

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

Deleted "(c)" regarding Job Corps Center training. Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (a)1 and (b): revised text to "30 days" from "80 days."

In (b): added "\$25.00 in AFDC-C, -F and -N cases", deleting existing (b)1 and 2 with former amounts.

### 10:82-1.7 Eligible AFDC child regularly attending school or in vocational training at a Residential Job Corps Center

(a) When an eligible child is a student regularly attending school, college or university, or regularly attending a course of vocational training designed to fit him/her for gainful employment, this child shall be included as a member of the eligible unit whether or not he/she is living in the home during the period in which he/she is pursuing his/her studies. (See N.J.A.C. 10:82-1.9 for definitions of school attendance.)

(b) Any grant, scholarship, student loan or other financial aid received by such child shall be fully disregarded in determining eligibility and amount of assistance payment so long as the child continues to attend school as stated in (a) above and meets the conditions under which such moneys are granted.

1. Funds received through college work-study programs shall be disregarded.

(c) During any period for which a child receives a grant, scholarship or student loan under a Federal, State or other public or private program, he or she shall not be entitled to any allowances for expenses incident to training which are otherwise provided for through student financial aid. In other situations, allowances shall be provided in accordance with the provisions of N.J.A.C. 10:81-14.19.

(d) When a child receives vocational training at a Residential Job Corps Center which permits him or her to return home for weekends, the child shall be considered temporarily absent and regarded as an eligible member of the family unit. (A child receiving training at one of the three National Job Corps Centers located in Kentucky, Indiana, and Utah is to be considered permanently absent and shall not be considered a member of the eligible family for AFDC eligibility.)

(e) If the student is in fact living apart from the eligible unit and is receiving all expenses for room and board from other sources, an adjustment to accommodate for this absence must be made in computing the family's grant. For this purpose, the amount of \$25.00 per month for AFDC-C, -F and -N children shall be entered as "other income" on the PA-3A form.

Amended by R.1978 d.191, effective June 8, 1978.

See: 10 N.J.R. 286(b).

Amended by R.1979 d.232, effective August 1, 1979.

See: 11 N.J.R. 183(b), 11 N.J.R. 346(c).

Amended by R.1979 d.424, effective November 1, 1979.

See: 11 N.J.R. 447(b), 11 N.J.R. 560(a).

Amended by R.1982 d.443, effective December 20, 1982.

See: 14 N.J.R. 952(a), 14 N.J.R. 1459(b).

Clarified the treatment of scholarships, educational grants, and student loans. Correlation: Deleted "over 18 and under 21" from (a). See: 17 N.J.R. 2917(a).

Amended by R.1987 d.330, effective August 17, 1987.

See: 19 N.J.R. 709(a), 19 N.J.R. 1559(c).

Added text to (b), "scholarship", "other financial aid". Deleted "Student loans from . . ."

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (c): added text referring to allowances provided for through student financial aid.

Added new subsection (d).

Amended by R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

In (e), added N-segment; deleted text which contained \$17.00 monthly amount for N-segment.

#### Case Notes

Contribution funds accumulated under provisions of the Post-Vietnam Era Veterans Education Assistance Program were not an educational grant or loan and must be liquidated as a nonexempt resource before becoming AFDC eligible. L.D. v. Passaic Cty. Bd. of Social Services, 7 N.J.A.R. 309 (1984).

Institutional stipend received by AFDC program parent enrolled in school should be disregarded in computation of AFDC grant, as stipend is not used to defray living expenses. In re: P.S., 4 N.J.A.R. 230 (1979).

### 10:82-1.8 Parent regularly attending school (all segments)

(a) When a parent of an eligible child is a student regularly attending school as defined in N.J.A.C. 10:82-1.9, the provisions of N.J.A.C. 10:82-1.7(b) and (c) shall apply. The parent shall be considered a REACH participant subject to the rules set forth at N.J.A.C. 10:81-14.

1. Payment for child care shall be provided where necessary to enable a parent to attend school so long as the parent can demonstrate that his or her scholarship(s), grant(s), student loan or other financial aid does not provide moneys which are to be utilized for such care, and child care is not provided from or through the educational institution or through any other source (see N.J.A.C. 10:82-5.3 and 10:81-1.10 and 14.18).

Amended by R.1979 d.232, effective August 1, 1979.

See: 11 N.J.R. 183(b), 11 N.J.R. 346(c).

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(a).

Amended by R.1987 d.330, effective August 17, 1987.

See: 19 N.J.R. 709(a), 19 N.J.R. 1559(c).

