

CHAPTER 90

WORK FIRST NEW JERSEY PROGRAM

Authority

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

Source and Effective Date

R.2003 d.226, effective May 5, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Chapter Expiration Date

Chapter 90, Work First New Jersey Program, expires on May 5, 2008.

Chapter Historical Note

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 Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980.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

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

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

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

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

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

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

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

Chapter 90, Work First New Jersey Program, was readopted as R.2003 d.226, effective May 5, 2003. As part of d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10:90-1.1 Purpose, philosophy and scope of the WFNJ program
- 10:90-1.2 Opportunity and decision to apply
- 10:90-1.3 Immediate need
- 10:90-1.4 Notice and information to client
- 10:90-1.5 Prompt disposition by the county or municipal agency
- 10:90-1.6 Primary source of information
- 10:90-1.7 Nondiscrimination
- 10:90-1.8 Adherence to law and regulations

- 10:90-1.9 No duplication of assistance
- 10:90-1.10 Assistance to non-English speaking applicants
- 10:90-1.11 Release of information by county or municipal agency
- 10:90-1.12 Refusal to apply for eligible benefits
- 10:90-1.13 Change in circumstances
- 10:90-1.14 Issuance of summons or subpoena
- 10:90-1.15 Voluntary quit
- 10:90-1.16 Assignment or transfer of property

SUBCHAPTER 2. NON-FINANCIAL ELIGIBILITY REQUIREMENTS

- 10:90-2.1 General provisions
- 10:90-2.2 WFNJ TANF/GA eligibility requirements
- 10:90-2.3 Time limits on eligibility for WFNJ TANF/GA benefits
- 10:90-2.4 Exemptions from the 60 cumulative month time limit
- 10:90-2.5 Extensions to the 60 cumulative month time limit
- 10:90-2.6 Family violence
- 10:90-2.7 Composition of the WFNJ/TANF and WFNJ/GA eligible assistance unit
- 10:90-2.8 Individuals ineligible for WFNJ TANF/GA
- 10:90-2.9 Definition of employable/unemployable persons in WFNJ/GA
- 10:90-2.10 WFNJ TANF/GA citizenship/eligibility requirements
- 10:90-2.11 WFNJ TANF/GA residency requirements
- 10:90-2.12 County/municipal residence for identification
- 10:90-2.13 Temporary absence from the State (WFNJ TANF/GA)
- 10:90-2.14 Responsibility of a parent to report temporary absence of a child from the home
- 10:90-2.15 Child, parent or WFNJ/GA individual in an institution
- 10:90-2.16 Absence for reasons other than institutionalization
- 10:90-2.17 Parent-minor provisions
- 10:90-2.18 Family cap provision for WFNJ/TANF
- 10:90-2.19 Refusal to cooperate with Quality Assurance reviews
- 10:90-2.20 Work First New Jersey Post 60-Month Pilot Program: Supportive Assistance for Individuals and Families (SAIF) Program

SUBCHAPTER 3. FINANCIAL ELIGIBILITY—INCOME, RESOURCES, BENEFITS

- 10:90-3.1 General financial eligibility provisions
- 10:90-3.2 Determining initial financial eligibility for WFNJ/TANF, assistance units with dependent children
- 10:90-3.3 WFNJ/TANF—initial allowable maximum income and maximum benefit payment levels (Schedules I and II)
- 10:90-3.4 Determining initial financial eligibility for employable WFNJ/GA assistance units
- 10:90-3.5 WFNJ/GA employable, initial allowable maximum income and maximum benefit payment levels (Schedules III and IV)
- 10:90-3.6 Eligibility/maximum benefit payment levels for WFNJ/GA unemployable single adults and couples without dependent children (Schedule V)
- 10:90-3.7 Computing prorated cash assistance benefits for WFNJ TANF/GA recipients
- 10:90-3.8 Computing the WFNJ TANF/GA monthly cash benefit using disregards for earned income
- 10:90-3.9 Income—WFNJ TANF/GA
- 10:90-3.10 Resources—WFNJ TANF/GA
- 10:90-3.11 Determining the income of WFNJ TANF/GA assistance units
- 10:90-3.12 Treatment of income and resources from eligible and noneligible individuals in the WFNJ TANF/GA household, as appropriate
- 10:90-3.13 Treatment of income for needy stepparents who are married to a WFNJ recipient parent
- 10:90-3.14 Treatment of income for non-needy stepparents who are married to a natural or adoptive WFNJ recipient parent
- 10:90-3.15 Eligibility of sponsored aliens and deeming of sponsor's income and resources to a sponsored alien for eligible

- aliens who entered the United States after August 22, 1996
- 10:90-3.16 Deeming income of parents of adolescent parents
- 10:90-3.17 WFNJ/GA special payment provisions for other living arrangements
- 10:90-3.18 Treatment of lump sum income WFNJ TANF/GA
- 10:90-3.19 Exempt income
- 10:90-3.20 Exempt resources
- 10:90-3.21 Overpayments and underpayments
- 10:90-3.22 WFNJ TANF/GA case redetermination process
- 10:90-3.23 Payees in WFNJ

SUBCHAPTER 4. WFNJ WORK REQUIREMENTS

- 10:90-4.1 General work requirement provisions
- 10:90-4.2 Work activity participation
- 10:90-4.3 Description of work activities
- 10:90-4.4 Satisfactory attendance
- 10:90-4.5 Conditions under which CWEP and AWEP shall be regarded as employment
- 10:90-4.6 Work activity placement parameters
- 10:90-4.7 The "Individual Responsibility Plan (IRP) Development Tool and Employability Profile" (IDT) (assessment)
- 10:90-4.8 Individual responsibility plan (IRP)
- 10:90-4.9 WFNJ comprehensive social assessment (CSA)
- 10:90-4.10 Deferrals from the work requirement
- 10:90-4.11 Good cause
- 10:90-4.12 Sanction notification process (conciliation)
- 10:90-4.13 Sanctions
- 10:90-4.14 Voluntary quit (recipients)
- 10:90-4.15 Removal/lifting and rescission of sanctions
- 10:90-4.16 Sanction accruals
- 10:90-4.17 Effective date of sanctions
- 10:90-4.18 Intent to comply
- 10:90-4.19 Appeals
- 10:90-4.20 Injury compensation for CWEP and AWEP participants
- 10:90-4.21 Failure to comply with work requirements for individuals in post 60-month extension or exemption status

SUBCHAPTER 5. SUPPORTIVE SERVICES

- 10:90-5.1 Introduction
- 10:90-5.2 Child care services
- 10:90-5.3 Child care for special circumstances
- 10:90-5.4 Transportation services
- 10:90-5.5 Work expense allowance
- 10:90-5.6 Medical support services
- 10:90-5.7 Retroactive Medicaid
- 10:90-5.8 Medicaid special
- 10:90-5.9 Medicaid extension (employment-related)
- 10:90-5.10 Medicaid extension (child support-related)
- 10:90-5.11 Supplemental Work Support Program
- 10:90-5.12 Career Advancement Voucher Program
- 10:90-5.13 Housing Subsidy Program
- 10:90-5.14 Supplemental Living Support (SLS) Program

SUBCHAPTER 6. EMERGENCY ASSISTANCE

- 10:90-6.1 Availability of emergency assistance
- 10:90-6.2 Persons eligible for emergency assistance
- 10:90-6.3 Kinds of emergency assistance authorized
- 10:90-6.4 Time limitations
- 10:90-6.5 Recipient contribution
- 10:90-6.6 Recipient/agency responsibilities
- 10:90-6.7 Payment for emergency shelter
- 10:90-6.8 Intercounty/municipality transfer of EA cases
- 10:90-6.9 (Reserved)
- 10:90-6.10 Commissioner's Long Term Support Program (LTSP) pilot project for emergency assistance extensions

SUBCHAPTER 7. ADDITIONAL AGENCY RESPONSIBILITIES

- 10:90-7.1 Establishment and maintenance of case records
- 10:90-7.2 Contents of the case record

- 10:90-7.3 Maintenance, custody, movement and transfer of case records
- 10:90-7.4 Issuance of photo identification cards
- 10:90-7.5 Lost or stolen benefits
- 10:90-7.6 Reporting of child abuse and neglect
- 10:90-7.7 Confidential nature of information
- 10:90-7.8 Settlement of suits and claims

SUBCHAPTER 8. SPECIAL PROVISIONS FOR PAYMENT OF FUNERAL AND BURIAL EXPENSES

- 10:90-8.1 Payment of funeral and burial expenses
- 10:90-8.2 Persons who may be eligible
- 10:90-8.3 Funeral and burial contracts
- 10:90-8.4 Definitions and conditions
- 10:90-8.5 Authorization of payment
- 10:90-8.6 Time of payment
- 10:90-8.7 Irregularities
- 10:90-8.8 Requirements pertaining to SSI or Medicaid only recipients

SUBCHAPTER 9. NOTICES AND HEARINGS IN WFNJ

- 10:90-9.1 Notice to applicant/recipient
- 10:90-9.2 Definitions related to hearings
- 10:90-9.3 Right to a fair hearing
- 10:90-9.4 Rules applicable to WFNJ/GA applicants/recipients
- 10:90-9.5 Responsibilities of the county/municipal agency in processing hearing requests
- 10:90-9.6 Responsibilities of the Division of Family Development
- 10:90-9.7 Responsibilities of the Office of Administrative Law upon transmittal of a contested case from DFD
- 10:90-9.8 Administrative hearings and administrative reviews
- 10:90-9.9 Complaints and adjustment procedures
- 10:90-9.10 Time limitations on entitlement to fair hearings (county and municipal)
- 10:90-9.11 Access to case file and documents prior to hearing
- 10:90-9.12 Representation at hearings
- 10:90-9.13 Disposition of hearing request through withdrawal, abandonment or settlement
- 10:90-9.14 Adjournments
- 10:90-9.15 Hearings involving medical issues
- 10:90-9.16 Decision by Director, Division of Family Development
- 10:90-9.17 Emergency fair hearings

SUBCHAPTER 10. REFUGEE RESETTLEMENT PROGRAM

- 10:90-10.1 Purpose and funding
- 10:90-10.2 Identifying refugees
- 10:90-10.3 INS statuses for RRP
- 10:90-10.4 Resettlement
- 10:90-10.5 Termination of RRP: continued eligibility for assistance
- 10:90-10.6 Eligibility
- 10:90-10.7 Medical assistance and medical expense spend-down
- 10:90-10.8 Social services
- 10:90-10.9 Fair hearings
- 10:90-10.10 Case records

SUBCHAPTER 11. INTENTIONAL PROGRAM VIOLATION

- 10:90-11.1 Definition of intentional program violation (IPV)
- 10:90-11.2 Methods of determining IPV
- 10:90-11.3 Referral for administrative disqualification hearing
- 10:90-11.4 Waiver of right to administrative disqualification hearing
- 10:90-11.5 Administrative disqualification hearing procedures
- 10:90-11.6 Participation while awaiting a hearing
- 10:90-11.7 No further administrative appeal
- 10:90-11.8 Referral of IPV cases for prosecution
- 10:90-11.9 Disqualification consent agreement
- 10:90-11.10 Reversed IPV disqualifications
- 10:90-11.11 IPV disqualification penalties
- 10:90-11.12 Imposing disqualification periods

10:90-11.13 County or municipal agency IPV administrative procedures

SUBCHAPTER 12. PROGRAM ADMINISTRATION, CONSOLIDATION AND PERFORMANCE STANDARDS

- 10:90-12.1 Statutory authority
- 10:90-12.2 Authority of the Commissioner
- 10:90-12.3 Transfer of administration of the WFNJ/GA Program
- 10:90-12.4 Municipalities that continue to administer WFNJ/GA
- 10:90-12.5 Evaluating county/municipal agency performance
- 10:90-12.6 State fair hearings for action of the State to transfer WFNJ/GA from the municipality to the county
- 10:90-12.7 State fair hearings for action of the State to assume administration of WFNJ/GA from the county
- 10:90-12.8 Obligation to provide assistance
- 10:90-12.9 Organization of local assistance board
- 10:90-12.10 Appointment of employees
- 10:90-12.11 Establishment of Public Assistance Trust Fund Account

