FDP child care shall not be disregarded in the computation of the family's AFDC assistance benefit except in situations as delineated in (c) below. The income maintenance worker or designee pursuant to Federal regulation shall explain to the participant that actual FDP child care costs shall be paid directly to the child care provider.

iii. The income maintenance or designee pursuant to Federal regulation, worker shall inform the case manager or designee pursuant to Federal regulation, verbally and in writing via an FDP referral form, or a similar agency developed form, of the participant's eligibility status. The worker shall file a copy of the form (or agency form) in the AFDC case record and forward two copies to FDP case management or designee pursuant to Federal regulation, for filing in the FDP case record and distribution to the county based child care entity. The income maintenance worker, case manager, and county based child care entity must work together to ensure timely receipt by the provider, of the FDP transitional child care payment.

iv. If the family is prospectively ineligible for AFDC due to the earnings from employment, the AFDC case will be closed and the participant referred for transitional child care benefits in accordance with this section.

(b) If an employed participant receiving AFDC pays for child care not approved by the FDP, the actual expenditures for unauthorized child care shall not exceed the child care disregard limits set forth at N.J.A.C. 10:82-4.4 in the determination of eligibility and in the calculation of benefits. In such circumstances, no supplemental payments for child care are provided through FDP in excess of the disregards.

(c) The earned income disregard procedure for expenditures made for care of a child (see N.J.A.C. 10:82-2.8 for disregard limits) shall remain available to eligible families participating in FDP in the situations delineated in (c)1 through 4 below:

1. The FDP child care payment is made to a child care provider selected by the AFDC-C, -F or -N family participating in FDP and that provider does not meet the criteria set forth in N.J.A.C. 10:86-10.4 as an authorized child care arrangement for direct payment through FDP funds. In addition, no supplemental monies over the disregard limits are provided through FDP for such unauthorized arrangements.

2. Any AFDC-C or -F FDP family who has an employed family member who has been participating in REACH/JOBS prior to April 1, 1991 and who has been utilizing the disregard method on or before April 1, 1991, for payment of child care costs (see (c)3 and 4 below for applicable procedures).

3. Any employed AFDC-C or -F family who has been continuously eligible for and was receiving AFDC-C or -F benefits on October 13, 1988 and had earnings on that date whereby the child care disregard was the method of payment for child care costs, and who would be financially disadvantaged due to the loss of AFDC eligibility as a result of the direct payment of child care costs rather than the use of the disregard when employed and participating in FDP.

i. The employed FDP AFDC-C or -F participant shall pay actual child care costs up to the Federal disregard limits directly to the provider of care. The child care disregard shall be applied to that first month in which the FDP employed participant begins payment for child care costs. Cost of care in excess of the Federal disregard limits may be supplemented by the FDP program as a FDP transitional child care payment up to the maximum rates authorized by DFD (see N.J.A.C. 10:86-10.2(d)). Supplemental FDP payments are issued as vendor payments to the child care providers when the child(ren) is in an authorized child care arrangement (see N.J.A.C. 10:86-10.4). Such FDP supplemental payments shall not be counted as income or resources in any month received.

ii. Direct vendor payment by the agency or designee pursuant to Federal regulation is available as a bridge payment (see N.J.A.C. 10:86-10.2(b)2) for families using the disregard payment procedure, to assist the FDP family in transition to work. That bridge payment through FDP may be paid by the agency or designee pursuant to Federal regulation as a direct payment to the provider for care in authorized arrangements up to the receipt of the first pay check or for a period not to exceed one month. Child care costs paid through a bridge payment shall not be disregarded in the calculation of the FDP family's assistance payment.

4. Any AFDC-C, -F or -N applicant family which has an employed family member who is defined as a FDP mandatory participant (that is, not exempt from FDP participation) shall utilize the disregard procedure for costs of child care due to employment during the interim time period covering referral of that mandatory individual to FDP case management; and, until such time (subject to timely and adequate notice provisions at N.J.A.C. 10:81-7.1) that income maintenance is subsequently advised by case management or designee pursuant to Federal regulation of the direct payment of child care costs through FDP.

5. FDP families may voluntarily request direct payment of child care costs rather than the use of the disregard process. Upon request, a prospective AFDC eligibility determination shall be made to determine if continued eligibility exists if the child care disregard is not applied. The participant shall be informed of the result of the determination and of the consequences. If eligibility continues to exist and the client decides to have direct

payment rather than the disregard, the case record shall be documented as to the request and appropriate action taken.

Amended by R.1995 d.447, effective August 21, 1995.

See: 27 N.J.R. 1930(a), 27 N.J.R. 3231(b).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee throughout; in (a)4iii, substituted "county based" for "lead" and "transitional" for "post-employment"; in (a)4iv, substituted "transitional" for "post-AFDC"; and in (c)3i, substituted "transitional" for "post-employment".

#### 10:86-10.4 Provider requirements

(a) FDP payments to providers of child care are available according to the following conditions and in accordance with payment procedures for child care providers set forth at N.J.A.C. 10:86-10.3.

1. To qualify for FDP child care payments, a child care center or program shall meet one of the following requirements as set forth at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers (N.J.S.A. 30:5B-1 through 15) (see also N.J.A.C. 10:15A-1.3(b)).

i. Centers providing care for infant, pre-school and school-age children up to age 13 years which meet the definition of a child care center shall be licensed by the Division of Youth and Family Services (DYFS), Bureau of Licensing, or shall have a letter of exemption from DYFS, Bureau of Licensing; or shall be operated under the auspices of the public school system; or

2. All family day care providers (registered homes) who serve three or more nonsibling children must be registered pursuant to the Family Day Care Provider Registration Act (See N.J.A.C. 10:126) in order to qualify for payment through the FDP for child care provided to children of FDP participants.

i. Family day care providers of one or two children may choose to register under the Family Day Care Provider Registration Act or to provide family day care as an approved home.

ii. Payment shall be made to the provider who has secured a Certificate of Registration or a temporary registration certificate, as defined by rules promulgated under the Family Day Care Provider Registration Act.

3. Providers of family day care who are not living in the home of the AFDC/FDP participant and who are not registered under the Family Day Care Provider Registration Act (N.J.S.A. 30:5B-16 et seq.—P.L. 1987, c.27; N.J.A.C. 10:126) shall be approved by the Department of Human Services in order to qualify for payment through the FDP. (Reference is made to N.J.A.C. 10:15A-1.3(d) and N.J.A.C. 10:81-14). Unregistered relatives, friends or neighbors are eligible for approved home status.

i. The minimum requirements for approval of the home are an inspection of the home using the "Self-Arranged Care Inspection and Interview Checklist" (see Appendix A, N.J.A.C. 10:81).

ii. As an approved home, providers may receive payment for a maximum of two nonsibling children or of all the sibling children of one family. This type of provider may provide care for no more than eight children in total at any one time. This includes the children of the provider. Children residing in the provider's home who are six years or older are not to be counted in the total number of children being cared for in the home. The maximum number of ratio children, by age, permitted in an approved home is not to exceed the totals set forth by the family day care provider registration requirements (N.J.A.C. 10:126-6.1(c)), as that standard sets minimum safety levels.

iii. Approved homes are reimbursed for services up to a rate which is 60 percent of the State maximum rate set for centers and registered homes, if the home has received approval since September 5, 1988. Homes approved prior to September 5, 1988 are paid at prior approved rates.

