

(c) The combined resources of a decedent means the aggregate net total of all of the following:

1. Cash on hand or in the hands of others as property of the decedent including personal needs accounts in long term care facilities (but excluding cash in the custody, possession or control of the county or municipal agency);
2. Other resources, such as securities, real estate, antique furniture and automobiles;
3. Life insurance or death or funeral benefits from public or private sources which have been received, or which are receivable by the estate of the decedent, by the decedent's spouse, children, father, mother, or any other beneficiary because of the death of the decedent;
4. Payments of the same nature as in (c)3 above which have been received by or which are receivable by any other person excepting such amounts as are lawfully claimed and proven by such person as a claimant for equitable refund of premiums paid;
5. Sums which have been paid or are promised to be paid on account of the death of the decedent by any other person or organization excepting such sums as have been paid or will be paid to the agency; and
6. Funds owed the decedent at the time of death.

#### 10:90-8.5 Authorization of payment

(a) Funeral services and cemetery costs shall be separated and paid separately. Funeral directors and cemetery representatives shall each complete and submit Form WFNJ PA-11, Affidavit and Petition for Payment, to the county or municipal agency to receive payment. The allowance for funeral services, exclusive of cemetery costs, is the total amount charged or \$1,970, whichever is less. Purchase of an urn when an individual is cremated is a permissible expense and is charged toward the funeral allowance. When ground burial is made of the remains, the cemetery allowance also applies. The cemetery allowance is the sum of all cemetery charges or \$460.00, whichever is less. Crematory charges as well as burial of the urn are permissible expenses and are to be charged toward the cemetery allowance. The maximum total of allowances for a decedent is the sum of the funeral allowance and the cemetery allowance, as applicable. Payments may be authorized for transportation costs for otherwise eligible Medicaid or WFNJ recipients who would normally qualify for burial/funeral expenses but have chosen to donate their bodies for medical education and research.

(b) The payment to be made is the maximum total allowance of \$1,970 for funerals and \$460.00 for cemetery costs. The value of any prepaid funeral contract on record shall reduce, dollar for dollar, the funeral and burial allowance. Contributions from next of kin and interested parties above and beyond those listed at N.J.A.C. 10:90-8.4(c) up to \$1,570 shall be excluded. Amounts in excess of \$1,570 shall be counted in determining the amount to be paid by the agency.

1. After a funeral and cemetery claim is determined eligible for payment based on N.J.A.C. 10:90-8.2(a), the county and municipal agency shall forward a list of the decedent's assets, and resources as identified in N.J.A.C. 10:90-8.4(c), to DFD who will be responsible for pursuing reimbursement from those assets and resources.

(c) Payment for funeral and cemetery claims shall be made first from any funds received by or designated for the county or municipal agency pursuant to these regulations from or on behalf of the decedent and secondly, if necessary, from assistance funds.

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

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

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

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

In (a), rewrote the introductory paragraph; in (b), added the last sentence in the introductory paragraph and added 1; added (d).

Administrative correction.

See: 35 N.J.R. 5420(a).

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

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

In (a), added the first sentence, substituted "Crematory charges" for "Cremation" at the beginning of the sixth sentence and "cemetery" for "burial" before "allowance" in the sixth sentence.

Amended by R.2007 d.302, effective October 1, 2007.

See: 39 N.J.R. 2183(a), 39 N.J.R. 4126(a).

In the introductory paragraph of (a), inserted the second sentence; deleted (a)1; in (b), substituted "allowance of \$1,970 for funerals and \$460.00 for cemetery costs. The value of any prepaid funeral contract on record shall reduce, dollar for dollar, the funeral and burial allowance" for "of allowances as reduced by the combined resources of the decedent"; added (b)1; in (c), substituted "Payment for funeral and cemetery claims" for "Payments"; and deleted (d).

#### 10:90-8.6 Time of payment

(a) The amount to be allowed on any claim shall, in the absence of known irregularity, be paid as promptly as possible after such amount is determined and, in any event, within 30 calendar days thereafter. The county or municipal agency shall provide notice of its determination to all parties to the funeral contract and to any others who have both a need for the information and the right to receive it. When the county agency is contacted for payment of funeral or burial services before payment is authorized, the agency shall review the case in order to determine if any adjustments need to be made to the decedent's case. Only after appropriate case action has been taken shall payment for the burial/funeral be made.