SUBCHAPTER 13. MEDICAL SERVICES FOR WFNJ SINGLE ADULTS AND COUPLES WITHOUT DEPENDENT CHILDREN

- 10:90-13.1 Medical services for WFNJ/GA recipients
- 10:90-13.2 Payment of medical service claims for WFNJ/GA recipients residing in a nursing facility
- 10:90-13.3 Obtaining medical services for WFNJ/GA recipients residing in a nursing facility
- 10:90-13.4 Travel costs for medical care
- 10:90-13.5 Nursing facility payments
- 10:90-13.6 Medically needy

SUBCHAPTER 14. FISCAL PROCEDURES FOR WFNJ SINGLE ADULTS AND COUPLES WITHOUT DEPENDENT CHILDREN (WFNJ/GA)

- 10:90-14.1 Statutory authority
- 10:90-14.2 State financial participation
- 10:90-14.3 Public Assistance Trust Fund Accounts
- 10:90-14.4 Fiscal and statistical reporting requirements
- 10:90-14.5 Reimbursement of assistance for cases pending SSI entitlement
- 10:90-14.6 Retention and destruction of case records
- 10:90-14.7 Computerized match reports
- 10:90-14.8 (Reserved)

SUBCHAPTER 15. DEFINITIONS

- 10:90-15.1 Definitions

SUBCHAPTER 16. CHILD SUPPORT AND PATERNITY

- 10:90-16.1 Introduction
- 10:90-16.2 Cooperation with child support for WFNJ eligibility
- 10:90-16.3 Cooperation in good faith in establishing paternity and support
- 10:90-16.4 Good faith effort requirement
- 10:90-16.5 Good cause exceptions to cooperation
- 10:90-16.6 (Reserved)
- 10:90-16.7 (Reserved)
- 10:90-16.8 (Reserved)
- 10:90-16.9 (Reserved)
- 10:90-16.10 (Reserved)
- 10:90-16.11 (Reserved)
- 10:90-16.12 (Reserved)
- 10:90-16.13 (Reserved)
- 10:90-16.14 (Reserved)
- 10:90-16.15 (Reserved)
- 10:90-16.16 (Reserved)
- 10:90-16.17 (Reserved)
- 10:90-16.18 (Reserved)
- 10:90-16.19 (Reserved)
- 10:90-16.20 (Reserved)

- 10:90-16.21 (Reserved)
- 10:90-16.22 (Reserved)
- 10:90-16.23 (Reserved)
- 10:90-16.24 (Reserved)
- 10:90-16.25 (Reserved)

SUBCHAPTER 17. EARLY EMPLOYMENT INITIATIVE (EEI)

- 10:90-17.1 Purpose and scope
- 10:90-17.2 Determining eligibility for the EEI
- 10:90-17.3 EEI participation

SUBCHAPTER 18. SUBSTANCE ABUSE

- 10:90-18.1 General provisions and purpose
- 10:90-18.2 Referral to the SAI
- 10:90-18.3 Mandatory SAI treatment
- 10:90-18.4 SAI sanctions
- 10:90-18.5 Continued SAI treatment when the WFNJ TANF/GA case closes
- 10:90-18.6 Eligibility rules for convicted drug felons
- 10:90-18.7 Responsibility of the SAI CCC
- 10:90-18.8 Responsibilities of the county/municipal WFNJ agency for the SAI
- 10:90-18.9 Fair hearings

SUBCHAPTER 19. KINSHIP CARE SUBSIDY PROGRAM (KCSP)

- 10:90-19.1 Purpose and Scope
- 10:90-19.2 Defining kinship legal guardianship
- 10:90-19.3 Determining eligibility for the KCSP
- 10:90-19.4 Kinship Care Subsidy Program application process
- 10:90-19.5 Kinship Care subsidy payments
- 10:90-19.6 Kinship subsidy supportive services

SUBCHAPTER 20. THE FAMILY VIOLENCE OPTION INITIATIVE

- 10:90-20.1 General provisions and purpose
- 10:90-20.2 WFNJ FVO notification process for WFNJ TANF/GA applicants/recipients
- 10:90-20.3 Rights of WFNJ applicants/recipients and other program applicants/recipients to speak with CWA FVO representative or designated MWA worker concerning family violence and to confidentiality
- 10:90-20.4 WFNJ TANF/GA program requirements that may be waived
- 10:90-20.5 Referral of WFNJ TANF/GA individuals to the CWA FVO representative or designated MWA worker
- 10:90-20.6 WFNJ/TANF Waiver process
- 10:90-20.7 WFNJ/GA Waiver process
- 10:90-20.8 Required standardized WFNJ FVO Risk Assessment for WFNJ/TANF applicants/recipients
- 10:90-20.9 Required standardized WFNJ FVO Risk Assessment for WFNJ/GA applicants/recipients
- 10:90-20.10 WFNJ TANF/GA individuals not requesting a WFNJ FVO Waiver
- 10:90-20.11 Responsibility of the CWA FVO representative or designated MWA worker
- 10:90-20.12 Responsibility of the designated victim service provider agency under the WFNJ FVO Initiative
- 10:90-20.13 Fair hearings

SUBCHAPTER 1. GENERAL PROVISIONS

10:90-1.1 Purpose, philosophy and scope of the WFNJ program

(a) The Work First New Jersey (WFNJ) program has been established to transform the design and purpose of the

welfare system in New Jersey. For the first time, one comprehensive program has been created by the Legislature and the Governor to uniformly both inspire and require all able-bodied families with dependent children, single adults and couples without dependent children to WORK rather than receive welfare. WFNJ builds and expands upon the foundation of the basic principles set forth in the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193. The Act established the Temporary Assistance for Needy Families (TANF) block grant program which ended the Aid to Families with Dependent Children program and established the WFNJ Program pursuant to the Work First New Jersey Act, Public Law 1997 c.13, c.14, c.37 and c.38.

(b) WFNJ, building upon the base of our former State and Federally funded Aid to Families with Dependent Children (AFDC) program and our State funded General Assistance (GA) program, creates one WFNJ program. However, due to certain necessary differences in the requirements and the responsibilities entailed in being a single adult, a couple without dependent children or a single adult or couple with dependent children, the WFNJ program recognizes two segments which, for ease of reference and clarity throughout this manual are referred to as either the WFNJ/TANF component, which encompasses families with children whether headed by a single adult or a couple, and the WFNJ/GA component, which encompasses single adults and couples without dependent children.

(c) The WFNJ Program is designed specifically to emphasize personal responsibility, instill dignity, promote self-sufficiency and pride through work and strongly reinforce all parents' responsibility for their child(ren) through strict enforcement of child support requirements. WFNJ clearly recognizes that both parents of a child(ren), whether or not they are the custodial caretakers of these children share fully and equally in the responsibility for the financial support of the child(ren), as well as all the positive developmental aspects which occur throughout childhood. All adults have primary responsibility for supporting both themselves and their families.

(d) Assistance benefits provided under WFNJ are time-limited and considered a temporary cash subsidy to bridge the gap while individuals seek and obtain self-sufficiency through bona fide unsubsidized employment. Applicants shall be informed that receipt of WFNJ assistance benefits is limited to a lifetime maximum of 60 cumulative months and that seeking and accepting employment are the primary requirements for receipt of continuing cash assistance.

(e) The applicant(s) and/or his or her designee shall be assisted by the WFNJ worker in completing the Application and Affidavit for WFNJ and the Agreement to Repay pursuant to N.J.S.A. 44:10-64. The applicant shall be given the WFNJ Participant Handbook, an information card concerning the "Fair Hearings in the Work First New Jersey Program (WFNJ)", and written notification of his or her rights and responsibilities under the WFNJ program.

(f) In line with protecting its most vulnerable citizens, it should be emphasized that the WFNJ Program has availed itself of the PRWORA option regarding protections for victims of Family Violence. PRWORA and WFNJ provide the flexibility to uniquely address the specific problems of victims of family violence, as well as victims of rape and incest (see N.J.A.C. 10:90-20 regarding family violence provisions).

(g) The purpose of this chapter is to establish the policies necessary for the orderly and equitable provision of WFNJ Program benefits to single adults, couples without dependent children and families with dependent children on a Statewide basis. The policies and procedures are binding on the county or municipal agency charged with the responsibility for administering the WFNJ Program and are enforceable by the Department of Human Services (DHS), Division of Family Development (DFD). The DHS shall oversee the actions of the county or municipal agency as they relate to program administration and shall coordinate with other departments within the State of New Jersey in an effort to establish the necessary linkages to assist recipients of WFNJ to achieve social and economic self-sufficiency. Questions of interpretation shall be resolved by the Division of Family Development. If any rules herein contradict or conflict with rules or policies established at N.J.A.C. 10:81, 10:82 or 10:86 such material is superseded by this chapter.

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).

Rewrote (e) and (f).

10:90-1.2 Opportunity and decision to apply

(a) Any person who believes he or she is eligible for WFNJ assistance must be given the opportunity to apply without delay. Applicants shall be informed about the eligibility requirements and their rights and obligations in applying for and receiving assistance. The decision to apply rests with the person. The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

(b) The application process begins with the initial contact by a member of the assistance unit with the designated county or municipal agency and ends with a decision by that agency as to the eligibility of the assistance unit for WFNJ benefits. Both the applicant and the county or municipal agency have a responsibility to verify and document eligibility.

(c) Initial contact may be an inquiry, a referral or an application:

1. Inquiry means any request for information about assistance programs which is not a request for an application. A record is necessary only when the inquiry requires follow-up action.

2. Referral means a request from a public or private agency or individual for assistance on behalf of another individual/family. All referrals must be recorded with appropriate facts, and the disposition noted.

3. Application means a written request for public assistance by an individual, couple without children, natural or adoptive parent(s), parent-person(s), parent-minor, or legal guardian acting on behalf of the individual/family.

(d) There are four types of applications: new application, reapplication, reopened application and transfer application (see N.J.A.C. 10:90-15 for definitions).

(e) The applicant(s) and/or his or her designee shall be assisted by the WFNJ worker in completing the Application and Affidavit for WFNJ and the Agreement to Repay pursuant to N.J.S.A. 44:10-64. The applicant shall be given the WFNJ Participant Handbook, an information card concerning the "Fair Hearings in the Work First New Jersey Program (WFNJ)", and written notification of his or her rights and responsibilities under the WFNJ program.

(f) Responsibilities of the county or municipal agency during the initial contact shall include, but not be limited to:

1. Determining the employability and/or type of assistance the applicant is seeking;

2. Explaining the programs/services and detailing the applicant's rights and responsibilities including immediate need, his or her mandatory cooperation with Child Support and Paternity (CSP) requirements, work requirements, family violence provisions, personal identification requirements, time limits, family cap provisions, requirements for affidavits regarding felony conviction, parole violation, drug conviction, and teen parent requirements;

3. The county or municipal agency, as appropriate, shall ensure the provision of necessary case management for all recipients. Case management means the provision of certain services to recipients, which shall include an assessment and development of an individual responsibility plan (IRP). (See N.J.A.C. 10:90-4.7 and 4.9 for provisions regarding assessment and N.J.A.C. 10:90-4.8 for provisions regarding IRP plan completion.) The most intensive case management shall be directed to those facing the most serious barriers to employment.

4. Providing an orientation to the WFNJ program to each applicant for assistance to explain the need for each individual to comply with WFNJ work requirements as a condition of eligibility for WFNJ benefits, unless deferred. All WFNJ applicants unless they are 60 years old or over, a victim of family violence, a child only case, or EEI eligible are required to register for work with the New Jersey One Stop Career Center (NJOSCC);

i. NJOSCC staff must be co-located with WFNJ/TANF intake staff, to insure that the work registration requirement does not delay the application process;

5. Informing the applicant how and where to apply and what verifications and documents are needed to complete the intake interview;

6. Advising the applicant that Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination in determining eligibility for public assistance (see N.J.A.C. 10:90-1.7 regarding specific non-discrimination provisions) and furnishing him or her with a copy of the WFNJ Participant Handbook;

7. Determining whether the applicant does indeed wish to apply with full understanding of the need to verify essential eligibility factors and the requirement for a personal interview, which includes, as an initial step, a CSP interview;

i. County CSP staff shall be co-located with WFNJ/TANF intake staff, to insure that the child support interview does not delay the application process;

8. Informing the applicant of the availability of the Food Stamp (FS) Program, specifying the requirements for qualification and, if appropriate, assisting the applicant in applying if he or she so chooses and assisting the applicant in obtaining verification documentation;

i. When the applicant is applying for multiple benefits, for example, WFNJ, Medicaid and food stamps, the agency shall determine if the child support interview and work registration requirement can be completed on the day of initial contact with the agency. Where the child support interview and/or work requirement cannot be completed on the day of application, the applicant shall be afforded the opportunity to file the application, for food stamp purposes, that day. At a minimum, the applicant shall provide his or her name and signature, as well as the date of filing, on the application. The applicant shall also complete the questions on the PA-1J which are relevant in determining whether the household is entitled to food stamp expedited service. In addition, the applicant shall be provided with an appointment to return to the agency to comply with the CSP interview and/or the work registration requirement;

9. Advising a pregnant woman that she may make application for assistance for herself and the expected child up to 90 days before the expected birth date of her child as well as providing information regarding prenatal benefits available under Medicaid and supplemental benefits available under the Women, Infants and Children (WIC) program; and

10. Taking the WFNJ application at the county level, which includes an Agreement to Repay as well as an application for Food Stamps and an application for Medicaid or medical benefits, as appropriate; and

11. Taking the WFNJ application at the municipal level which includes an for financial assistance and medical benefits only.