4. Providers of in-home care, that is, care of a FDP participant's children in the participant's own home, shall be evaluated using the "Self-Arranged Care Inspection and Interview Checklist," in order to qualify for payment through the FDP.

i. The authorized rate for in-home care shall be provided for all services and supervision pertaining to the care of the children and is not for the performance of household tasks unrelated to child care. Payment shall not be authorized for services provided by a non-needy caretaker relative who resides in the same home as the child when that relative is legally responsible (for example, parent, adoptive parent or legal guardian) for any member of the eligible family; or an individual who is a member of the AFDC assistance unit. The authorized payment for in-home care shall be deemed to be the full cost for such services and no additional amounts shall be recognized.

5. Regarding day camp providers, "day camp" is construed to mean either the operation of child care center services in an outdoor rather than an indoor setting, or other supervised group care for children with a planned recreational and educational program in an outdoor setting. The use of a day camp is permitted as an alternate form of child care during periods when other facilities are unavailable or in situations where, in the judgement of the CWA, such care is considered necessary or desirable.

i. The maximum allowable rate for care in a day camp, regardless of the source or sources of such payment, shall not exceed the maximum rates established by the Department of Human Services (see N.J.A.C. 10:86-10.2(d)).

ii. Payment for child care in a camp program may be authorized if the camp has been inspected and is in good standing with the New Jersey Department of Health and Senior Services (DHSS) pursuant to N.J.S.A. 26:12-1 et seq. and N.J.A.C. 8:25 and appears on the DHSS certified listing obtainable from the DHSS, Environmental Services; or possesses a valid provisional or certified certificate from DHSS.

6. Providers of child care not in the categories (a)1 through 5 above are not entitled to payment through the FDP for child care provided to children of FDP participants.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a)1, inserted reference to N.J.A.C. 10:15A-1.3(b); in (a)1i, inserted reference to school-age children up to 13 years and inserted provision relating to meeting the definition of child care centers; deleted (a)1ii, relating to programs for school-age children; and in (a)5ii, amended Department references and inserted N.J.S.A. reference.

### 10:86-10.5 Transitional child care benefits

(a) Families ineligible for AFDC may be provided transitional child care benefits through FDP if AFDC ineligibility was as a result of increased earnings, increased hours of work or the loss of time-limited earned income disregards on or after April 1, 1990. The FDP seeks to:

1. Enable an AFDC family to accept and maintain employment;
2. Ensure that the parent has freedom of choice in selecting child care arrangements and is provided with flexibility to choose the location and type of provider that best meets their child care needs; and
3. Requires that all recipients of FDP transitional child care benefits pay a portion of the cost of care based on ability to pay, as required by the Federal Family Support Act of 1988.

(b) Before the period of transitional child care expires, the case manager or designee pursuant to Federal regulation shall advise the participant, the provider and the county based child care entity of the expiration date of FDP child care payments and that the participant shall be responsible for payment of the entire cost of child care. The case manager or designee pursuant to Federal regulation, with the assistance of the county based child care entity, will work with the participant to ease the transition to payment of child care not subsidized by FDP.

(c) A family is eligible for transitional child care provided the following conditions are met:

1. The family must have ceased to be eligible for AFDC as a result of increased hours of, or increased income from employment, including earnings from new employment, or the loss of earned income disregards, due to the time limitations at N.J.A.C. 10:82-4;

2. The family must have received AFDC in the month preceding the first month of ineligibility (although Federal financial participation for transitional child care payments is available only if the family received AFDC in at least three of the six months preceding the first month of ineligibility);

3. The family requests transitional child care benefits and provides the information necessary, including verification of earnings, for determining eligibility and fees;

4. The participant signs a FDP Agreement covering the period during which the child care is to be provided;

5. The participant cooperates in transitional child care activities set forth in the Agreement;

6. The family pays the required co-payment, if the family ceased to be eligible for AFDC on or after April 1, 1990; and

7. The family complies with FDP requirements to report participation in post-AFDC activities.

(d) The county agency or designee pursuant to Federal regulation must notify orally, as appropriate, and in writing all families whose AFDC eligibility has been or will be terminated due to the reasons in (c)1 above, of their potential eligibility for transitional child care benefits. The FDP notification advises a family who loses or may lose AFDC eligibility due to income from employment, of potential eligibility for transitional child care and extended Medicaid benefits (see N.J.A.C. 10:86-7), and asking the family to request such benefits by contacting the AFDC/FDP case manager or designee pursuant to Federal regulation whose name and telephone number are included in the notification, which also describes the steps the family must take to establish eligibility for transitional child care benefits and their rights and responsibilities with regard to those benefits.

1. The income maintenance worker shall notify orally, as appropriate, and in writing, all families whose AFDC eligibility has been or will be terminated for the above reasons, of their potential eligibility for transitional child care benefits via the FDP Benefit Letter, or a similar locally-developed letter (subject to DFD approval). A copy of the notification shall be sent to case management or designee pursuant to Federal regulation as verification that the potential participant has been notified of the transitional child care benefits and for the possible initiation of the FDP transitional child care benefits.

2. Voluntary case closings at the request of the participant shall be explored by the IM worker for the true reason of closing to determine if employment is a possible reason for the voluntary termination of assistance benefits. The IM worker shall contact the participant by phone if possible and by sending the FDP Benefit Letter or a similar locally developed letter. A copy of the letter shall be sent to case management or designee pursuant to Federal regulation for possible initiation of FDP transitional child care benefits.

3. As soon as case management or designee pursuant to Federal regulation receives the FDP Benefit Letter, the FDC/FDP case manager or designee pursuant to Federal regulation shall contact the participant to advise of available FDP transitional child care benefits and to ascertain whether the participant needs child care. The AFDC/FDP case manager or designee pursuant to Federal regulation shall advise the participant of the need to sign a FDP agreement and provide verification of earnings for transitional child care benefits.

(e) Notwithstanding when the family requests transitional child care, eligibility for transitional child care begins with the first month for which the family is ineligible for WFNJ/TANF for the reasons at (c) above, and continues for a period of 24 consecutive months computed according to (e)1 below. The 24-month transitional child care period shall consist of 104 consecutive weeks, if the participant remains employed and does not receive WFNJ/TANF during that period of time. Families may begin to receive transitional child care in any month during the 24-month eligibility period.