1. In the event that a determination cannot be made within 10 calendar days after receipt of a petition for payment solely because information about a determination of eligibility for payment of death benefits by one or more other agencies is not available, the county or municipal agency shall make a tentative determination based on the assumption of favorable action by the other agencies. The county or municipal agency will remit the difference within 30 calendar days following the tentative determination. Upon receipt of information about the determination(s) of the other agencies, the county or municipal agency shall make a final determination and remit any balance due to

the petitioner within 30 calendar days of the final determination.

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

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

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

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

In (a), added the third and fourth sentences in the introductory paragraph.

### 10:90-8.7 Irregularities

(a) In the event of a dispute or disagreement about a claim which cannot be readily resolved between the agency and the claimant, the county or municipal agency shall submit the matter to the DFD for review and advice.

(b) In the event that the county or municipal agency becomes aware of the filing of any claim for payment with another person or agency which is in duplication of or is inconsistent with any claim received by the county or municipal agency, the agency shall:

1. Advise the other person or agency of the circumstances and take all appropriate steps to assert and secure the county or municipality's rights;
2. In the absence of a prompt local resolution of the matter, report it to the DFD for review and advice; and
3. Determine whether any violation of a criminal nature may have occurred and, if so, report the matter in writing to the County Prosecutor.

(c) In the event that the county or municipal agency later learns of the existence of resources, the agency shall immediately forward the information concerning the resources to DFD for recovery.

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

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

Amended by R.2007 d.302, effective October 1, 2007.

See: 39 N.J.R. 2183(a), 39 N.J.R. 4126(a).

Rewrote (c).

### 10:90-8.8 Requirements pertaining to SSI or Medicaid Only recipients

(a) In any instance in which the agency has either a lien or claim on the assets of a decedent by reason of previous assistance granted or payment of burial, the agency shall notify all known holders of the decedent's assets or funds of its interest. It shall request that such funds be remitted to the agency (up to the amount of the agency's interest), taking such steps as may be necessary to acquire the funds. If, after reimbursement to the agency in full, a surplus remains or will remain, either in agency accounts or the accounts of others, the agency shall determine whether any or all of the surplus funds are the proceeds of assigned life insurance for which there had been a named beneficiary. If so, the agency shall remit to the beneficiary any such funds in its possession. The agency shall notify the Chief, Bureau of Medical Care Surveillance in the Division of Medical Assistance and Health Services, as above, of any other surpluses including those arising from

assigned life insurance for which the beneficiary was the estate of the decedent. Benefits from term life insurance are exempt from re-payment of prior assistance.

1. When more than one agency is involved either by reason of a claim or by liquidation of resources, the agencies shall distribute the available funds by mutual consent of the directors, in each instance applying resource funds to burial costs before taking reimbursement of assistance costs.

New Rule, R.1998 d.42, effective January 20, 1998.

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

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

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

In (a), added the last sentence in the introductory paragraph.

## SUBCHAPTER 9. NOTICES AND HEARINGS IN WFNJ

### 10:90-9.1 Notice to applicant/recipient

(a) The county or municipal agency shall provide adequate notice to an applicant for or recipient of WFNJ benefits of any action to be taken that affects the applicant's or recipient's benefits.

1. An adequate notice is a written or computer generated notice that includes the following:

- i. The action the county or municipal agency intends to take;
- ii. The reasons for the intended action;
- iii. The specific regulations supporting the intended action;
- iv. An explanation of the individual's right to request a fair hearing;
- v. An explanation of the circumstances under which assistance is continued if a hearing is requested;
- vi. An explanation of the requirement to repay assistance received during the period pending the hearing, if the action is upheld;
- vii. If the English version of the notice is not available in Spanish, the notice shall contain a sentence in Spanish cautioning the individual that the notice relates to a change in his or her grant and if he or she does not understand the notice, he or she should contact the county or municipal agency; and
- viii. The name, address and phone number of the legal services office, where available.

(b) An adverse action is an action to deny an application for assistance, or to terminate, suspend or reduce assistance (including service payments or Medicaid entitlement) or to change the manner or form of payment to a protective, vendor or two-party payment. When the county or municipal agency intends to take an adverse action, it shall give both timely and adequate notice to the recipient.