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

In (e), added information detailing written notification of rights and responsibilities under WFNJ; in (f)2 added "immediate need" and "domestic violence provisions" and added (f)3; recodified former (f)3 to (f)4 and added (f)4i, recodified former (f)4 to (f)5 and former (f)5 to (f)6; recodified former (f)6 to (f)7 and added (f)7i; recodified former (f)7 to (f)8 and added (f)8i, recodified former (f)8 to (f)9 and former (f)9 to (f)10; and added (f)11.

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

Rewrote (e) and (f).

10:90-1.3 Immediate need

(a) All applicants for WFNJ shall be evaluated for immediate need at the time of application. If the county or municipal agency determines that immediate need exists, based upon an applicant's written statement signed under oath and subject to the applicant appearing to meet all other program eligibility requirements, the agency shall ensure that the needs of the assistance unit are met until such time as the final eligibility determination is made.

1. Immediate need means that the assistance unit lacks shelter or imminently lacks shelter, essential utilities, or has no food or insufficient food for unit members' immediate needs, or lacks minimal clothing to protect their health and safety. In those situations where no other appropriate services are available to meet the needs of the assistance unit, cash assistance shall be provided but such monies shall not exceed the amount of the cash assistance payment level for the appropriate eligible assistance unit size for that period.

2. In situations where immediate need exists and other appropriate services are not immediately available to meet the needs of the assistance unit, or if the applicant expresses a need for emergency assistance, county/municipal agencies shall ensure that the application be processed that day in order to provide cash assistance.

i. In cases of immediate need, where the CSP interview and/or work registration requirement cannot be completed on the day of application, the application process is to continue with the applicant being provided an appointment to return to the agency to comply with the CSP interview and/or the work registration requirement.

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

Added 2 and 2i.

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 first sentence in the introductory paragraph and inserted "immediately" preceding "available" and "or if the applicant expresses a need for emergency assistance," following "assistance unit," in 2.

10:90-1.4 Notice and information to client

(a) If immediate need is not apparent and a decision of approval or disapproval is not reached within 30 days of application, the county/ municipal agency shall notify the applicant in writing of this fact and the reason for the delay (see N.J.A.C. 10:90-9). When a decision is reached, the applicant shall be notified in writing of this decision (approved or disapproved). If a county/municipal agency does not take action to approve or deny the application through no fault of the applicant then the agency shall act on the application in accordance with immediate need provisions at N.J.A.C. 10:90-1.3(a)1.

1. When the county/municipal agency has failed to take action to approve or deny the application through no fault of the applicant within 25 days of the date of application, the county/municipal agency shall send a notice to the client scheduling an interview within five days in order to determine if the applicant is in an immediate need situation and to make an appropriate determination as to the applicant's eligibility for WFNJ.

(b) In cases of family violence, rape or incest, corroboration shall not be sought from the perpetrator of the rape or incest or from the perpetrator of family violence so that any further risk of harm to the victim is not heightened in accordance with the intent of N.J.S.A. 2C:25-18 et seq.

(c) The client will also be advised in writing that if he or she is dissatisfied with any adverse action or inaction of the county/municipal agency, he or she may request a hearing. He or she shall be informed of the steps that are to be followed in making such a request (see N.J.A.C. 10:90-9).

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

Added (a)1.

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

In (b), substituted "family" for "domestic" throughout.

i. Eligible aliens who are single adults or couples without dependent children may receive benefits until they meet the minimum residency requirements to apply for citizenship in accordance with INS rules, which include, but are not limited to: continuous residence within the United States, after being lawfully admitted for permanent residence, for at least three years immediately preceding the date of filing a petition for naturalization if married to a United States citizen or, if not, continuous residence within the United States, after being lawfully admitted for permanent residence, for at least five years immediately preceding the date of filing a petition for naturalization. Because only individuals with legal permanent residence status are eligible to apply for citizenship, this provision applies only to aliens with legal permanent resident status.

ii. After residency requirements for citizenship are met, aliens who have applied for citizenship shall not receive benefits for more than six months unless they attain citizenship, or pass the language and civics component (prior to or at the time of the alien's interview with the INS, unless exempt), and are awaiting a final INS determination delayed through no fault of their own.

iii. An alien who attains citizenship may continue to receive benefits for a lifetime total of 60 cumulative months from April 2, 1997 forward or the effective date of eligibility for WFNJ/GA, if later than April 2, 1997. The total months of eligibility include any time the individual was receiving WFNJ benefits prior to becoming a citizen.

iv. An alien who meets the requirements for residency and citizenship on or after August 22, 1996, but does not initiate the naturalization process shall not be eligible to receive benefits.

(b) A WFNJ/GA recipient's receipt of non-Federally funded general public assistance benefits while in another state shall count towards the WFNJ/GA 60 cumulative month lifetime limit.

1. In determining the number of months for which an adult recipient has received cash assistance, the first 90 days of each period of a temporary disability resulting from injury or illness related to participation in a community work experience program (CWEP) or alternative work experience program (AWEP) shall be exempted from the 60 cumulative month time limit.

(c) A WFNJ/TANF recipient's receipt of assistance from Federal TANF block grant funds provided by another state or territory shall count towards the 60 cumulative month lifetime limit, except for an adult recipient as described in (c)1 and 2 below.

1. In determining the number of months for which an adult has received assistance, any month during which the adult lived on an Indian reservation or in an Alaskan

Native village shall be disregarded if, during the month, at least 1,000 individuals were living on the reservation or in the village and at least 50 percent of the adults living on the reservation or in the village were unemployed.

2. In determining the number of months for which an adult recipient has received cash assistance, the first 90 days of each period of a temporary disability resulting from injury or illness related to participation in a community work experience program (CWEP) or alternative work experience program (AWEP) shall be exempted from the 60 cumulative month time limit.

(d) In determining the number of months for which an adult recipient has received cash assistance, the months an individual spent in sanction status shall not count towards the 60 cumulative month lifetime limit.

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

In (a)3iii, added last sentence and language regarding effective date of eligibility; added (b)1; and added (d).

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)3i, added the last sentence.

10:90-2.4 Exemptions from the 60 cumulative month time limit

(a) A WFNJ TANF/GA recipient shall be exempted from the 60 cumulative month time limit if the recipient is:

1. Over 60 years of age;

2. One parent, in a two-parent family or a caretaker relative of a disabled child or other disabled dependent who must provide full-time care for the disabled child or other disabled dependent;

i. A disabled child is a person from birth to the age of 18 years who has a medically determinable physical or mental impairment which substantially reduces the child's ability to function independently, appropriately, and effectively in an age-appropriate manner; whose impairment is expected to last for a continuous period of not less than 12 months; and who requires the continuous presence and personal services of the parent/caretaker relative to maintain his or her basic level of functioning.

ii. A disabled dependent is a person over the age of 18 years who suffers from a medically determinable physical or mental impairment which reduces the dependent adult's ability to engage in substantial gainful activity; whose impairment is expected to last for a continuous period of not less than 12 months; and who requires the continuous presence and personal services of the parent/caretaker relative to maintain his or her basic level of functioning.

3. Permanently disabled, including, but not limited to, a person eligible for disability insurance benefits under Title II or Title XVI of the Federal Social Security Act or

persons who have never completed an application for SSI or SSDI benefits, or did not appeal a denial by SSA;

i. A permanently disabled individual is an individual whose physical or mental impairment, defect or injury prevents them from engaging in full time employment for a period of 12 or more months as certified by a physician or licensed nurse practitioner on a minimum of one WFNJ-5 (DRS1), Examining Physician's Report. Such individuals may be awaiting eligibility determination for Federal long-term disability (SSI or RSDI) benefits or be among those who have been determined by the State Department of Labor to be impaired to such a degree that they will not likely achieve employment even with the provision of vocational rehabilitation services. This includes persons who are permanently disabled because of HIV related illness who are eligible for Federal SSI benefits.

ii. Such individuals, if their physical or mental impairment allows, are encouraged to engage in part-time activities or employment less than 35 hours a week for a length of time as designated by the certifying physician. When such individuals choose to engage in an activity and/or employment and then find that their condition or impairment prevents such activity, he or she can revert back to deferred status and are not subject to sanction.

iii. At the time of case redetermination, a permanently disabled individual's condition shall be reviewed. A recertification using a WFNJ-5 (DRS1) shall not be required unless a change in condition occurs which indicates that the individual may be again work-ready. If the condition remains unchanged, a new Individual Responsibility Plan does not have to be completed for the permanently disabled individual.

(1) For an individual that may be work ready, a new WFNJ-5 (DRS1) must be completed. Additionally, if the WFNJ agency worker, through his or her observation or through any other means which can be documented, believes that a positive change in the individual's condition occurred, such observations shall be documented through the worker's completion of a WFNJ-6, Work First New Jersey Medical-Social Information Report.

4. Chronically unemployable as defined by the provisions below:

i. A chronically unemployable adult cannot be identified until at least 36 months have been spent in the WFNJ program and the non-deferred adult has registered with the New Jersey One Stop Career Center and exhibits a limited and inconsistent history of successful gainful employment (including, but not limited to, multiple or lengthy periods of unemployment or underemployment) or successful participation in work activities despite good faith efforts which have been documented.

ii. No single factor or employment barrier is used to make a determination of chronically unemployable, but rather, the DFD designated review team (see (a)4iv below) shall utilize a combination of employment history as defined above and one of the following criteria:

(1) Has low literacy or math level (below sixth grade); or

(2) Exhibited personal, social or psychological factors (as indicated in (a)4ii(2)(A) through (D) below) which indicate that the person is unlikely to ever get and/or keep a job in the foreseeable future-any one of the following which would require medical or other appropriate documentation and/or trigger a referral to SSI:

(A) A history of chronic substance abuse/early onset;

(B) A personal history of crises and traumas, both physical and/or emotional, as well as significant mental health problems, including, but not limited to, chronic or severe depression, over the person's lifetime;

(C) Borderline mental retardation or severe learning disability; or

(D) The adult, 55 years of age or older, has a prolonged work history in one particular field or occupation and is no longer able to maintain such employment due to his or her age and inability to perform the unique requirements of the job, and lacks the education/training necessary to engage in other successful gainful employment.

iii. When an adult individual exhibits early symptoms of being a person who will be eventually classified as a chronically unemployable individual, it is important to carefully plan a realistic Individual Responsibility Plan with such an individual to phase the individual gradually into activities to build up basic skills, to instill confidence and reinforce any talents or aptitudes the individual exhibits. Also, when significant physical, emotional, or other disabilities are present, the individual should be directed to apply for SSI. Such individuals should be placed in less stressful work placements such as, but not limited to, supervised employment or community service activities. Referrals should also be made to all other appropriate services designed to assist the developmental progress of such individuals.

iv. When an individual appears to be chronically unemployable, the county/municipal agency shall refer the individual to a DFD designated review team for a final determination.