1. The 24-month transitional child care eligibility period shall begin with the month WFNJ/TANF is terminated due to income from employment, but no later than the WFNJ/TANF payment month in which the family becomes ineligible due to earnings from employment. If the family fails to report the earnings causing ineligibility, the 24-month eligibility period shall begin with the first month in which the family became ineligible for WFNJ/TANF.

i. Example: A participant starts employment and first receives earnings in January and reports the earning timely. The earnings render the family ineligible for AFDC; assistance is terminated effective for the March payment month. The eligibility period for transitional child care benefits will start on March 1, the effective date of AFDC case closing.

ii. Example: In January a participant starts working and receives earnings that cause ineligibility for AFDC. However, the family does not report the earnings until April. Assistance is terminated effective May 1. The eligibility period for transitional child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

iii. Example: In January a participant starts working and receives earnings that cause ineligibility for AFDC but fails to report the earnings to the CWA. In May the agency discovers the unreported earnings and terminates assistance for June, effective June 1. The eligibility period for transitional child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

iv. Example: In February an AFDC recipient voluntarily requests that the AFDC case be closed. The agency processes the request and terminates assistance from March, effective March 1. It is later determined that the recipient has been and is currently employed, and the earnings would have rendered the family ineligible for AFDC starting in January. If the individual applies for transitional child care benefits, the eligibility period for transitional child care benefits will start on January 1, the month in which the family first became ineligible for AFDC due to income from employment.

2. Employment shall be presumed unless the participant reports otherwise in the 24-month transitional child care period.

3. Continued eligibility shall be verified annually as indicated at (e)3i below.

i. After 12 months of receipt of transitional child care benefits, the eligibility of the family shall be re-determined. The family shall submit verification of continued eligibility and shall comply with all program requirements.

(1) The family shall remain employed full-time in order to need transitional child care benefits.

(f) The family is not eligible for transitional child care for any remaining portion of the 24-month period if the caretaker relative:

1. Terminates employment without good cause, as defined at N.J.A.C. 10:86-8;

2. Fails to cooperate with the CWA or designee pursuant to Federal regulation in establishing payments and enforcing child support obligations; or

3. Fails to pay required co-payment.

(g) If the caretaker relative loses a job with good cause, and then finds another job, the family can qualify for the remaining portion of the 24-month transitional child care eligibility period.

1. If the family reestablishes WFNJ/TANF eligibility during this period, it may qualify for a new 24-month period of transitional child care. To be eligible for a new 24-month period, the family must have received WFNJ/TANF in at least three of the six months preceding the first month of ineligibility for WFNJ/TANF, and must satisfy all other conditions of eligibility at (c) above.

(h) Each family receiving transitional child care is required to contribute a co-payment toward the cost of such care.

1. A co-payment scale established by the Department of Human Services will provide for some level of contribution by all recipients of transitional child care. The co-payment scale shall consider: family income, family size, number of children, and number of children in care. The co-payment scale is set forth at N.J.A.C. 10:86-10.6(b).

2. Pursuant to requirements established by the Department of Human Services, each county AFDC/FDP entity must establish methods and procedures for the collection of co-payment, and may vary the period of collection for different fee levels.

3. Individuals who fail to cooperate in paying the required co-payment will, subject to appropriate notice and hearing requirements, lose eligibility for transitional child care benefits for so long as back co-payments are owed, unless satisfactory arrangements are made to make full payment.

(i) A mandatory FDP participant may refuse available appropriate transitional child care if the participant can arrange other child care or can show that such refusal will not prevent or interfere with employment.

1. Refusal of transitional child care may be inferred if the participant does not request transitional child care benefits, that is, fails to respond to FDP notification Benefit Letter by the end of the first month of AFDC ineligibility; does not provide the information necessary for determining eligibility and fee amount, including verification of earnings; does not sign a FDP Agreement for the period of transitional child care; or does not report participation in post-AFDC FDP employment.

(j) Provision of transitional child care benefits is subject to timely and adequate notice and hearing requirements at N.J.A.C. 10:81-6 and 7, and N.J.A.C. 10:86-6.

1. Timely and adequate notice must be given if transitional child care benefits are reduced, discontinued or suspended due to nonpayment of the co-payment; or if a change in the manner of payment results in a discontinuance, suspension, reduction or termination of benefits; or forces a change in child care arrangements.

2. Timely and adequate notice is not required for a change in the manner of payment that does not result in an action in (j)1 above.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee and substituted "transitional" for "post-AFDC" and "FDP transitional child care benefits" for "Post-AFDC FDP benefits" throughout; in (a), substituted "transitional" for "post-AFDC extended"; in (b), substituted "county based" for "lead"; in (d)1, inserted "child care" preceding "benefits and for"; in (d)3, substituted "transitional" for "extended"; in (e), inserted "child care" preceding "period"; and in (e)1 and (e)2, inserted "child care". Amended by R.1997 d.298, effective July 21, 1997 (operative August 1, 1997).

See: 29 N.J.R. 1655(a), 29 N.J.R. 3283(a).

Amended section name; in (e) and (g), substituted "WFNJ/TANF" for "AFDC"; in (e) and (f), amended references to benefit period to reflect additional year; and added (e)3.

### 10:86-10.6 Co-payment scales

(a) The FDP transitional child care co-payment scales, based on the family size and gross income of the AFDC eligible unit at case closing, are used to determine the co-payment. Once assessed, the co-payment is deducted from the amount to be paid to the provider by the FDP up to the maximum FDP rates. This assessed co-payment for child care services is then paid directly to the parent to the provider of care. Any balance remaining (up to the maximum FDP rates) is paid by the FDP for the total cost of care. The FDP transitional child care co-payment policy and procedures are applicable for all types of care arrangements delineated at N.J.A.C. 10:86-10.4, available through the FDP and approved by the appropriate child care evaluating agency.

(b) The co-payment scales are as follows:

1. The amount of the required co-payment is based on the family's income level, family size, number of children, and number of children in care.

2. Assessed co-payments are apportioned weekly and are due for the entire 104-week period that subsidized child care assistance is received. Holidays, emergency closings, and absences do not exclude or reduce the required fee co-payment.

State of New Jersey  
DEPARTMENT OF HUMAN SERVICES  
**CLIENT INCOME ELIGIBILITY and  
CO-PAYMENT SCHEDULE for  
SUBSIDIZED CHILD CARE SERVICES**