Deleted text in (a)1 "When the scholarship . . ."; added "student loan or other financial aid".

Amended by R.1991 d.7, effective January 7, 1991.

See: 22 N.J.R. 2445(a), 23 N.J.R. 93(a).

In (a): deleted N.J.A.C. reference and added text referring to N.J.A.C. 10:81-14.

In (a)1: added text regarding the educational institution and N.J.A.C. citations.

#### Case Notes

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before becoming AFDC eligible. *L.D. v. Passaic Cty. Bd. of Social Services*, 7 N.J.A.R. 309 (1984).

Institutional stipend received by AFDC program parent enrolled in school should be disregarded in computation of AFDC grant, as stipend is not used to defray living expenses. *In re: P.S.*, 4 N.J.A.R. 230 (1979).

Essex County Division of Welfare v. "P.A.", 2 N.J.A.R. 23 (1979).

### 10:82-1.9 School attendance defined

(a) A child eligible under the age requirements of N.J.A.C. 10:81-3.13(a) shall be considered a student regularly attending a school or training course when he or she is enrolled in and physically attending, as certified by the school or institute, a program of study or training leading to a certificate, diploma or degree:

1. Full time; or
2. At least half time and is regularly employed part time or is available for and actively seeking part-time employment; or
3. At least half time and is precluded from full-time attendance or part-time employment because of a verified physical disability.

(b) Full-time and half-time attendance are defined as:

1. In a trade or technical school, in a program involving shop practice, full time is 30 clock hours per week and half time is 15 clock hours; in a program without shop practice, full time is 25 clock hours and half time is 12 clock hours;
2. In a college or university, full time is 12 semester or quarter hours and half time is eight semester or quarter hours;
3. In a secondary school, full time is 25 clock hours per week or four Carnegie units per year, and half time is 12 clock hours or two Carnegie units;
4. In a secondary education program of cooperative training or in apprenticeship training, full-time attendance is as defined by State Department of Education.

(c) A child shall be considered in regular attendance in months in which he or she is not attending because of official school or training program, vacation, illness, convalescence or family emergency, and for the month in which he or she begins, completes or discontinues his or her school or training program.

Amended by R.1986 d.471, effective December 1, 1986.

See: 18 N.J.R. 260(a), 18 N.J.R. 2388(b).

Amended by R.1994 d.430, effective August 15, 1994.

See: 26 N.J.R. 1584(a), 26 N.J.R. 3483(a).

### 10:82-1.10 Prospective budgeting

(a) Eligibility and the amount of the assistance payment for all AFDC applicants and recipients shall be determined using prospective budgeting methodology.

1. Prospective budgeting policy shall be applied to recipients of Medicaid benefits, including AFDC-related Medicaid and Medicaid Special.

(b) AFDC eligibility and benefit calculations shall be based on a best estimate of the family's income and other circumstances that will exist until the next reported significant change in circumstance or redetermination, whichever is first. The best estimate of income is based on the family's and the agency's reasonable expectations and knowledge of current, past, and future circumstances. In determining the best estimate of income, the CWA shall use income averaging and the concept of "significant and non-significant" income and circumstance changes. Verification of the income used must be clearly documented in the case record.

1. For purposes of determining the family's eligibility and benefits, the CWA shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application, redetermination, or change in circumstance. Likewise, all unearned income received within this four week period is also determined. All earned and unearned income received within this four week period must be verified and documented in the case record, even if all four weeks of income are not ultimately used to calculate the best estimate.

2. In order to maintain consistency in policy application between the AFDC and Food Stamp (FS) programs, the CWA shall utilize the same income estimate for both the AFDC application/redetermination period and the Food Stamp application/recertification period, whenever possible. Therefore, in those public assistance (PA)/FS cases where the Food Stamp calculation encompasses a five-paycheck (or a three paycheck month for bi-weekly income) month, CWAs are authorized to use that same estimate for AFDC if it is also representative for AFDC best estimate purposes. Documentation of the best estimate determination must be in the case record.

3. The payment schedule of receipt of income by an AFDC individual occurs weekly, biweekly, or on a semi-monthly basis. The CWA shall convert the average income amount to a gross monthly amount by multiplying the averaged income amount by the appropriate conversion factor as follows: weekly amounts by 4.333; biweekly amounts by 2.167; and semi-monthly amounts by two.