5. Subject to family violence (see N.J.A.C. 10:90-2.6 for a description of other program requirements which may be waived for victims of family violence). This exemption shall be based upon the request of the recipient. If any of the following family violence situations occur, then an exemption shall be granted. However, this is not an all inclusive list of family violence situations that may warrant an exemption:

i. Individuals currently living in an active family violence situation are to be determined eligible for an exemption to the 60-month lifetime limit on receipt of cash assistance benefits, if a deferral from the work requirement is or was requested.

ii. Individuals with a recent history of family violence who have not been participating in the WFNJ work requirement due to the family violence situation and remain deferred due to family violence are to be determined eligible for an exemption to the 60-month lifetime limit on receipt of cash assistance benefits.

iii. Individuals with a previous history of family violence who were deferred at some time and were not able to fully participate, and have recently been participating in the WFNJ work requirement, shall be determined eligible for an exemption to the 60-month lifetime limit on receipt of cash assistance benefits, if the inability to participate in the WFNJ requirement has impacted his or her ability to become self-sufficient.

iv. A past or present victim of family violence who has previously or who is currently engaging in work activities, if the recipient has been unable to become self-sufficient due to family violence.

6. An individual who has exhausted 60 cumulative months of WFNJ TANF/GA benefits may be eligible to reapply for and receive assistance after his or her case has been closed if he or she meets the criteria for an extension or an exemption.

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

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

In (a)4iii, substituted "any one of the problem areas noted above" for "significant physical, emotional, or other disabilities."
Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

Rewrote the section.

10:90-2.5 Extensions to the 60 cumulative month time limit

(a) A recipient shall receive an extension of no more than 12 cumulative months beyond the 60 cumulative month time limit, to be granted in increments that shall not exceed six months, if the recipient meets one of the following criteria:

1. The recipient or the recipient's dependent child(ren) would be subject to extreme hardship or incapacity in the event of a termination of benefits (see N.J.A.C. 10:90-6);

i. Extensions due to extreme hardship or incapacity will be evaluated within the last three months of the eligibility period prior to reaching the 60-month life-

time limit on benefit assistance. Extensions of this nature require prior approval and authorization by DFD. The assistance unit's case record shall be reviewed to determine if cause to grant an extension due to extreme hardship or incapacity exists. Extreme hardship shall be defined as situations that would:

(1) Result when the recipient has secured employment but without such an extension the transition of the assistance unit from WFNJ to employment could not be effected due to extenuating circumstances, such as, a lack of transportation or available child care to support work.

(2) Result when, during a review of the case record, it was determined that periods of temporary incapacity experienced by the individual which resulted in work deferrals of more than 12 months did not allow the individual sufficient time in which to gain self-sufficiency during the individual's receipt of 60 months of cash assistance;

(3) Result from a situation in which the individual began work activities immediately as scheduled, has cooperated throughout all phases of the WFNJ program, has been fully compliant in the last year, and has no more than one sanction in the prior 12 months for failure to comply with any aspect of the program but fails at the end of the 60 months to secure employment which renders the assistance unit financially ineligible for continued benefits. This situation will be subject to review by a State appointed panel for a final determination;

(4) Result from when the individual experiences a family violence situation which renders the individual temporarily incapable of sustaining the family without continued support. (Victims of family violence are entitled to extensions as long as necessary, see N.J.A.C. 10:90-20 regarding family violence); or

(5) Result when a current temporary deferral exists in accordance with provisions outlined at N.J.A.C. 10:90-4.10 and 4.11. For example, the period of incapacity may be due to the individual experiencing a recent temporary physical incapacity, being in her third trimester of pregnancy or needing to provide care for a child under 12 weeks of age.

2. The recipient is engaged in full-time employment but remains eligible for benefits due to earned income disregards;

3. The recipient has not received an opportunity to engage in work activities as specified in the individual responsibility plan; or

4. The recipient was engaged in full-time employment and was income-ineligible for benefits but was terminated from the employment through no fault of the recipient.

(b) At a minimum, approved extensions shall be reviewed prior to the expiration of the six-month extension period. If an extension has been granted for a shorter period of time than six months, then the extension shall be reviewed timely prior to its expiration.

(c) When a case is closed with an adult(s) and his or her own natural or adoptive child(ren), then that case shall not be transferred automatically to a child only case. In order for a child(ren) who has had his or her case terminated with his or her parent(s) to return to the WFNJ program, another eligible needy parent-person or another non-needy parent-person who is not the child(ren)'s natural or adoptive parent must apply on behalf of the child(ren) who is now in his or her care unless the child's parent(s) later qualified for an extension or exemption. However, a related kinship child(ren) who is not the natural and/or adoptive child(ren) of the recipient who was receiving cash benefits in an assistance unit that reaches the 60-month lifetime limit shall continue to receive benefits as a child only case with the former TANF head of household now designated as the payee for the related kinship child(ren).

1. Child only cases with non-needy parent-persons designated as the payee for the child(ren) are not subject to the 60-month lifetime limit on benefits.

(d) An individual who has exhausted 60 cumulative months of WFNJ TANF/GA benefits may be eligible to reapply for and receive assistance after his or her case has been closed if he or she meets the criteria for an extension or an exemption.

(e) An individual whose case is in post 60-month extension or exemption status who continues to have a work requirement and fails to be in compliance with that requirement, without good cause, shall have his or her case sanctioned in accordance with provisions found at N.J.A.C. 10:90-4.13.

(f) A pilot project is established to provide an additional time-limited extension to the 60 cumulative month time limit for WFNJ recipients. This time-limited extension will be provided for those WFNJ recipients whose second six-month extension will expire between April 1, 2003 and September 1, 2003 and who qualify for an extension under one of the criteria delineated under this section.

1. The Department is providing this additional extension until September 30, 2003.

2. Eligibility for the additional extension is based on a recipient's full cooperation with WFNJ requirements.

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.127, effective March 17, 2003.

See: 34 N.J.R. 3674(a), 35 N.J.R. 1425(a).

Added (b).

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

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

Rewrote the section.

10:90-2.6 Family violence

(a) Certain WFNJ program requirements shall not apply to those recipients who have been screened and identified via an affidavit as victims of family violence, rape or incest (see N.J.A.C. 10:90-20). The program requirements which shall not apply include, but are not limited to, the following:

1. Time limits on benefits;
2. Residency requirements;
3. The limitation on an increase of cash assistance benefits as a result of the birth of a child conceived as a result of domestic violence, rape or incest; and
4. Work requirements.

(b) Child support cooperation requirements shall not apply when a good cause determination has been made by the WFNJ/IV-D agency worker in accordance with N.J.A.C. 10:90-16.5.

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

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

In (a) added second and third sentences; deleted (a)3; recodified 4, 5 and 6 to 3, 4, and 5; and added (b).

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

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

In (a), substituted "family" for "domestic" throughout, amended N.J.A.C. reference, and deleted 5.

10:90-2.7 Composition of the WFNJ/TANF and WFNJ/GA eligible assistance unit

(a) Composition of the eligible WFNJ/TANF assistance unit is as follows:

1. An eligible assistance unit under WFNJ/TANF shall be comprised of those individuals who are living together and functioning as one economic unit and whose relationship is based upon a blood and/or legal relationship. (A legal relationship is one that is created through marriage, adoption or legal guardianship procedures.) The eligible WFNJ/TANF assistance unit includes the parent(s), parent person(s) or legal guardian (see (a)3 below) and his or her children up to the age of 18, or up to the age of 19 if they are full-time students in a secondary school, or in the equivalent level of vocational or technical training, and are reasonably expected to complete the program before reaching age 19. Children up to the age of 21 are also eligible for WFNJ/TANF if they are enrolled in a special education program.

i. When any school or course of training involves attendance during an academic year, a child shall be considered eligible during the summer months when he or she has been accepted for admission in the fall. He or she shall be considered eligible during regular vacation periods unless the educational program has been completed or unless there is verification that the child does not attend or is not acceptable to re-enter the program.

2. A recipient child cannot be included in the WFNJ/TANF cash payment after the month in which he or she attains the age when he or she is no longer eligible as a child. Furthermore, an individual who attains such age on the first day of the month is not considered to be of eligible age during that month and is not eligible for inclusion in the grant for that month. Additionally, the assistance unit ceases to be eligible for WFNJ/TANF when the youngest assistance unit member is no longer of eligible age. However, the individual adult(s) may apply for assistance under the WFNJ/GA component.

3. The term "parent" shall refer to natural and/or adoptive parent(s), parent-person(s) or legal guardian(s). By law, certain relatives shall be recognized as taking the place of a parent.

i. The term "parent-person" refers to any person related by blood, marriage or adoption.

(1) An applicant who is a parent-person may apply for WFNJ/TANF benefits for a child(ren) and him or herself as a needy parent-person.

(2) Non-needy caretakers and/or parent persons shall also be eligible to apply for WFNJ/TANF benefits for the children in their care.

ii. Spouses of any persons named in the above groups may be considered "parent-persons" even though the marriage has been terminated by death or divorce.

iii. Under New Jersey law, relatives of persons who adopt children become legally related to such adopted children to the same extent that they are related to natural children of the adopting parent.

iv. A legal guardian, according to N.J.S.A. 9:3-38, refers to a person who has "the right to exercise continuing control over the person or property or both of a child which includes any specific right of control over an aspect of the child's upbringing, pursuant to a court order."

(b) Composition of the eligible WFNJ/GA assistance unit is as follows:

1. The WFNJ/GA assistance unit shall be comprised of one or more persons. In most cases, it will consist of a single individual, 18 years of age or over, or a couple without dependent children. In room and board or residential treatment situations, each person is an eligible assistance unit of one, with the exception of situations involving couples without dependent children who are considered as an eligible unit of two. In all other situations, the eligible assistance unit shall consist of:

i. The applicant/recipient;

ii. The spouse of the applicant/recipient who lives in the home unless the spouse is receiving SSI or public assistance through another program; or

iii. The person with whom the applicant/recipient lives as a couple (that is, two individuals who live together, function as one economic unit, and present themselves as a couple to the WFNJ agency), unless such person is receiving SSI or public assistance through the WFNJ/TANF program component.

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

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

In(a)1, added second sentence and rewrote the third sentence; added "or legal guardian(s)" to (a)3; added language to (b)1 regarding an exception; added (a)3iv; and rewrote (b)1iii.

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 3i; in (b), rewrote 1iii.

10:90-2.8 Individuals ineligible for WFNJ TANF/GA

(a) The following persons shall not be eligible for assistance and shall not be considered to be members of the WFNJ/TANF or WFNJ/GA assistance units:

1. Non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

2. Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits;

3. Illegal aliens;

4. Other aliens who are not eligible aliens as defined in N.J.A.C. 10:90-2.10;

5. A person absent from the home who is incarcerated in a Federal, State, county or local corrective facility or under the custody of correctional authorities;

6. A person who is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under Federal or State law;

i. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense . . . for which a sentence of imprisonment in excess of 6 months is authorized."

7. A person who has legal custody of a child(ren) but who is unable to prove a legal and/or blood relationship with such child(ren);

i. According to N.J.S.A. 9:3-38, legal custody is defined as the "general right to exercise continuing control over the person of a child derived from court order or otherwise."

8. A convicted drug felon may not establish eligibility for WFNJ cash assistance benefits unless the eligibility criteria delineated at N.J.A.C. 10:90-18, the rules established for convicted drug felons, are met.

9. A person found, on or after August 22, 1996, to have willfully and knowingly fraudulently misrepresented his or her residence in order to simultaneously obtain means-tested, public assistance benefits in two or more states or jurisdictions, shall be ineligible for benefits for a period of 10 years from the date of conviction in a Federal or State court.

10. A person who, after July 1, 1997 and provided that the person has received written notice informing them of the WFNJ disqualification penalties, intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation

11. In addition to (a)1 through 10 above, persons found eligible for or who are recipients of WFNJ/TANF, or who have been found ineligible for such programs due to voluntary refusal to comply with program requirements shall not be eligible for WFNJ/GA assistance.

(b) When the county agency determines a family to be financially ineligible for WFNJ/TANF, such family shall not be eligible to receive WFNJ/GA benefits, unless there is a change in family status, such as the only minor child in the home becoming 18 years of age.

(c) WFNJ benefits shall not be payable for any month in which any individual applicant/recipient in the assistance unit is participating in a strike. The individual who is on strike is ineligible for benefits; however, other members of the assistance unit remain eligible for benefits.

1. The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted interruption of operations by employees.

2. The term "participating in a strike" means an actual refusal, in concert with others, to provide services to one's employers.

3. Examples of non-strikers who are eligible to participate in the program include, but are not limited to:

i. Employees whose workplace is closed by an employer in order to resist the demands of employees (for example, lockout);

ii. Employees unable to work as a result of striking employees (for example, truck drivers who are not working because striking pressmen prevent newspapers from being printed); or

iii. Employees who are not part of the bargaining unit on strike who do not want to cross the picket line due to fear of personal injury.