Effective: 7/1/97

	Full Time Child Care				Part-Time Child Care				Percent of 1997 Federal Poverty Index	Family Size and Annual Income						CPS
	Weekly Co-Payment		Monthly Co-Payment		Weekly Co-Payment		Monthly Co-Payment			7	8	9	10	11	12	
	First Child 100%	Second Child 75%	First Child 100%	Second Child 75%	First Child 100%	Second Child 75%	First Child 100%	Second Child 75%								
<b>CPS</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	0	0	0	0	0	0	<b>CPS</b>
<b>1</b>	\$2.10	\$1.60	\$9.10	\$6.80	\$1.05	\$0.80	\$4.55	\$3.45	1% - 17%	1 - 4,035	1 - 4,488	1 - 4,942	1 - 5,395	1 - 5,848	1 - 6,302	<b>1</b>
	\$5.40	\$4.05	\$23.40	\$17.55	\$2.70	\$2.05	\$11.70	\$8.90	18% - 33%	4,036 - 8,070	4,489 - 8,977	4,943 - 9,883	5,396 - 10,790	5,849 - 11,697	6,303 - 12,603	
	\$7.60	\$5.70	\$32.90	\$24.70	\$3.80	\$2.85	\$16.45	\$12.35	34% - 50%	8,071 - 12,105	8,978 - 13,465	9,884 - 14,825	10,791 - 16,185	11,698 - 17,545	12,604 - 18,905	
	\$10.90	\$8.20	\$47.20	\$35.40	\$5.45	\$4.10	\$23.60	\$17.75	51% - 67%	12,106 - 16,140	13,466 - 17,953	14,826 - 19,767	16,186 - 21,580	17,546 - 23,393	18,906 - 25,207	
	\$13.10	\$9.85	\$56.70	\$42.55	\$6.55	\$4.90	\$28.35	\$21.20	68% - 83%	16,141 - 20,175	17,954 - 22,442	19,768 - 24,708	21,581 - 26,975	23,394 - 29,242	25,208 - 31,508	
	\$16.40	\$12.30	\$71.00	\$53.25	\$8.20	\$6.15	\$35.50	\$26.65	84% - 100%	20,176 - 24,210	22,443 - 26,930	24,709 - 29,650	26,976 - 32,370	29,243 - 35,090	31,509 - 37,810	
	\$20.80	\$15.60	\$90.05	\$67.55	\$10.40	\$7.80	\$45.05	\$33.75	101% - 117%	24,211 - 28,245	26,931 - 31,418	29,651 - 34,592	32,371 - 37,765	35,091 - 40,938	37,811 - 44,112	
	\$25.20	\$18.90	\$109.10	\$81.25	\$12.60	\$9.45	\$54.55	\$40.90	118% - 133%	28,246 - 32,280	31,419 - 35,907	34,593 - 39,533	37,766 - 43,160	40,939 - 46,787	44,113 - 50,413	
\$30.70	\$23.05	\$132.95	\$99.70	\$15.35	\$11.50	\$66.45	\$49.80	134% - 150%	32,281 - 36,315	35,908 - 40,395	39,534 - 44,475	43,161 - 48,555	46,788 - 52,635	50,414 - 56,715		
<b>2</b>	\$36.20	\$27.15	\$156.75	\$117.55	\$18.10	\$13.60	\$78.35	\$58.90	151% - 167%	36,316 - 40,350	40,396 - 44,883	44,476 - 49,417	48,556 - 53,950	52,636 - 58,483	56,716 - 63,017	<b>2</b>
	\$41.70	\$31.30	\$180.55	\$135.40	\$20.85	\$15.65	\$90.30	\$67.75	168% - 175%	40,351 - 41,055	44,884 - 45,640	49,418 - 54,810	53,951 - 59,395	58,484 - 63,980	63,018 - 68,565	
<b>3</b>	\$41.70	\$31.30	\$180.55	\$135.40	\$20.85	\$15.65	\$90.30	\$67.75	176% - 183%	41,056 - 44,385	45,641 - 49,372	54,811 - 54,358	59,396 - 59,345	63,981 - 64,332	68,566 - 69,318	<b>3</b>
	\$48.30	\$36.25	\$209.15	\$156.85	\$24.15	\$18.10	\$104.60	\$78.35	184% - 200%	44,386 - 48,420	49,373 - 53,860	54,359 - 59,300	59,346 - 64,740	64,333 - 70,180	69,319 - 75,620	

**FOR USE ONLY IN REDETERMINING CONTINUATION OF SERVICES**

<b>4</b>	\$56.00	\$42.00	\$242.50	\$181.90	\$28.00	\$21.00	\$121.25	\$90.95	201% - 217%	48,421 - 52,455	53,861 - 58,348	59,301 - 64,242	64,741 - 70,135	70,181 - 76,028	75,621 - 81,922	<b>4</b>
	\$63.70	\$47.80	\$275.80	\$206.85	\$31.85	\$23.90	\$137.90	\$103.50	218% - 233%	52,456 - 56,490	58,349 - 62,837	64,243 - 69,183	70,136 - 75,530	76,029 - 81,877	81,923 - 88,223	
	\$68.10	\$51.10	\$294.90	\$221.20	\$34.05	\$25.55	\$147.45	\$110.65	234% - 250%	56,491 - 60,525	62,838 - 67,325	69,184 - 74,125	75,531 - 80,925	81,878 - 87,725	88,224 - 94,525	

**CPS** NOTE: A child under the child protective service (CPS) supervision of DYFS is eligible to receive services without regard to income whenever services are required as part of a case treatment plan.  
For children who are in DYFS-paid foster placement, the co-payment is assessed based on the income of the child. Since in most cases, the child has no income, the assessed co-payment is almost always \$0.  
For DYFS/CPS children residing in their own home, the co-payment is assessed on the basis of family size and income. If has been determined that payment of the full co-payment amount will cause undue hardship to the CPS family or place the child, the siblings or the protective service treatment plan in jeopardy, the DYFS Case Manager may reduce or waive the co-payment on a case-by-case basis.

- 1** Tier 1: A child who has been initially determined eligible on the basis of the annual gross income of the family, which must be at or below 150% of the current Federal Poverty Income Guidelines (FPI).
- 2** Tier 2: A child who has been initially determined eligible on the basis of the annual gross income of the family, which must be between 151% and 175% of the current FPI.
- 3** Tier 3: A child who has been initially determined eligible on the basis of the annual gross income of the family, which must be between 176% and 200% of the current FPI.
- 4** Tier 4: A child who has been redetermined eligible on the basis of the annual gross income of the family, which must be between 201% and 250% of the current FPI.

Full time care is defined as six (6) or more hours of care per day.  
Part-time care is defined as less than six (6) hours of care per day.

State of New Jersey  
DEPARTMENT OF HUMAN SERVICES  
**CLIENT INCOME ELIGIBILITY and  
CO-PAYMENT SCHEDULE for  
SUBSIDIZED CHILD CARE SERVICES**