(c) Significant income and circumstance changes are defined as changes in sources or amounts of earned or unearned income or changes to the eligible unit size which are expected to continue into the future. Examples of significant changes include, but are not limited to: starting a new job or gaining a new source of unearned income; losing a job or a source of unearned income; permanent or long term changes in hours worked and/or rate of pay; permanent or long term changes in unearned income; changing from part-time to full-time employment (or vice versa); promotion or demotion; beginning to work piece work or regular overtime (or vice versa); changing employers; short term plant closings (such as one or more weeks) or periods of sick leave without compensation (more than one day); or addition of or loss of an eligible family member.

1. The CWA shall use information about past significant changes of a continuous nature in estimating future income. The date of an anticipated significant income/circumstance change may be used to schedule a desk review to coincide with the expected date of the change, in order to recalculate the best estimate of income.

2. Families shall be required to report all significant changes in income and circumstances that could affect eligibility and grant amount as soon as possible, but in no event later than 10 calendar days of the date the change happened. The CWA shall initiate appropriate action on the reported change within 10 calendar days of receiving the report of the change, subject to timely and/or adequate notice requirements.

(d) Non-significant income/circumstance changes are defined as temporary, very short term variations in the earned or unearned income amount or eligible unit size caused by a situation which is not of an ongoing nature, or which is of a variable nature. Examples include, but are not limited to: fluctuations in wages due to ongoing (reported) earnings from piece work; occasional changes in wages due to very irregular overtime; or an occasional unpaid day off.

(e) The following procedures are to be followed in determining the best estimate of income.

1. Verification through wage stubs or documentation from the employer, of income received within the specified timeframe in (b) above. All earned and unearned income received within this four week period must be verified and documented in the case record even if all four weeks of income are not ultimately used to calculate the best estimate.

2. Determination, through a review of the income documentation and discussion with the family, if there have been any significant changes during that period. If a significant change has occurred and the change is of a continuous nature, the change must be documented and taken into consideration when determining the best estimate. For example, if a family has received an increase in hourly rate, the new hourly rate must be multiplied by the appropriate number of hours (either stable or averaged) to determine anticipated income.

3. Determination if any significant changes are expected in the future. If a significant change is expected and the exact nature of the change is known, the CWA shall use the information in determining the best estimate of income and shall require that the family provide the required verification subsequent to the change to determine if the best estimate was correct or needs to be recalculated. If the exact nature of the anticipated change is not known, then a desk review can be scheduled to coincide with the expected date of change and/or the client advised to report the change within 10 days of the date of change.

4. Determination, through review of the documentation, the case record and discussion with the client, if any of the income received is not expected to be representative of the future. For instance, the first pay check of new employment may not represent a full-pay period; a missing week's income may represent a summer plant closing; or a larger check may represent nonrecurring overtime, all of which may not be anticipated to occur in the future. Non-representative income (or lack of income) shall not be used in calculating the best estimate. The case record must be clearly documented to explain why any income was not used, and to show how the best estimate was calculated. For example, the family receives regular weekly income but is missing one week's pay due to a plant closing for that week only. The three available amounts would be averaged to determine average weekly income and that average converted to monthly gross income as described in (b)2 above.

5. If income fluctuates (that is, is not exactly the same each time received and/or is not received on a regular schedule) to the extent that a four-week period is not expected to provide the best estimate of income until the next redetermination, the CWA shall require the family to submit verified wage information for those months subsequent to the month of review, in order that the CWA may recalculate the best estimate. When income fluctuates dramatically, the CWAs shall rebudget the case as often as deemed necessary to ensure the most accurate best estimate and correct assistance payment.

i. When four consecutive weeks of income fluctuate but are representative of the family's anticipated fluctuation in income for future months, the CWA shall average the income from the four-week period and project that gross income estimate for future months, taking into account any anticipated significant changes.

6. The final step shall be to average the income that has been determined to be representative of the eligible family's circumstances and to convert that average to a gross monthly income "best estimate" amount by using the conversion factors set forth in (b)2 above. The best estimate amount shall then be used to determine eligibility until the next redetermination or report of a significant change.

(f) If there are no significant changes in circumstances, a new best estimate of income shall, at a minimum, be completed at the time of the next redetermination of eligibility.

1. When non-significant changes are reported, it shall not be necessary to redetermine eligibility immediately. Non-significant changes shall, however, be taken into consideration when determining the best estimate of income at the next regularly scheduled redetermination. When such changes are reported, the case record must be clearly documented to show that the change was non-significant.