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

Added (a)7 and 7i, recodified former 7 through 10 as 8 through 11; and added language to (a)8 regarding occurrence date of state law offense.

Amended by R.1999 d.177, effective June 7, 1999.

See: 31 N.J.R. 249(a), 31 N.J.R. 1507(a).

Inserted a new (b); and recodified former (b) as (c).

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 8.

10:90-2.9 Definition of employable/unemployable persons in WFNJ/GA

(a) The definition of employable/unemployable persons for determination of payment level is as follows:

1. An employable person is any person applying for or receiving cash assistance who is able-bodied and does not meet any one of the criteria of deferred delineated in (a)2 below.

2. An unemployable person is any person who meets any of the criteria listed below:

i. Persons who are over 60 years of age;

ii. Persons receiving inpatient hospital care and treatment who were receiving an unemployable grant prior to entering the hospital. (Persons who were listed as employable shall retain such employable status until hospital discharge.);

iii. Persons who are residents in long term care facilities;

iv. Persons in the first 12 months of residential treatment in centers licensed by the New Jersey Department of Health and Senior Services for the treatment of drug abuse, when medical evidence exists that the residential treatment is necessary (see N.J.A.C. 10:90-2.8(a)7ii regarding drug abuse treatment for those convicted of possession or use of controlled substances). The 12 month period starts anew for each commencement of treatment, previous incomplete or unsuccessful courses of treatment notwithstanding;

v. Persons normally eligible to receive RSDI (Title II benefits), SSI or Railroad Retirement benefits on the basis of disability, but due to administrative delays in that respective program, payments are being withheld;

vi. Persons who have been determined to be legally blind by the New Jersey Commission for the Blind and Visually Impaired;

vii. Persons in the third trimester of pregnancy when an examining physician certifies to both the pregnancy and its term;

viii. Pregnant persons when an examining physician certifies that employment poses a threat to the mother or the fetus;

ix. A caretaker relative of a disabled dependent who must provide full-time care for the disabled dependent (see N.J.A.C. 10:90-2.4(a)2ii). No more than one person in an eligible unit may be considered unemployable for this reason without written authorization from the DFD; and/or

x. Persons determined to be incapacitated by the agency which administers the WFNJ/GA program are unemployable when such determination of incapacity is supported by any of the following circumstances:

(1) Form WFNJ-5S, Confidential Medical-Psychiatric Examining Physician's Report, or WFNJ-5 (DRS1), Examining Physician's Report, as appropriate, shall be fully completed by an examining physician that the individual is unable to comply with WFNJ/GA requirements. Such certification shall include, at a minimum, the date of examination, diagnosis, length of incapacity, functional limitations, prescribed treatment, an indication of whether or not reevaluation will be necessary, and the examining physician's signature.

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 In (a)2ix, added reference to N.J.A.C. 10:90-2.4(a)2ii.
 Special amendment, R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).
 See: 32 N.J.R. 3615(a).
 In (a)1, deleted a former second sentence.
 Amended by R.2001 d.42, effective December 27, 2000.
 See: 32 N.J.R. 3615(a), 33 N.J.R. 564(a).
 In (a)1, deleted second sentence.
 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)1, inserted "cash" following "receiving".

10:90-2.10 WFNJ TANF/GA citizenship/eligibility requirements

(a) Only those persons who are United States citizens, or eligible aliens shall be eligible for WFNJ TANF/GA benefits. In addition, for WFNJ/GA eligibility purposes only, those persons permanently residing in the United States under color of law as of August 21, 1996 are considered eligible for WFNJ/GA benefits.

1. Eligible alien means an alien as defined in the provisions of section 431 of Title IV of Federal Public law 104-193 pursuant to section 101 of the Immigration and Nationality Act (INA) (42 U.S.C. §§ 601 and 602).

(b) The following individuals are considered to be eligible aliens:

1. An alien present in the United States prior to August 22, 1996, and who is:
 - i. A lawful permanent resident;
 - ii. A refugee, pursuant to section 207 of the Immigration and Nationality Act;

iii. An asylee pursuant to section 208 of the Immigration and Nationality Act;

iv. An alien who has had deportation withheld pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. §§ 101 et seq.);

v. An alien who has been granted parole for at least one year by the Immigration and Naturalization Service pursuant to section 212(d)(5) of the Immigration and Nationality Act;

vi. An alien granted conditional entry pursuant to section 203(a)(7) of the immigration laws in effect before April 1, 1980;

vii. An alien who is honorably discharged or on active duty in the United States armed forces and his or her spouse and the unmarried dependent children of the alien or spouse;

viii. An alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

ix. An alien admitted to the United States as an Amerasian immigrant as described in Section 402(a)(2)(A)(i)(V) of the Refugee Education Assistance Act of 1980; or

x. An alien who obtained one of the statuses in (b)1i through ix above after August 22, 1996 if the alien was continuously present in the United States from the latest date of entry prior to August 22, 1996, until he or she obtained qualified alien status. In general, any single absence from the United States of more than 30 days, or a total of aggregated absences of more than 90 days shall be considered to interrupt continuous presence; and

2. An alien entering the United States on or after August 22, 1996 and who is an alien described in (b)1ii, iii, iv, vii, viii or ix above.

i. An alien described in (b)1i, v or vi above is not eligible until five years after entry into the United States.

3. Certain eligible aliens, regardless of their date of entry into the United States, as provided in Section 431 of Title IV of Federal P.L. 104-193 pursuant to Section 101 of the INA who resided in the United States and are victims of domestic violence, subject to certain conditions as described below:

i. The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent acquiesced to such battery or cruelty; or

ii. The alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or

parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent acquiesced to and the alien did not actively participate in such battery or cruelty; and

iii. In addition to the provisions described in (b)4i or ii above, if the individual responsible for the battery or cruelty continues to reside in the same household or family assistance unit as the individual who was subjected to such battery or cruelty, then the alien shall be ineligible for benefits.

iv. Federal law stipulates that the Attorney General of the United States shall issue guidance in the Attorney General's sole and unreviewable discretion concerning:

(1) The meaning of the terms "battery" and "extreme cruelty"; and

(2) The standards and methods to be used for determining whether a substantial connection exists between battery or cruelty suffered and an individual's need for benefits under a specific Federal, State or local program.

v. Until such time as specific guidance is issued by the Attorney General in accordance with (b)4iv above, the alien's statement, taken in the form of an affidavit, shall be accepted as documentation that the alien or the alien's child is subject to battery or extreme cruelty and the alien and the child(ren) shall be eligible for assistance.

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

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

Added (b)lviii; and added a new (b)3 and recodified existing (b)3 as (b)4.

Administrative correction.

See: 30 N.J.R. 4239(a).

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

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

Rewrote (b).

10:90-2.11 WFNJ TANF/GA residency requirements

(a) WFNJ/TANF residency requirements are as follows:

1. The law requires that an applicant for or recipient of WFNJ/TANF assistance shall reside in New Jersey. Any person who responds affirmatively to the question on the application "Do you plan to continue living in New Jersey?" fulfills this requirement. The requirement is also satisfied when the person resides in the State having entered with a job commitment or is seeking employment even if he or she is currently unemployed.

(b) WFNJ/GA residency requirements are as follows:

1. A resident of a municipality is a person who maintains a permanent customary home in the municipality, or a person who is in the municipality with intention to remain. No time intervals are relevant so long as the home is not established for a temporary purpose such as for a visit or vacation. A resident may live in his or her own home, a rented home or apartment, the home of a friend or relative, in a residential health care facility or boarding home, homeless shelter or in a long-term care facility.

2. Nonresidents/transients are persons in a municipality who may not intend to remain in that municipality and who are not residents of long-term care facilities who shall, if otherwise eligible, be granted assistance until arrangements can be made to return them to their customary place of residence.

i. For any person in a municipality who is away from the municipality of his or her customary home and wishes to return but cannot, because of lack of funds, the agency shall grant sufficient funds to allow the individual to travel to his or her own municipality or to the nearest place at which it has been confirmed that the individual's needs may be met. Travel costs shall be estimated or ascertained, as appropriate, according to the least expensive method of travel which is appropriate. The travel grant shall be sufficient to allow payment for the fare and such food, clothing, or shelter as may be essential during the trip.

(1) When circumstances prevent an accurate determination as to whether an applicant would be otherwise eligible to receive WFNJ/GA, the agency will evaluate the application according to the best information available.

(2) Assistance for travel purposes in any amount over \$100.00 shall be granted only with prior approval from the DFD. Such approval shall be contingent upon the presence of the following positive indicators: the individual has actually resided where he or she wishes to go; there is a place for the individual to reside upon return; and someone will be responsible for the individual upon his or her return. Furthermore, the individual must not have established a pattern of requesting travel assistance annually or more frequently.

3. College students are individuals age 18 or over who are attending school or college. They may be found eligible for WFNJ/GA only when all of the following conditions are present:

i. He or she is a resident of the municipality in which application is made, and such municipality is his or her acknowledged home on a year-round basis;

(1) An individual coming from another state for the purpose of attending school or college is not eligible for WFNJ/GA during the period he or she is attending school;

i. Allegation of loss or theft of part or all of the lump sum, including circumstances where a member of the former eligible assistance unit has absconded with the funds.

(1) The former eligible assistance unit shall thoroughly substantiate an allegation of loss or theft of income and must provide the county or municipal agency with evidence that a police report of an incident of theft has been filed. Upon receipt of credible evidence of loss or theft of the income the county agency shall reduce the amount of the original lump sum by the amount of the loss or theft;

ii. The former eligible assistance unit incurs and pays verifiable expenses due to an emergent situation, for which, had the assistance unit been eligible, emergency assistance would have been authorized under N.J.A.C. 10:90-6. Upon receipt of credible verification of those expenses, the county or municipal agency shall reduce the amount of the original lump sum;

iii. The assistance unit incurs, becomes responsible for, and pays medical expenses during the period of ineligibility; or

iv. Other circumstances, with the provision of appropriate verification, as approved by the DFD.

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

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

In (d), inserted "(for either a WFNJ/TANF or WFNJ/GA case)" following "income".

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 1 and added i.

10:90-3.19 Exempt income

(a) Exempt income is not considered in determining eligibility for assistance or in computing the amount of WFNJ cash assistance payments. The following sources of income shall be exempt:

1. Up to the first \$50.00 of child support received;
2. Income tax refunds;
3. Homestead property tax rebates;
4. Earned income credit (EIC) payments;
5. Unearned income (including moneys to offset training expenses) received by a WFNJ dependent child through the Job Training Partnership Act (JTPA);
6. Earned income received through the JTPA by a WFNJ dependent child;
7. Allowance payments to offset expenses related to training received by any WFNJ recipient who is participating in the JTPA program;
8. The earned income of any middle or secondary school student in the eligible assistance unit;

i. This income exemption applies to children who are full-time students up to the age of 18, or up to the age of 19 if they are expected to complete an educational program before reaching age 19; and children up to the age of 21, if they are enrolled in a special education program (see N.J.A.C. 10:90-2.7);

9. Any grant, scholarship, student loan or other financial aid received by an eligible child or eligible adult who is a student, including funds received through college work study programs, so long as the eligible child or eligible adult continues to attend school and meets the conditions under which such moneys are granted and complies with required WFNJ work requirements at N.J.A.C. 10:90-4;

i. During any period for which a child or adult who is a student 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 supportive services provisions at N.J.A.C. 10:90-5;

10. SSI benefits for WFNJ/TANF/GA;

11. Income-in-kind or benefits received in the form of goods, services or via third party payments, rather than cash;

12. Kinship Subsidy Program payments;

13. Individual Development Accounts including matching contributions and interest;

14. Supplemental Living Support (SLS) Program payments made to WFNJ TANF/GA families/individuals who have been determined to be exempt from the 60-month lifetime limit on assistance; and

15. The following funds are considered as exempt income and are also identified as exempt resources designated for special purposes at N.J.A.C. 10:90-3.20(a)14:

i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

ii. The value of the coupon allotment for any household participating in the Food Stamp Program of the U.S. Department of Agriculture;

iii. Allowances for participation in the WFNJ program, including payments for transportation and related expenses set forth in the supportive services section at N.J.A.C. 10:90-5 and payments for child care;

iv. Allowance payments, that is, monies paid to offset expenses related to training received by a WFNJ parent or parent-person who is participating in the Job Training Partnership Act (JTPA) program;

v. Payments to assistance units for child care in situations where special circumstances occur within the household (such as emergency illness of the parent(s)) that necessitate alternative care for a child on a temporary basis; and transportation or the cost of transportation, which is not available from any other source, to transport that child to and from the child care site when it is essential for the child's physical health and safety;

vi. Supplemental aid by other agencies or organizations, whether public or private, provided that:

(1) There is no duplication between such aid and the public assistance grant;

(2) Such aid is for a special purpose not within the function of the public assistance agency (for example, vocational rehabilitation); or

(3) Such aid is to any undergraduate student for educational purposes;

vii. Monies received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81);

viii. Monies received on behalf of foster child care, including extra payments received for special services; and

ix. Funds received by applicants and recipients through certain Federal programs as delineated in (a)14ix(1) through (18) below:

(1) Funds distributed or held in trust for members of any Indian Tribe under Public Law 92-254 or 93-134;

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-03, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

(4) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965 (42 U.S.C. §§ 3001 et seq.);

(5) Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE);

(6) Payments made through the United States Department of Housing and Urban Development (HUD) Section 8, Rental Assistance Program (RAP), which provides funds to certain disabled individuals and low income families to assist them in meeting shelter costs;

(7) HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974;

(8) Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35;

(9) Allowances and benefits under the National and Community Service Trust Act of 1993 (NCSTA) which established a Corporation for National and Community Service which administers national service programs, including the Americorps programs, the Senior Corps and Youth Corps programs; the Learn and Serve program and, the Volunteers in Service to America (VISTA) program;

(10) All student financial assistance received under Title IV of the Higher Education Act and under the Bureau of Indian Affairs student assistance programs;

(11) Student financial assistance made for attendance costs under the Carl D. Perkins Vocational Education Act Amendments of 1990;

(12) Restitution made, under Section 105 of Title I of P.L. 100-383, the Civil Liberties Act of 1988, to individuals of Japanese ancestry who were interned during World War II;

(13) Restitution made, under Section 206 of Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, to Aleuts who were relocated by the U.S. government during World War II;

(14) Major disaster and emergency assistance granted under Section 105 of P.L. 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988, including FEMA;

(15) Agent Orange payments as provided for under Section 1(a) of P.L. 101-201 and Section 10405 of P.L. 101-239 of the Omnibus Budget Reconciliation Act of 1989;

(16) Amounts paid to individuals, under Section 6(h)(2) of P.L. 101-426, the Radiation Exposure Compensation Act of 1990, for injuries or deaths due to exposure to radiation from nuclear testing and uranium mining;

(17) Payments made to individuals because of their status as victims of Nazi persecution; and

(18) Stipends received by individuals who participate in the New Jersey Youth Corps Stipends Program.

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

Added (a)8i and (a)12.

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

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

In (a), substituted "WFNJ/TANF/GA" for "WFNJ/TANF/GA only" in 10, added new 12 through 14 and recodified recodified former 12 as 15.

10:90-3.20 Exempt resources

(a) Exempt resources are not subject to any requirement for liquidation and are not considered in determining WFNJ eligibility or in determining the cash assistance benefit. In addition to the exempt income set forth at N.J.A.C. 10:90-3.19, the following resources shall be exempt for each assistance unit:

1. Benefits available through the WFNJ program which are over and above the cash assistance allowance, such as, but not limited to, child care and transportation payments;

2. Aid/assistance from other agencies or organizations, whether public or private, as exempt from Federal and/or State law such as, but not limited to, Federal Emergency Management Assistance (FEMA), which supplements but does not supplant WFNJ benefits;

3. Up to a total of \$2,000 in resources (including savings);

i. An exception to the \$2,000 limit may be made for teen parents living in alternate adult supervised living arrangements only. For such teen parents, the full amount of special teen alternate living arrangement savings accounts and all interest and/or dividend earnings from such an account shall also be exempt;

ii. In addition to the above resources, moneys, matching contributions and interest on funds which are held in separate approved Individual Development Accounts are totally exempt. Funds which are held in approved Individual Development Accounts shall not be considered available for the assistance unit's use for emergency assistance purposes. The funds in these accounts are controlled by other entities and must be designated for one of the following purposes:

- (1) Purchase of a home;
- (2) Educational/training expenses;
- (3) Purchase of a motor vehicle; or
- (4) Purchase of a business.

iii. Moneys identified at (a)3 and 3i above are exempt in determining eligibility for WFNJ. However, in the event that a WFNJ assistance unit is in need of emergency assistance, such funds may be considered available for the assistance unit's use to meet the emergency need prior to the issuance of emergency assistance;

4. One motor vehicle registered in the name of a member of the assistance unit, the fair market value of which does not exceed \$9,500;

i. The fair market value of a licensed vehicle shall be determined by the value of those vehicles as indicated in the Kelley's Blue Book internet website www.kbb.com. The county or municipal agency shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. If a new vehicle is not listed on the website, the county or municipal agency shall determine the wholesale value by some other means such as, but not limited to, contacting a car dealer that sells that make of a vehicle.

ii. If a vehicle is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The Kelley Blue Book internet website value shall be assigned as if the vehicle were not so equipped.

iii. In assistance units with two adults or, one adult with a minor child who is at least 17 years old, a full time secondary student and employed, a second motor vehicle the fair market value of which does not exceed \$4,650, may be exempt, if such motor vehicle is essential to commute to work or training, or must be used to transport a handicapped individual who resides in the household;

5. Real property owned by an eligible assistance unit member(s) and used as a home by a member(s) of the eligible assistance unit, together with so much of the land on which the house stands as is reasonably necessary for the maintenance of the house;

i. The property may remain in exempt status during temporary absence of the entire assistance unit for a period up to four months, at which time the county or municipal agency shall review the status and, if so indicated, may allow it to remain in exempt status for an additional four months. Continued absence through the entire eight months shall be deemed to be permanent and the property shall be removed from exempt status;

6. Personal property, such as, but not limited to, house furnishings and clothing which are used regularly or likely to be used;

i. Furnishings and clothing in storage may be deemed to be exempt in the presence of a reasonable plan for their use;

ii. Personal effects if regularly used or of small intrinsic value;

(1) Items of exceptional value not regularly used and not essential to the physical health and safety of the eligible assistance unit are not exempt;

7. Livestock, machinery, tools, equipment, and stock-in-trade which serve to produce some net income in cash or in kind or serve as an incentive for self-help; livestock or property owned or used by a child in connection with a group or school activity (such as 4-H); and farm and

garden products raised by the eligible assistance unit for its own use;

8. Any asset, real or personal, the liquidation of which would produce no net revenue to the eligible assistance unit;

9. Nonrecurring gifts and contributions of nominal amount or value, such as those for birthdays, graduations or holidays;

10. Bona fide and/or personal loans which are held and used for specific purposes in accordance with the conditions of the loan and not used to meet day-to-day living costs; and, such loans are evidenced by a document signed by the client and the lender which states the amount of the loan and terms of repayment;

11. Fees paid in conjunction with the collection of a pending claim when the costs were incurred during a period of receipt of WFNJ (see N.J.A.C. 10:90-7);

12. Prepaid burial plots (limited to one for each member of the eligible assistance unit) and prepaid bona fide funeral agreements up to a total value of \$4,000 per assistance unit member, to the extent that the total equity value of any agreement attributable to each member of an eligible assistance unit does not exceed \$2,430, unless such assistance unit member was a recipient of General Assistance prior to July 1, 1997 and the exemption at (a)12iii below applies;

i. Burial plots mean conventional gravesites, crypts, mausoleums, urns or other repositories which are customarily and traditionally used for the remains of deceased persons.

ii. Funeral agreements mean contractual arrangements to provide for the costs connected with burial, cremation, or other funeral arrangements.

iii. Prepaid irrevocably assigned funeral/burial arrangements, as noted in (a)12iii(1) through (3) below, for WFNJ/GA recipients who were General Assistance recipients and had made such arrangements prior to July 1, 1997;

(1) Prepaid irrevocable funeral/burial insurance policies;

(2) Prepaid irrevocable funeral/burial annuity policies;

(3) Prepaid irrevocable funeral/burial trust funds;

13. Life insurance policies;

14. Resources designated for special purposes as follows:

i. Relocation adjustment payments which are made pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

ii. The value of the coupon allotment for any household participating in the Food Stamp Program of the U.S. Department of Agriculture;

iii. Allowances for participation in the WFNJ program, including payments for transportation and related expenses set forth in the supportive services section at N.J.A.C. 10:90-5 and payments for child care;

iv. Allowance payments, that is, monies paid to offset expenses related to training received by a WFNJ parent or parent-person who is participating in the Job Training Partnership Act (JTPA) program;

v. Payments to assistance units for child care in situations where special circumstances occur within the household (such as emergency illness of the parent(s)) that necessitate alternative care for a child on a temporary basis; and transportation or the cost of transportation, which is not available from any other source, to transport that child to and from the child care site when it is essential for the child's physical health and safety;

vi. Supplemental aid by other agencies or organizations, whether public or private, provided that:

(1) There is no duplication between such aid and the public assistance grant;

(2) Such aid is for a special purpose not within the function of the public assistance agency (for example, vocational rehabilitation); or

(3) Such aid is to any undergraduate student for educational purposes;

vii. Monies received through the Subsidized Adoption Program of the Division of Youth and Family Services pursuant to N.J.S.A. 30:4C-45 through 49 (P.L. 1973, c.81);

viii. Monies received on behalf of foster child care, including extra payments received for special services; and

ix. Funds received by applicants and recipients through certain Federal programs as delineated in (a)14ix(1) through (18) below:

(1) Funds distributed or held in trust for members of any Indian Tribe under Public Law 92-254 or 93-134;

(2) Funds which are tax-exempt portions of payments made pursuant to Public Law 92-03, the Alaska Native Claims Settlement Act;

(3) Benefits or assistance received through the WIC program (Special Supplemental Food program for Women, Infants and Children) and the special food services program for children under the National School Lunch Act as amended by Public Laws 92-433 and 93-150;

(4) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965 (42 U.S.C. §§ 3001 et seq.);

(5) Payments made through Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE);

(6) Payments made through the United States Department of Housing and Urban Development (HUD) Section 8, Rental Assistance Program (RAP), which provides funds to certain disabled individuals and low income families to assist them in meeting shelter costs;

(7) HUD community development block grant funds under Title I of the Housing and Community Development Act of 1974;

(8) Benefits received by eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to section 2605(f) of Public Law 97-35;

(9) Allowances and benefits under the National and Community Service Trust Act of 1993 (NCSTA) which established a Corporation for National and Community Service which administers national service programs, including the Americorps programs, the Senior Corps and Youth Corps programs; the Learn and Serve program and, the Volunteers in Service to America (VISTA) program;

(10) All student financial assistance received under Title IV of the Higher Education Act and under the Bureau of Indian Affairs student assistance programs;

(11) Student financial assistance made for attendance costs under the Carl D. Perkins Vocational Education Act Amendments of 1990;

(12) Restitution made, under Section 105 of Title I of P.L. 100-383, the Civil Liberties Act of 1988, to individuals of Japanese ancestry who were interned during World War II;

(13) Restitution made, under Section 206 of Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, to Aleuts who were relocated by the U.S. government during World War II;

(14) Major disaster and emergency assistance granted under Section 105 of P.L. 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988, including FEMA;

(15) Agent Orange payments as provided for under Section 1(a) of P.L. 101-201 and Section 10405 of P.L. 101-239 of the Omnibus Budget Reconciliation Act of 1989;

(16) Amounts paid to individuals, under Section 6(h)(2) of P.L. 101-426, the Radiation Exposure Compensation Act of 1990, for injuries or deaths due to exposure to radiation from nuclear testing and uranium mining;

(17) Payments made to individuals because of their status as victims of Nazi persecution; and

(18) Stipends received by individuals who participate in the New Jersey Youth Corps Stipends Program.

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

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

In (a)12, added an exception at the end of the first paragraph, and added iii.

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 3 and 4.

10:90-3.21 Overpayments and underpayments

(a) Overpayment means a financial assistance payment (including emergency assistance) received by or for an eligible assistance unit for the payment month(s) which exceeds the amount for which that unit was eligible.

1. The county or municipal agency shall seek recovery of all overpayments (including emergency assistance) regardless of fault, including overpayments caused by administrative action or inaction and overpayments resulting from assistance paid pending hearing decisions.