Effective: 7/1/97

	Full Time Child Care				Part-Time Child Care				Percent of 1997 Federal Poverty Index	Family Size and Annual Income					CPS
	Weekly Co-Payment		Monthly Co-Payment		Weekly Co-Payment		Monthly Co-Payment			1 or 2	3	4	5	6	
	First Child 100%	Second Child 75%	First Child 100%	Second Child 75%	First Child 100%	Second Child 75%	First Child 100%	Second Child 75%							
CPS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	0	0	0	0	0	CPS
1	\$2.10	\$1.60	\$9.10	\$6.80	\$1.05	\$0.80	\$4.55	\$3.45	1% - 17%	1 - 1,768	1 - 2,222	1 - 2,675	1 - 3,128	1 - 3,582	1
	\$5.40	\$4.05	\$23.40	\$17.55	\$2.70	\$2.05	\$11.70	\$8.90	18% - 33%	1,769 - 3,537	2,223 - 4,443	2,676 - 5,350	3,129 - 6,257	3,583 - 7,163	
	\$7.60	\$5.70	\$32.90	\$24.70	\$3.80	\$2.85	\$16.45	\$12.35	34% - 50%	3,538 - 5,305	4,444 - 6,665	5,351 - 8,025	6,258 - 9,385	7,164 - 10,745	
	\$10.90	\$8.20	\$47.20	\$35.40	\$5.45	\$4.10	\$23.60	\$17.75	51% - 67%	5,306 - 7,073	6,666 - 8,887	8,026 - 10,700	9,386 - 12,513	10,746 - 14,327	
	\$13.10	\$9.85	\$56.70	\$42.55	\$6.55	\$4.90	\$28.35	\$21.20	68% - 83%	7,074 - 8,842	8,888 - 11,108	10,701 - 13,375	12,514 - 15,642	14,328 - 17,908	
	\$16.40	\$12.30	\$71.00	\$53.25	\$8.20	\$6.15	\$35.50	\$26.65	84% - 100%	8,843 - 10,610	11,109 - 13,330	13,376 - 16,050	15,643 - 18,770	17,909 - 21,490	
	\$20.80	\$15.60	\$90.05	\$67.55	\$10.40	\$7.80	\$45.05	\$33.75	101% - 117%	10,611 - 12,378	13,331 - 15,552	16,051 - 18,725	18,771 - 21,898	21,491 - 25,072	
	\$25.20	\$18.90	\$109.10	\$81.25	\$12.60	\$9.45	\$54.55	\$40.90	118% - 133%	12,379 - 14,147	15,553 - 17,773	18,726 - 21,400	21,899 - 25,027	25,073 - 28,653	
\$30.70	\$23.05	\$132.95	\$99.70	\$15.35	\$11.50	\$66.45	\$49.80	134% - 150%	14,148 - 15,915	17,774 - 19,995	21,401 - 24,075	25,028 - 28,155	28,654 - 32,235		
2	\$36.20	\$27.15	\$156.75	\$117.55	\$18.10	\$13.60	\$78.35	\$58.90	151% - 167%	15,916 - 17,683	19,996 - 22,217	24,076 - 26,750	28,156 - 31,283	32,236 - 35,817	2
	\$41.70	\$31.30	\$180.55	\$135.40	\$20.85	\$15.65	\$90.30	\$67.75	168% - 175%	17,684 - 18,130	22,218 - 22,715	26,751 - 27,300	31,284 - 31,885	35,818 - 36,470	
3	\$41.70	\$31.30	\$180.55	\$135.40	\$20.85	\$15.65	\$90.30	\$67.75	176% - 183%	18,131 - 19,452	22,716 - 24,438	27,301 - 29,425	31,886 - 34,412	36,471 - 39,398	3
	\$48.30	\$36.25	\$209.15	\$156.85	\$24.15	\$18.10	\$104.60	\$78.35	184% - 200%	19,453 - 21,220	24,439 - 26,660	29,426 - 32,100	34,413 - 37,540	39,399 - 42,980	
<b>FOR USE ONLY IN REDETERMINING CONTINUATION OF SERVICES</b>															
4	\$56.00	\$42.00	\$242.50	\$181.90	\$28.00	\$21.00	\$121.25	\$90.95	201% - 217%	21,221 - 22,988	26,661 - 28,882	32,101 - 34,775	37,541 - 40,668	42,981 - 46,562	4
	\$63.70	\$47.80	\$275.80	\$206.85	\$31.85	\$23.90	\$137.90	\$103.50	218% - 233%	22,989 - 24,757	28,883 - 31,103	34,776 - 37,450	40,669 - 43,797	46,563 - 50,143	
	\$68.10	\$51.10	\$294.90	\$221.20	\$34.05	\$25.55	\$147.45	\$110.65	234% - 250%	24,758 - 26,525	31,104 - 33,325	37,451 - 40,125	43,798 - 46,925	50,144 - 53,725	

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Supp. 7-21-97

FAMILY DEVELOPMENT PROGRAM (FDP)

10-86-10-6

(c) The criteria for determination and re-determination of the co-payment are as follows:

1. The criteria for determining the amount of the co-payment are family size and family annual gross income.
  - i. Family size consists of all members of the AFDC eligible unit at the time the AFDC case is closed.
  - ii. Family income includes all gross earned and unearned income, as defined at N.J.A.C. 10:82-4, received by all members of the AFDC eligible unit. The gross amount of family income must be verified by wage stubs or similar documentation, as a condition of receiving transitional child care benefits.
2. The co-payment is determined by the number of hours child care services are being provided to the child.
  - i. Full-time care is defined as care for 30 hours or more per week.
  - ii. Part-time care is defined as care for less than 30 hours per week.
  - iii. In no case may the co-payment exceed the cost of care.
3. Once the co-payment is determined, it will remain unchanged for the duration of the first 12-month eligibility period of transitional child care, unless there is a change in family size, gross family income or a change in care from full-time to part-time or vice versa. The participant must notify the CWA or designee pursuant to Federal regulation of any such changes occurring in the family. AFDC/FDP case management or designee pursuant to Federal regulation shall determine any changes in the co-payment based on reported circumstances affecting co-payment calculation. After the first 12-month period the family's eligibility for continued benefits shall be redetermined and the co-payment recalculated, as appropriate, if there are any changes in the family's circumstances as stipulated in this paragraph.

(d) The process for co-payment assessment is as follows:

1. The process for co-payment assessment is based on up to two children in care in a family. If more than two children in a family are in care, no co-payment is required for the third and subsequent children. The co-payment is determined on a per week basis.
2. The weekly co-payment is based on whether the care is full-time or part-time care, on the number of children (up to two per family) in the family needing such care through the program, and on the family's annual gross income level.
3. If only one child is in care, the weekly co-payment is the payment which results from in (b) above. That co-payment is assessed on that family's size, the family's annual gross income, and whether the care is full-time or part-time care for that child, resulting in the co-payment.

4. If two or more children in the family receive child care services through the Program, the weekly co-payment amount is a composite total payment for up to two children in the family receiving such service.

i. The weekly co-payment sum equals the full co-payment assessed for the first child plus 75 percent of the full assessed co-payment for the second child in care. The two children are selected for determination of the co-payment from all children in the family in care, based first, on the number of children in the family in full-time care arrangements.

(1) If two or more children in the family are in full-time care arrangements, the full co-payment amount is assessed on two children in full-time care. A full co-payment amount is assessed for the first child in full-time care; to that co-payment amount is added 75 percent of the full co-payment amount for the second child in full-time care. The resulting composite co-payment equals one and three quarters of the full-time co-payment amount based on the family's size and annual income level.

(2) If at least one child in the family is in a full-time care arrangement and the second and subsequent children are in part-time care arrangements, the full weekly co-payment amount is assessed on the first child in full-time care; to that co-payment amount is added 75 percent of the part-time co-payment amount for the second child in part-time care. The resulting composite co-payment equals the full-time co-payment assessed amount plus 75 percent of the part-time co-payment amount.

(3) If all children in the family are in part-time care arrangements, the full weekly co-payment amount is based on up to two children in care and is one full payment for the first child and 75 percent of the part-time co-payment amount for the second child for the family's size and income amount.