2. A significant change in circumstances of the eligible family may result in an adjustment upward or downward in the amount of the assistance payment. Unless (i) below applies, the adjustment must be effective no later than the first day of the month following the month in which the significant change in circumstance occurred, or 10 business days after the change is reported to the CWA, whichever is later. Downward adjustments shall be subject to timely and adequate notice.

i. Under certain circumstances which in the judgment of the CWA would otherwise result in undue hardship to the eligible family, a supplemental payment to the last regular benefit payment shall be issued during the current payment period for the reasons stated at N.J.A.C. 10:82-2.20.

ii. Any supplemental payment to an eligible family for the reason of undue hardship shall be subject to proration based on the date of the change.

New Rule R.1985 d.710, effective January 21, 1986 (operative February 1, 1986).

See: 17 N.J.R. 2518(a), 18 N.J.R. 191(a).

Repeal and New Rule, R.1992 d.261, effective June 15, 1992 (operative July 1, 1992).

See: 24 N.J.R. 1194(a), 24 N.J.R. 2258(a).

Section was "Retrospective Budgeting".

#### Case Notes

Reasonable basis existed for use of income multiplier to determine eligibility under Medical Assistance and Health Service Act. *P.P. v. New Jersey Dept. of Human Services, Div. of Medical Assistance and Health Services*, 280 N.J.Super. 1, 654 A.2d 471 (A.D.1994), certification denied.

#### 10:82-1.11 AFDC eligible family on assistance on or after October 1, 1992 with newborn child(ren)

(a) The provisions in this section do not apply to AFDC families who have been randomly assigned to a control group for purposes of evaluation requirements pertaining to Federally approved waivers. Adult AFDC recipient parents shall not be entitled to incrementally increased AFDC benefits as a result of the birth of a child(ren). Any such child(ren) shall be excluded from the eligible unit, for cash assistance purposes only, until the requirement in (c) below applies. This provision is applicable to adults who have been in receipt of AFDC cash benefits for a period of one or more calendar months within 10 consecutive calendar months immediately preceding the birth of a child. This 10-month timeframe is inclusive of any periods of ineligibility or case closure, either initiated on the part of the recipient or imposed by the county welfare agency including the post-AFDC benefit period for REACH/JOBS or FDP participation.

1. For families in receipt of assistance on October 1, 1992, a child born to the AFDC adult recipient on or after August 1, 1993 shall not be included in the eligible unit for the provision of AFDC cash assistance only, in accordance with (a) above.

2. For families who apply for AFDC benefits on or after October 1, 1992, the 10-month timeframe specified in (a) above shall be applied from the date of application. For example, if the date of application is November 12, 1992 and the case was determined eligible for benefits, any child born to that adult recipient on or after September 12, 1993 shall not be included in the eligible unit for the provision of AFDC cash assistance only, in accordance with (a) above.

3. Any child excluded from the AFDC eligible unit in accordance with the provisions of (a) above shall be categorically eligible for Medicaid benefits.

(b) Beginning October 1, 1992, the 10-month timeframe addressed in (a) above shall be binding upon any family for any subsequent reapplications or reopenings of the case and a family shall not be entitled to an increased benefit allowance for the birth of any child(ren) until such time as (c) below applies.

1. Any child included in the AFDC eligible unit who subsequently becomes a parent-minor and either establishes his or her own separate AFDC eligible unit or remains in the eligible unit of the parent or caretaker relative shall be entitled to the 10-month timeframe specified in (a) above from the date of the birth of the parent-minor's first child. The parent-minor's first newborn child shall, therefore, be entitled to AFDC cash assistance.

(c) Beginning October 1, 1992, when an adult parent(s) reapplies for AFDC benefits and no member of the eligible unit has been in receipt of AFDC-C, -F or -N benefits for a minimum of 12 consecutive months immediately preceding the date of application, that family is eligible for a new 10-month grace period from the date of reapplication. In such situation, any child(ren) previously excluded from the eligible unit in accordance with (a) above shall now be included in the eligible unit for cash assistance purposes.

1. When an AFDC-C, -F or -N family becomes ineligible for AFDC for any of the reasons listed in (c)1i through iii below, remains employed for a minimum of 90 days, and subsequently reapplies for AFDC prior to expiration of the 12 consecutive month period in (c) above due to the loss of employment through no fault of their own, any child(ren) previously excluded from the eligible unit in accordance with (a) above shall now be included in the eligible unit for cash assistance purposes. Such families, however, are not entitled to a new 10-month grace period and any child(ren) born subsequent to the reapplication shall not be included in the eligible unit as set forth in (b) above.

i. Earnings or increased earnings from employment, including earnings from new employment;

ii. Loss of the \$30.00 or one-third disregards of earned income (see N.J.A.C. 10:82-4) because of the time-limited application of those disregards; or