2. Recovery may be accomplished by securing repayment from the existing income and resources of the adult members of the assistance unit, by reducing the cash benefits payable to the assistance unit, or by securing repayment through court action, if necessary. For cases which have both an underpayment and overpayment, the county or municipal agency may offset one against the other in correcting the payment.

3. The amount of the overpayment shall be the amount of assistance (including emergency assistance) received during the period of overpayment less the amount of assistance which should have been received.

i. In the case of an overpayment caused by the client's failure without good cause to report earned income on a timely basis, the amount of the overpayment shall be calculated without benefit of the earned income disregards provided for at N.J.A.C. 10:90-3.8.

(d) A protective payee is: a person authorized by the county or municipal agency to receive and administer assistance payments on behalf of an eligible individual or family due to mismanagement of funds by the eligible individual or family; or a person authorized to receive benefits in accordance with the parent-minor provisions at N.J.A.C. 10:90-2.17.

1. A protective payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient nor to act as the representative of the recipient in any other manner whatsoever, unless authorized by a court of law or has power of attorney.

2. The case record shall be fully documented and shall contain a statement of the specific reasons that demonstrate the need for a protective payee.

3. The county or municipal agency shall be responsible for assuring referral to social services for appropriate action to protect the recipient(s) where problems and needs for services are manifestly beyond the ability of the protective payee to handle.

4. The county or municipal agency shall undertake and continue special efforts to assist the recipient in developing the ability to manage funds in such a manner as to protect the welfare of the assistance unit.

5. The county or municipal agency shall review the case as frequently as indicated by the individual's circumstances, but at least every six months, relevant to the need for protective payments and the way in which the protective payee's responsibilities are carried out.

6. Provisions shall be made for termination of protective payments, as follows:

i. When recipients are considered able to manage funds in their best interest, the protective payee arrangement shall be terminated and the case shall be returned to unrestrictive payment status.

ii. When it appears that the need for protective payments will continue or is likely to continue beyond a two year period because all efforts have not resulted in a sufficiently improved use of assistance, then the judicial appointment of a guardian or other legal representative shall be sought and such payments will terminate when the appointment has been made.

7. A protective payee shall be selected, so far as possible, with the participation and consent of the recipient or of someone responsible for acting on his or her behalf.

8. If it is in the best interest of the recipient for a staff member of a private agency, of the county or municipal agency, or of any other appropriate organization to serve as a protective payee, such selection shall not include the following persons:

i. The director of the county or municipal agency;

ii. The WFNJ worker who determines eligibility for the particular recipient;

iii. Staff handling fiscal procedures related to the recipient;

iv. Vendors of goods, services or items dealing directly with the recipient; and

v. Any person who has him or herself been determined by professional diagnostic procedures to be incompetent or "marginally incompetent".

9. A recipient who has been determined to require protective payments shall be given written notice, and an oral explanation, of his or her right to a fair hearing, if he or she is dissatisfied with the decision to appoint a protective payee, the choice of a protective payee, the continuation of protective payments or the manner in which the payee is functioning. If the fair hearing issue is the decision to appoint a protective payee, a temporary payee will be designated by the county or municipal agency pending the fair hearing decision.

(e) A representative payee is a person appointed by the court to receive and administer assistance payments on behalf of an eligible individual or family. A representative payee is not authorized to receive, hold or administer any other property, real or personal, of the recipient, nor to act as representative of the recipient in any other manner whatsoever, unless authorized by a court of law or has a power of attorney.

1. When a representative payee wishes to be released from his or her responsibilities, there must be an application to the court for such release.

2. Upon such notice from a representative payee, the county or municipal agency shall take prompt action to locate another person willing to be appointed. If the present representative payee is unable to continue in that capacity until released by the court, the county or municipal agency shall appoint a protective payee to receive assistance for the client until a new representative payee is appointed by the court.

3. The major personal criterion for selection of a representative payee is an interest in being of service to the recipient. Appropriate sources of recruitment include: the immediate family and other relatives and friends; a person previously appointed to act on behalf of the client by another state or Federal benefit paying agency; and staff members of voluntary agencies.

4. The following persons are precluded from being appointed as a representative payee due to possible conflict of interest questions:

i. The director of the county or municipal agency;

ii. The WFNJ worker who determines eligibility for the particular recipient;

iii. WFNJ staff handling fiscal procedures related to the recipient;

iv. Banks, trust companies and similar corporate bodies functioning in a ministerial rather than a decision making role; and

v. Vendors of goods, services, or items dealing with the recipient.

5. No person shall be proposed for appointment, nor accept appointment, as a representative payee who is in the employ of the county or municipal agency except in situations where such person has a close personal relationship with the client which makes him or her the most suitable person to serve as the client's representative. If an employee with such a relationship is so appointed, he or she shall not thereafter be involved in any agency decision relating to the client's payment or other official actions regarding the client.

(f) A WFNJ recipient may request that, or a county or municipal agency may determine at its discretion that, payments be made to a person or facility as compensation for providing goods and services to or for the WFNJ recipient. Such restricted payments may be in addition to the regular monthly benefit in emergency assistance situations or may be a designated portion of the regular monthly benefit.

1. Restricted payments shall be made in the form of vendor payments or two-party payments, that is, checks which are drawn jointly to the order of the recipient and the provider of the services in situations such as, but not limited to: emergency assistance; rent, mortgage or utility payments; transportation expense; and child care.

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

In (d), added a reference to certain persons authorized under N.J.A.C. 10:90-2.17.

SUBCHAPTER 4. WFNJ WORK REQUIREMENTS

10:90-4.1 General work requirement provisions

(a) Each WFNJ adult recipient, unless specifically deferred or unless otherwise specified in this subchapter, shall cooperate with and participate in the WFNJ work requirements in accordance with Federal regulations, the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the New Jersey State Plan for Temporary Assistance for Needy Families, the Work First New Jersey Act and the New Jersey Food Stamp Employment and Training State Plan, for up to 40 hours per week as a condition of eligibility for receipt of cash assistance benefits. WFNJ/GA recipients are required to participate in a work activity for up to 30 hours per week.

1. Each WFNJ TANF/GA adult recipient, unless deferred from the work requirement, shall continuously and actively seek employment in an effort to gain self-sufficiency. Unless otherwise specifically deferred under this section, each WFNJ recipient shall cooperate with and participate in the WFNJ work requirements as a condition of eligibility for receipt of cash assistance benefits.

2. WFNJ recipients, unless deferred, shall be required to comply with all aspects of the cooperation and participation provisions of the WFNJ work requirement as stipulated in this section, unless good cause exists, which shall include, but not be limited to: keeping all scheduled appointments timely; giving reasonable notice and explanation of inability to keep an appointment; cooperating in the development and completion of an individual responsibility plan (IRP); complying with the terms and conditions of the IRP; contacting the child care entity to arrange appropriate child care for WFNJ activity participation, as appropriate; and participating in a WFNJ work activity(ies) as assigned.

i. A WFNJ case comprised of refugees shall be subject to WFNJ work requirements. Appropriate work activities are provided through refugee resettlement agencies (see N.J.A.C. 10:90-10).

3. WFNJ agencies and other agencies contracted to provide services shall be required to meet the needs of WFNJ participants with disabilities.

i. Reasonable accommodations to allow participation by recipients with disabilities may include specialized transportation and tailored, appropriate work activities that meet the physical constraints and social and employability needs of such individuals.

(b) WFNJ/GA single adults or couples without dependent children, who are receiving food stamps, not deferred and are registered for work and complying with the Food Stamp Employment and Training Program (FSETP), shall be required to participate in an FSETP work activity and shall meet their WFNJ work requirements through the FSETP. Single adults and couples without dependent children who are not receiving food stamps and are not registered for work and not participating in the FSETP shall register for work with the New Jersey One-Stop Career Center (NJOSCC) and shall participate in a NJOSCC work activity, unless deferred.

(c) Upon application, determination or redetermination of eligibility for WFNJ benefits, all adult WFNJ recipients, unless deferred, shall be required to register for work with the NJOSCC.

1. For WFNJ/GA recipients in nonconsolidated municipalities, NJOSCC shall place WFNJ/GA single adults and couples without dependent children in an approved activity, monitor compliance, and notify the municipal agency when the recipient fails to comply with the activity.

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

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

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

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

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

1. As soon as it is determined that the individual is ready to engage in work or in a work activity; or

2. At some time prior to the individual having received 24 months of cash assistance benefits (whether or not the receipt of such cash assistance is consecutive) unless deferred.

i. Receipt of 24 cumulative months of WFNJ cash assistance benefits does not in and of itself render an individual ineligible for cash assistance.

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

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

Added (a)2.

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

Rewrote the section.

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

10:90-4.2 Work activity participation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Administrative correction.

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

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

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

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

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

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

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

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

5. The "Family Leave Act," P.L. 1989, c.261 (N.J.S.A. 34:11B-1 et seq.) and the recipient shall be entitled to family leave, to the same degree as any similarly situated employee of the sponsor, as well as family and medical leave pursuant to Federal law.

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

10:90-4.6 Work activity placement parameters

(a) A recipient shall not be placed or utilized in a position at a particular workplace (including CWEP placements):

1. That was previously filled by a regular employee if that position, or a substantially similar position at that workplace, has been made vacant through a demotion, substantial reduction of hours or a layoff of a regular employee in the previous 12 months, or has been eliminated by the employer at any time during the previous 12 months;
2. In a manner that infringes upon a wage rate or an employment benefit, or violates the contractual overtime provisions of a regular employee at that workplace;
3. In a manner that violates an existing collective bargaining agreement or a statutory provision that applies to that workplace;
4. In a manner that supplants or duplicates a position in an existing, approved apprenticeship program;
5. By or through an employment agency or temporary help service firm as a community work experience or alternative work experience worker;
6. If there is a contractual or statutory recall right to that position at that workplace; or
7. If there is an ongoing strike or lockout at that workplace.

(b) A person who believes that he or she has been adversely affected by a violation of this section, or the organization that is duly authorized to represent the collective bargaining unit to which that person belongs, shall be afforded an opportunity to resolve the complaint through a meeting with the designee of the Commissioner of the State Department of Labor.

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

10:90-4.7 The "Individual Responsibility Plan (IRP) Development Tool and Employability Profile" (IDT) (assessment)

(a) An IRP Development Tool (IDT), which provides a participant screening and employability profile, shall be completed for each adult WFNJ/TANF recipient, teen parent and 16 through 18 year old individual not attending school on a full-time basis. The individual's relative employability shall be assessed from the responses to questions in the introductory, educational, employment, personal screening and screening outcomes sections of the IDT.

1. The introductory screening section reviews the individual's current employment and duration on public assistance.

2. The educational screening section reviews such areas as the individual's educational level, relevant training or skills, and possible comprehension barriers, including language difficulties.

3. The employment screening section reviews such areas as the individual's work history and possible employment preferences, employment barriers or needs.

4. The personal screening section reviews such areas as the individual's personal or family/household related barriers or special needs, including housing issues and substance abuse.

5. The screening outcomes section identifies such areas as possible WFNJ activities, suggested barrier resolution activities, necessary supports or deferrals.

(b) The recipient shall be informed prior to beginning the IDT that disclosure of disability related information is voluntary. An individual shall not be sanctioned or otherwise penalized for failing to disclose information or declining to answer specific questions relating to a disability.

(c) The findings and conclusions of the family's circumstances from the IDT assessment shall be used to determine the activities identified in the individual responsibility plan described in N.J.A.C. 10:90-4.8.

(d) The IDT shall be reviewed and, if necessary, updated at the time of redetermination and whenever interim changes/updates are made to the IRP.

Administrative correction.
See: 29 N.J.R. 3729(a).
Amended by R.1998 d.42, effective January 20, 1998.
See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
Added (a)5, (b) and (c).
Amended by R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
Rewrote the section.