(e) The requirements for a provider's receipt of co-payment are as follows:

1. The composite co-payment is paid to only one provider of care based on the care arrangements of the family. That is, the composite co-payment amount is paid in total to the provider of the highest cost of care arrangement (that is, either the full-time care provider or the provider with the highest reimbursement rate per category of care). The following situations may result and the co-payment is distributed as follows:

i. When one child is receiving child care services through the FDP, the full assessed co-payment is made by the recipient to that provider of care.

ii. If one child is receiving child care services through the FDP but more than one provider is involved in giving care, the co-payment is paid by the recipient to that child care provider who provides the highest cost of care arrangements.

iii. When two children are receiving child care services from the same provider, the composite co-payment amount is determined in accordance with (d) above, and the sum total is paid by the recipient to that provider of care. The composite total is based on the respective type of care (full-time or part-time) provided each child; the full assessed co-payment fee for the first child is added to 75 percent of the full assessed fee for the second child in care with the provider, for the total co-payment amount.

iv. When both children are receiving different child care services from separate providers, the child care provider providing either full-time care or who receives the highest reimbursement rate per category of care will receive from the recipient the full amount of the composite co-payment assessed for both children based on the respective type of care provided (full-time or part-time care) for both children.

v. When both children are receiving the same child care services but from different providers (for example both receiving full-time care), the provider assessed at the highest cost of care arrangement receives the full composite assessed co-payment from the recipient.

vi. No co-payment shall be assessed for the third and additional children in a family receiving child care service program benefits.

vii. Fees shall be rounded down to the nearest dollar.

(f) The requirements for refunds of co-payments are as follows:

1. Refunds are made to the participant by the FDP as a lump sum payment when:

- i. A fair hearing decision results in a reduced co-payment; or
- ii. An error in co-payment computation has resulted in overcharges to the participant.

2. Overcharges are refunded by the FDP within 30 days of the fair hearing decision or discovery of the error.

Amended by R.1993 d.396, effective August 16, 1993.

See: 25 N.J.R. 1692(a), 25 N.J.R. 3772(b).

Amended by R.1994 d.206, effective April 18, 1994.

See: 26 N.J.R. 296(a), 26 N.J.R. 1636(a).

Administrative Correction.

See: 26 N.J.R. 2098(a).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Substituted "transitional" for "post-AFDC" throughout; and in (c)3, inserted references to designee.

Amended by R.1997 d.298, effective July 21, 1997 (operative August 1, 1997).

See: 29 N.J.R. 1655(a), 29 N.J.R. 3283(a).

In (b)2, substituted "104-week period" for "52-week period" and rewrote Tables I and II; in (c)3, amended to account for additional year of eligibility and substituted reference to changes in family size, income, and job status for reference to increase in family size and reduction in income; in (d)3, (d)4, and (e), deleted reference to child care payment amounts in Table I and/or Table II, and substituted "75 percent" or "three quarters" for "one-half"; and in (d)4i(3), substituted "full payment for the first child and 75 percent of the part-time co-payment amount for the second child" for "and one-half times the part-time co-payment amount from Table II".

#### 10:86-10.7 Co-payment determination, collection and monitoring

(a) This section sets forth procedures for determining the amount of a FDP participant's co-payment toward the cost of transitional child care, for the collection of the co-payment, monitoring payment (and nonpayment) of the co-payment, and for notification of nonpayment of co-payments and termination of transitional child care benefits for continued nonpayment of co-payments.

1. The procedures are listed according to the entities involved in the co-payment determination and collection process: the county welfare agency income maintenance staff, the county AFDC/FDP case management staff, the provider of child care, and the county FDP county based child care entity.

2. Counties are responsible for the entire co-payment determination and collection process and functions, according to the standard procedures detailed in this section. Counties may adapt the procedures to local operations and may reassign functions among the entities listed below. However, counties must make sure that the tasks are completed, benefits are processed in a timely manner that affords participants maximum benefits, co-payments are accurately determined, and participants are not denied benefits they are otherwise eligible to receive.

(b) Procedures for determining transitional child care co-payments are as follows:

1. CWA income maintenance (IM) or designee pursuant to Federal regulation functions are as follows:

i. When the WFNJ/TANF recipient becomes employed, he or she must report employment to the CWA and provide documentation to verify employment—the start date and amount of earnings—as a condition of eligibility for transitional child care benefits for two years and extended post-WFNJ/TANF Medicaid coverage for 24 months.

ii. When the IM worker receives the documentation referenced in (b)1i above, the worker will determine if the family will continue to be eligible for AFDC based on income.

iii. If earned income received or expected to be received renders the family ineligible for AFDC, the

IM worker or designee pursuant to Federal regulation shall initiate AFDC case closing and the processing of post-AFDC FDP benefits, including extended Medicaid benefits and transitional child care.

(1) The IM worker or designee pursuant to Federal regulations shall do the following:

(A) Determine the amount of verified earnings at the time action is taken to close the AFDC case. These earnings will be used to compute the co-payment that the participant must pay toward cost of transitional child care, if the participant elects to apply for such benefits.

(B) Send out Form PA-15, Notification Form, advising of the termination of AFDC benefits and effective date;

(C) Send out the FDP Benefit Letter (or similar locally developed notification) advising the participant of:

(I) The availability of post-AFDC/FDP benefits—extended Medicaid and transitional child care;

(II) The requirement to pay a co-payment toward the cost of transitional child care; and

(III) The need to apply for transitional child care by contacting (by phone, mail or in-person) the FDP case manager or designee pursuant to Federal regulation listed at the bottom of the FDP Benefit Letter; and

(D) Forward one copy of FDP Benefit Letter to AFDC/FDP case management or designee pursuant to Federal regulation.

(2) If the participant has not provided verification of earnings at time of case closing, the IM worker shall notify the participant of the need to provide such verification of earnings as a condition of eligibility for the extended benefits.

iv. To the extent possible, the IM worker or designee pursuant to Federal regulation should complete the AFDC case closing, income verification process and mailing of FDP Benefit Letter before the AFDC case is closed. This will ensure that participants receive child care benefits in a timely and uninterrupted manner, and ensure that providers receive payment of co-payments and FDP voucher payments. If this is not possible, the process should be completed as soon as possible after the AFDC case is closed, during the first month of AFDC ineligibility.

v. The eligibility period for transitional child care benefits will be computed in accordance with N.J.A.C. 10:86-10.5(d).

2. WFNJ/TANF case management or designee pursuant to Federal regulation, functions are as follows:

i. Upon receipt of the FDP Benefit Letter copy from IM, AFDC/FDP case management or designee pursuant to Federal regulation shall monitor the form to see if the FDP participant contacts case management or designee pursuant to Federal regulation.

ii. The date the FDP participant contacts case management or designee pursuant to Federal regulation in response to the FDP Benefit Letter will be considered the date of application for FDP transitional child care benefits. In order to begin receiving payments for transitional child care, the participant must make a complete application, which includes providing verification of earnings.

iii. The period of eligibility for transitional child care benefits is computed according to N.J.A.C. 10:86-10.5(d). A WFNJ/TANF participant will begin receiving transitional child care benefits when a complete application is received, computed according to (b)2iii(1) and (2) below:

(1) If the participant submits a complete application within 30 days of the effective date of WFNJ/TANF case closing, that is, by the end of the month for which the case was closed, the participant will start receiving transitional child care benefits as of the effective date of case closing. The benefit period will be 24 months.

(2) If the participant submits a complete application after the WFNJ/TANF case has been closed for one calendar month, the participant will start receiving transitional child care benefits commencing with the date the complete application was received by the CWA. The benefit period will be the balance of the 24-month period. In such situations, transitional child care benefits will not be retroactive to the first day of the month the complete application was received.

iv. Upon receipt of a response from a participant requesting FDP transitional child care benefits, the FDP case manager or designee pursuant to Federal regulation and the participant will discuss the child care arrangements, including the requirement to pay a co-payment toward the cost of care. The FDP case manager or designee pursuant to Federal regulation shall determine the amount of the participant's co-payment based on verified earnings, family size and the number of children in transitional child care. The case manager or designee pursuant to Federal regulation and participant will then complete a FDP Agreement for Supportive Services indicating the child(ren) for whom child care is to be provided, the duration of the child care benefits, the name(s) and address(es) of the child care provider(s), and the amount of the child care benefits.

(1) The case manager or designee pursuant to Federal regulation shall give the participant a copy of the Agreement and forward a copy of the FDP Agreement to the county based child care entity.

(2) Once the FDP Agreement is signed, case management or designee pursuant to Federal regulation will process the support agreement and mail out vouchers to the provider(s) listed in the FDP Agreement(s).

v. The case manager or designee pursuant to Federal regulation, in consultation with the FDP participant, shall complete FDP Form 20, Notification of FDP Transitional Child Care co-payment. FDP Form 20 is a four-part form which contains information about the FDP transitional child care co-payment arrangement. It sets forth the requirement of the FDP participant to pay a co-payment toward the cost of care and of the FDP to pay the balance of the approved cost of child care. It contains the amount(s) of co-payment(s) computed for the first and, if necessary, second child in care, the total co-payment to be paid. It provides instructions about co-payment arrangements, proof of payment and accounting of co-payments collected. Form 20 specifies actions to be taken for nonpayment of the co-payment, including written notice from AFDC/FDP case management or designee pursuant to Federal regulation; and termination of all transitional child care benefits for continued nonpayment (with a right to a fair hearing). FDP Form 20 is signed by the FDP case manager or designee pursuant to Federal regulation, and may be signed by additional agency representatives.

(1) The purposes of FDP Form 20 are to:

(A) Provide the participant receiving FDP transitional child care benefits with written documentation of his or her co-payment obligation;

(B) Establish the responsibilities of the participant and the provider; and

(C) Establish a basis for monitoring compliance with the FDP transitional child care co-payment policy.

(2) FDP Form 20 is to be completed and signed for each child for whom a fee is assessed.

(3) Case management or designee pursuant to Federal regulation must immediately send copies of FDP Form 20 to the participant, child care provider(s), county based child care entity, and must retain one copy.

vi. The biweekly FDP child care voucher process will be used to report transitional child care co-payment collection and nonpayment. Case management (or other entity designated by the county AFDC/FDP to process its AFDC/FDP child care vouchers) shall issue the voucher biweekly listing the name(s) of the FDP

transitional child care participant's child(ren). AFDC/FDP case management or the county entity shall ensure that a method for recording payment or nonpayment of the fee is included in this voucher issuance. Acceptable methods include a separate form attached to the voucher, a computer-printed message on the voucher, or any other method approved in writing by the county's DFD representative.

3. Child care service provider functions are as follows:

i. Upon receipt of the FDP Form 20, from AFDC/FDP case management or designee pursuant to Federal regulation, the participant and the provider must negotiate the frequency of co-payments and collection (either weekly or biweekly), and date or day of co-payment. Frequency and day of co-payment can be based on individual circumstances, including the participant's source and frequency of income and the co-payment procedures already established by the provider, but the co-payment must be paid by the last day of the voucher service period. Collection periods must coincide with the periods covered by the FDP transitional child care voucher.

(1) The voucher service period is the two-week period listed on the FDP voucher for which FDP child care services are provided.

ii. The provider should implement a system designed to ensure an efficient, error-free method of recording and accounting for all co-payment collections. The county based child care entity is available to provide technical assistance to providers in establishing such a system. The provider may wish to adapt recordkeeping systems used in the Social Services Block Grant (SSBG) system, such as the One-Write Fee Collection System or a comparable method.

(1) Providers must establish procedures for the collection of the co-payment from the participant.

iii. The provider and FDP participant will then follow the terms of the FDP Form 20 notification. The provider shall collect the assessed co-payments from the participant during the voucher service period. The child care provider has the responsibility to make reasonable efforts to collect assessed co-payments from the FDP transitional child care participant.

iv. At the end of the voucher service period the provider shall complete the voucher indicating the child(ren)'s attendance, the amount of the FDP payment due for child care services provided and whether the FDP participant(s) has paid the required co-payment. The provider must return the voucher to obtain payment for FDP services provided, to document co-payments not paid and thereby to preserve his or her right to possible reimbursement for unpaid co-payments.

v. The income and co-payment information recorded on the FDP Form 20 notification is confidential. The provider, county based child care entity, and AFDC/FDP case manager or designee pursuant to Federal regulation are responsible for ensuring that access to this information is restricted to those individuals responsible for assessing and collecting co-payments.

4. FDP county based child care entity functions are as follows:

i. The county based child care agency is responsible for advising the provider at time of recruitment into FDP of the transitional child care co-payment requirements, including the requirement that the participant must pay a portion of the cost of care; training the provider in voucher completion; and providing assistance in co-payment collection and monitoring, as determined by the county;

ii. To maintain a file of the completed FDP Agreements for Support Services for all participants receiving transitional child care as part of the overall provision of child care services;

iii. To maintain a file of the completed FDP Form 20s for the same reason; and

iv. To offer technical assistance to child care providers as needed and when requested.

5. Reassignment of functions shall be accomplished as follows:

i. A county may opt to reassign functions set forth in this subsection to county entities other than those listed, for example, the county based child care agency, if, given the county's FDP operations, those functions would be more appropriately handled by that other entity. A county must obtain approval from the DFD representative prior to any reassignment.

(1) Functions that may not be reassigned to entities other than those listed in this subsection include: determining eligibility or ineligibility for FDP transitional child care benefits, or sending adverse action notices to the FDP participant advising of the termination of FDP transitional child care benefits, or involvement in the fair hearing process.

ii. A county must use the FDP Form 20 in its FDP post-AFDC operations. Each county must provide to the DFD a copy of its notice of co-payment payment and nonpayment that is completed by the provider and its notice of termination of FDP transitional child care benefits.

(c) Co-payment collection, monitoring, and procedures for late payment or nonpayment of co-payments and termination of transitional child care benefits are as follows:

1. The following are provider functions:

i. It is the responsibility of the child care service provider to collect co-payments and report nonpayment of co-payments in accordance with the terms of the FDP notification.

ii. Whenever the FDP transitional child care co-payment has not been paid to the provider by the end of the voucher service period, the co-payment is considered unpaid.

iii. In the event of nonpayment of assessed co-payments by the participant, the provider will complete the voucher, indicate on the voucher the child(ren) for whom the participant(s) failed to pay the required co-payment, and return the voucher to the designated entity in the county FDP program. This action by the provider in conjunction with the FDP case manager or designee pursuant to Federal regulation will initiate the process for terminating FDP transitional child care benefits.

iv. The provider must continue to attempt to collect co-payments from the participant and must document such collection efforts.

v. Under no circumstances may the participant be charged a late co-payment penalty.

2. The county based child care entity will provide technical assistance to the provider in cooperation with AFDC/FDP case management as needed.

3. AFDC/FDP case management or designee pursuant to Federal regulation functions as follows:

i. It is the responsibility of AFDC/FDP case management or designee pursuant to Federal regulation to monitor co-payment collection by examining the completed FDP transitional child care vouchers returned by providers and responding to nonpayment of co-payments reported in the voucher.

ii. Following receipt of a FDP child care voucher from a provider indicating nonpayment of assessed co-payments by the participant, the FDP case manager or designee pursuant to Federal regulation shall:

(1) Determine the effective date that FDP transitional child care benefits will be terminated;

(2) Complete a letter notifying the participant of termination of FDP transitional child care services. A county may develop a letter specifically for this purpose or may amend an existing notification letter. The purpose of this notice is to provide written notice to:

(A) Advise the participant of a child receiving FDP transitional child care services of the amount of assessed co-payment which has not been paid;

(B) Advise the participant of the right to request and obtain a fair hearing;

(C) Serve as formal notice to the participant that FDP transitional child care services will be terminated by a specific date unless overdue co-payments are paid;

(D) Serve as written confirmation for the provider and county based child care entity that child care services will be terminated due to the late or nonpayment status of the FDP post-AFDC participant; and

(E) Advise the participant to pay the required co-payments and to contact the county FDP or designee pursuant to Federal regulation immediately if she or he has already paid the overdue co-payment(s) so that benefits may be continued; and

(3) Complete and sign four copies of the notification of termination. The FDP Case Manager or designee pursuant to Federal regulation shall:

(A) Send the original to the participant;

(B) Distribute copies to the provider and the county based child care entity; and

(C) Retain a copy for the participant's file.

4. When transitional child care services are terminated due to nonpayment of co-payments, the participant of a child receiving FDP transitional child care services retains the right to request a fair hearing. If timely request (within 10 days) is made, the FDP or designee pursuant to Federal regulation will continue to make payment to the provider for the FDP portion of child care services rendered until a fair hearing is held, and a final determination is made.

i. In all cases where a fair hearing is requested, the procedures outlined in N.J.A.C. 10:81-6 and 7, and 10:86-6 are to be followed.

5. Reimbursement of unpaid co-payments shall be accomplished as follows:

i. If a FDP participant fails to pay assessed co-payments for care provided to her child(ren), the provider(s) may be reimbursed by the FDP program for the amount of unpaid co-payments subject to the following.

(1) Reimbursement by the FDP program or designee pursuant to Federal regulation will be made if all of the following conditions are met:

(A) The child's attendance at the provider's facility was documented on the FDP child care voucher;

(B) The provider has documented on the FDP voucher nonpayment of the co-payments for each voucher service period for which a claim of nonpayment is made; and

(C) The participant's FDP transitional child care benefits were actually terminated.

(2) Reimbursement of unpaid co-payments is limited to a maximum period of two months. Exceptions may be granted in extreme circumstances with prior written approval by the DFD.

(3) Reimbursement of unpaid co-payments to the provider must be paid from State FDP funds.

ii. If a participant whose transitional child care benefits have been terminated due to nonpayment of the co-payment reapplies for transitional child care benefits, the participant must reimburse the amount of the unpaid co-payments before eligibility for transitional child care benefits will be granted for the balance of the transitional child care period.

(1) If the county FDP has already paid the provider(s) for previous unpaid co-payments arrearages, the participant must reimburse the county for the full amount of co-payment arrearages due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county.

(2) If the county FDP program has not yet paid the provider(s) for previous unpaid co-payment arrearages, the participant must reimburse the provider(s) for the full amount of co-payments due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county and the provider(s).

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

Inserted references to designee and substituted references to county based entities for references to lead agencies or entities and references to transitional child care payments, benefits, or eligibility for references to post-AFDC child care payments, benefits, or eligibility throughout. Amended by R.1997 d.298, effective July 21, 1997 (operative August 1, 1997).

See: 29 N.J.R. 1655(a), 29 N.J.R. 3283(a).

Substituted "WFNJ/TANF" for "AFDC" for "AFDC FDP", and for "FDP", deleted "FDP" preceding "transitional", and amended to account for additional year of eligibility throughout section.

## SUBCHAPTER 11. RECOVERY OF OVERPAYMENTS

### 10:86-11.1 Overpayments of FDP supportive services (child care and PALs)

(a) This section applies to overpayments of supportive services, including FDP participant allowances (PALS), child care benefits and transitional child care benefits at N.J.A.C. 10:86-9 and 10, respectively.

1. An overpayment is a payment which exceeds the amount of FDP child care benefits, transitional child care benefits or FDP participant allowances for which the

AFDC or GA FDP participant or service provider was eligible.

2. The amount of the overpayment subject to recovery is the difference between the amount actually paid to the AFDC or GA FDP participant or service provider and the amount for which the participant or service provider was eligible.

i. If the AFDC or GA FDP participant was ineligible for the benefits for the period for which the service was provided, the entire amount paid is an overpayment.

ii. If the service delivered by the service provider was not approved by the AFDC or GA FDP provider agency through FDP operating procedures, the entire amount paid is an overpayment.

(b) The AFDC or GA FDP provider entity or MWD (for GA transportation costs) shall take all reasonable steps necessary to promptly correct any overpayment of FDP child care benefits, transitional child care benefits or FDP participant allowances made to an AFDC or GA FDP participant or service provider. Recovery shall be attempted in the following circumstances:

1. In all cases of fraud;

2. In all cases involving current AFDC or GA recipients; and

3. In all cases where the overpayment amount would equal or exceed the costs of recovery.

(c) An overpayment to a family or provider currently receiving child care or supportive service benefits shall be recovered through repayment (in part or in full) by the family or provider responsible for the overpayment, or by recovering the overpayment through a benefit reduction in the amount payable to the family or provider.

1. In recovering overpayments from an AFDC or GA family, the family shall be permitted to retain, for any month, a reasonable amount of funds.

2. Overpayments to AFDC or GA individuals may be recovered as follows:

i. From the family unit which was overpaid;

ii. From individuals who were members of the AFDC or GA family when it was overpaid; or

iii. From AFDC or GA families which include members of a previously overpaid AFDC or GA family.

3. In cases of former AFDC or GA recipients or recipients who refuse to repay, recovery shall be made by appropriate action under State law against the income and resources of the overpaid individual or family.

4. Recovery of child care benefits may be made only from child care benefits, and recovery of transportation and related participant allowance payments may only be made from those FDP benefits.

5. Any recoveries of overpayments of child care or transportation and related participant allowance benefits may be made from the AFDC or GA grant only upon a voluntary request of the recipient family.

(d) Underpayments and overpayments may be offset against each other in correcting incorrect payments.

(e) The Department of Human Services may provide that an AFDC or GA FDP provider entity or designee pursuant to Federal regulation need not attempt recovery of overpayments from providers if obligated to make the full payment under the contracts. However, Federal financial participation for AFDC purposes may not be claimed for such overpayments.

(f) The AFDC or GA FDP provider entity or designee pursuant to Federal regulation shall collect and maintain information on the collection of overpayments.

Amended by R.1997 d.113, effective March 3, 1997 (operative April 1, 1997).

See: 28 N.J.R. 4330(a), 29 N.J.R. 770(a).

In (a) and (b), substituted "transitional" for "post-AFDC"; and in (e) and (f), inserted reference to designee.