10:90-4.8 Individual responsibility plan (IRP)

(a) An individual responsibility plan (IRP) shall be developed jointly by the county or municipal agency representative, as appropriate, and the WFNJ recipient, that is, all adult recipients, teen parents and 16 through 18 year old individuals not attending school on a full-time basis, at time of eligibility determination, and shall be jointly reviewed and/or revised at time of subsequent activity assignments and case redeterminations. The requirements set forth in the IRP must be coordinated with requirements set forth in an emergency assistance service plan, if the participant is also in receipt of EA. Interim changes/updates to the IRP shall be made more frequently as appropriate and necessary in accordance with individual progress and/or change in circumstances. The IRP shall be signed and dated by the recipient and the respective agency representative. The original IRP shall be maintained electronically or in the case record and a copy shall be provided to the recipient. The IRP shall contain:

1. General case information concerning the individual;
2. A specific work activity or plan of action based on the findings and conclusions from the assessment, in accordance with N.J.A.C. 10:90-4.1(f);

- i. Work activity information to be entered on the IRP shall include the work-site location, the work-site's contact person and telephone number as well as the times and days of the participant's scheduled attendance;

3. Supportive services to be provided to enable participation in the work activity, such as child care, transportation allowances and other available supportive services; and

4. A record that the family violence option and deferral requirements were discussed with the recipient as well as the importance of cooperating with child support.

5. The IRP may also include specific goals concerning a dependent child member of the assistance unit such as, but not limited to:

- i. Requirements for parental participation in a dependent child's pre-school, elementary and secondary school program activities;

- ii. Immunizations for a dependent child; or

- iii. Regular school attendance by a dependent child.

(b) The IRP for teen parents shall include all of the requirements listed in (a) above, if appropriate, as well as, but not limited to, the following:

1. Regular attendance in high school or an equivalent program of study; or

2. Participation in an approved work activity for those teen parents who have completed secondary education; and

3. Identification of necessary supportive services which are not available free through another source, including child care and transportation, as needed; and

4. Identification of barriers to employment and a plan of action to be taken, including screening and assessment for substance abuse, as appropriate.

(c) The IRP for victims of family violence shall include the following, as appropriate:

1. For an individual who identified as a victim of family violence or is at risk of family violence who requests a WFNJ Family Violence Option (FVO) Waiver of one or more WFNJ TANF/GA program requirements, an entry shall be made in the appropriate designated FVO check-off box on the IRP. A WFNJ FVO Risk Assessment including safety and service planning shall be completed and kept confidential at a designated victims services provider agency in accordance with N.J.A.C. 10:90-20.

- i. The IRP shall be considered completed with no further entries required at this point.

2. An individual who self-identifies as a victim of family violence but does not request a FVO waiver shall develop an IRP with the agency worker, setting goals toward self-sufficiency (see N.J.A.C. 10:90-20).

(d) When the IRP requires the recipient to participate in a substance abuse treatment program, the substance abuse treatment program shall be considered a WFNJ work activity (see N.J.A.C. 10:90-18). Refusal or failure to cooperate and participate as required by the treatment program shall result in WFNJ sanctions in accordance with the sanction provisions at N.J.A.C. 10:90-4.13.

1. A participant may be required to participate in a substance abuse treatment and/or another work activity or substance abuse treatment only, as determined by the case manager in conjunction with the care coordinator. Compliance requires full cooperation and participation with substance abuse treatment as well as any other required work activity.

Administrative correction.

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

Inserted new (c)4 and recodified former (c)4 and 5 as (c)5 and 6.

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

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

In (a), added second sentence, added (a)2, recodified former 2 through 4 as 3 through 5, added a new 6, and recodified former 5 as 7.

Amended by R.1999 d.66, effective March 1, 1999.

See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

In (a)6, added a second sentence; and added (d).

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

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

Rewrote the section.

10:90-4.9 WFNJ comprehensive social assessment (CSA)

(a) A WFNJ recipient who has received cash assistance for 12 or more cumulative months shall be required to complete a detailed social assessment and an employability assessment. The 12-month requirement is a minimum requirement. The Comprehensive Social Assessment (CSA) may be administered at any time prior to 12 months if the circumstances of the case indicate a need for an in-depth assessment.

1. The three-part comprehensive social assessment (CSA) provides for a social evaluation and the identification of employment barriers.

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

- ii. The comprehensive social assessment tool, completed by both the client and worker, is comprised of 12 sections that assist in identifying barriers that hinder the recipient's success in reaching self-sufficiency. Identified issues shall trigger subsequent referrals/actions to address such concerns.

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

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

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

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

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

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

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

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

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

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

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

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

10:90-4.10 Deferrals from the work requirement

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

1. Individuals age 60 or older;
2. Individuals who are unable to engage in regular work activities because they are chronically ill, infirm, or have a physical and/or mental disability or impairment which is expected to last for more than 12 months and

such conditions are certified by an attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse to constitute a permanent disability. Such certification shall be documented through use of Form WFNJ-5 (DRS1), Examining Physicians Report, and shall, upon completion by the certifying physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse, be reviewed by the county or municipal agency which shall have the responsibility to approve or deny the deferral request;

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

ii. A recertification to determine permanent disability using Form WFNJ-5 (DRS1) shall not be required for those individuals who provide documentation that they have been determined permanently disabled and are receiving disability insurance benefits under Title II or Title XVI of the Federal Social Security Act. At the time of case redetermination, the permanent disability condition of the individual shall be reviewed. If the permanent disability remains unchanged as verified through social security documentation, it shall be duly noted on the IRP that the permanent disability remains unchanged, the source of the documentation and the date of the review. If a change in the permanent disability occurs which indicates that the individual may be able to participate in a WFNJ activity, for example, the client is no longer eligible for permanent disability considerations under Title II or Title XVI and the client is still requesting a WFNJ deferral based on the disability, the county or municipal agency shall require the completion of Form WFNJ-5S by the client's attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse in order to evaluate the client's ability to participate;

3. A person certified by an attending physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period of less than 12 months. Such certification shall be documented through use of Form WFNJ-5S, Confidential Medical Examining Physician's Report, which, upon completion by the certifying physician (including a licensed or certified psychologist, as appropriate) or advanced practice nurse, shall be returned to the county or municipal agency worker, as appropriate for review and final determination of deferral from participation from work requirement activities within the WFNJ program;

4. WFNJ/GA single adults or couples without dependent children who are determined unemployable in accordance with provisions set forth at N.J.A.C. 10:90-2.9(a)2. The WFNJ-5S or WFNJ-5 (DRS1) medical form will be required, if appropriate;

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

6. A woman in the third trimester of pregnancy;

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

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

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

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

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

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

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

(1) If there is an interruption of 30 consecutive days or longer in this regular schedule of care at the residential special school or other specialized care environment which necessitates the recipient to care for that individual due to the unavailability of other care arrangements, the caretaker shall be deferred from the work requirement.

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

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

(b) In all instances when medical documentation is required, Form WFNJ-5S, Confidential Medical Examining Physician's Report, shall serve as a physician's certification and the following procedures concerning receipt of the completed form shall be adhered to:

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

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

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

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

(c) A recipient shall not be required to engage in a work activity if appropriate child care is necessary but unavailable. Child care services shall be provided in accordance with child care services regulations at N.J.A.C. 10:15. WFNJ supportive services provisions concerning child care are found at N.J.A.C. 10:90-5.2 and 5.3. Child care is unavailable if:

1. Appropriate child care is not available within a reasonable distance from the individual's home or work-site;

2. Appropriate informal child care from a relative or otherwise, if available, is unsuitable; or

3. Appropriate formal child care arrangements are unaffordable.

Administrative correction.

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

In (a)11, corrected N.J.A.C. reference; and in (d), deleted "from any other source, and the recipients child(ren) is under 13 years of age or up to 18 years of age if a special needs child" following "Child care is unavailable if:".

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

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

Added (a)2ii; and in (d), added N.J.A.C. references.

Amended by R.1999 d.66, effective March 1, 1999.

See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

Deleted a former (c); and recodified former (d) as (c).

Recodified from N.J.A.C. 10:90-4.9 and amended by R.2003 d. 226, effective June 16, 2003.

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

Rewrote the section. Former N.J.A.C. 10:90-4.10, Good cause, recodified to N.J.A.C. 10:90-4.11.

10:90-4.11 Good cause

(a) Good cause for failure to participate in WFNJ or refusal to accept or maintain employment shall be found if:

1. The mandatory WFNJ participant is certified by DFD to be physically or mentally unable to engage in an assigned WFNJ work requirement or to cooperate with a WFNJ program requirement;

(d) Eligibility for Medicaid is limited to citizens of the United States and eligible aliens as specified in N.J.A.C. 10:69-3.9.

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).
 Amended N.J.A.C. references throughout.

10:90-5.7 Retroactive Medicaid

Retroactive eligibility for Medicaid shall be determined in accordance with N.J.A.C. 10:69. Eligibility for retroactive Medicaid for any of the three months prior to the month of application shall exist (assuming all other factors of eligibility are met) if the family's income, using the income methodologies and standards in effect as of July 16, 1996 for the AFDC program, would have qualified them for AFDC. In the determination of eligibility for retroactive Medicaid coverage, the resource methodologies and standards of WFNJ apply.

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).
 Amended N.J.A.C. reference.

10:90-5.8 Medicaid Special

(a) An individual under the age of 21, whether or not he or she would qualify as a dependent child and whether or not he or she lives with his or her parents, may be eligible for Medicaid Special coverage. Income eligibility is established in accordance with N.J.A.C. 10:69-4.2.

(b) For college students, eligibility is established in accordance with N.J.A.C. 10:69-4.3.

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

10:90-5.9 Medicaid extension (employment-related)

(a) Extended Medicaid benefits are available to families who lose eligibility for Medicaid due to employment-related criteria based on the income standards and methodologies in effect for the Aid to Families with Dependent Children (AFDC) program as of July 16, 1996. Thus, extended Medicaid benefits will begin with the loss of WFNJ cash assistance only when that loss was coincident with the loss of Medicaid eligibility under the July 16, 1996 AFDC income standards and methodologies in accordance with N.J.A.C. 10:69.

(b) When a family with dependent children loses eligibility for Medicaid based on the income standards and methodologies in effect for the AFDC program as of July 16, 1996, for the reasons given below, Medicaid eligibility continues for a period of 24 months beginning with the month in which the family was no longer eligible under those standards and methodologies. The 24-month extension period

shall begin, even though the family may continue to receive WFNJ cash assistance.

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

2. Earnings or income from employment combined with child support collections, when earnings are a significant contributing factor to case closing;

3. Loss of the \$30.00 and one-third income disregards because of the time-limited application of those disregards;

4. Increased hours of employment; and

5. Receipt of New Jersey State unemployment or temporary disability insurance benefits.

(c) A family with dependent children, whose case closes for reasons other than employment, that gains employment within the 24 months after case closing, may be eligible to receive extended Medicaid benefits for the balance of the 24 month Medicaid extension period which would have begun at case closing.

(d) Persons who secure employment through the Early Employment Initiative (EEI) program (see N.J.A.C. 10:90-17) may be eligible for 24 months of extended Medicaid benefits.

(e) New members added to a family in receipt of extended Medicaid are not included in the extended coverage, with the exception of a child born to or legally adopted by the family during the extension period.

(f) The following individuals shall not be included, or continue to be included, in the eligible WFNJ/TANF assistance unit for Medicaid extension:

1. Any child who reaches the age of 18, or if a full-time student in secondary or vocational school, until the month of graduation or attainment of the age of 19, whichever is first. Any child who is about to become ineligible due to age shall be evaluated for eligibility under other components of the Medicaid program; and

2. All other family members who are receiving Medicaid extension solely based on the presence in the home of a child who has attained the age maximums stated in (d)1 above.

(g) When the last remaining child eligible for Medicaid extension is no longer eligible for an extension, eligibility for the other members ceases.

(h) Medicaid shall be the payer of last resort in those instances in which a recipient or his or her dependent child(ren) have third party (employer-provided or from a noncustodial parent) health care coverage.

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 N.J.A.C. reference; added a new (c) and (d); and recodified former (c) through (f) as (e) through (h).

10:90-5.10 Medicaid extension (child support-related)

(a) When a family receiving Medicaid based on the July 16, 1996 AFDC income standards and methodologies loses Medicaid eligibility primarily as a result of the collection of child or spousal support through the Child Support and Paternity process, Medicaid eligibility shall be extended for a period of four calendar months beginning with the month in which such ineligibility commences. Children may remain eligible for extended Medicaid until the attainment of age 18, or if a full-time student in secondary or vocational school, until the month of graduation or the attainment of age 19, whichever is first. Any child who is about to become ineligible due to age shall be evaluated for potential eligibility under other components of the Medicaid program.

1. In order to qualify for this extension of Medicaid benefits, the family must have received, and been eligible to receive, Medicaid (based on the July 16, 1996 AFDC income standards and methodologies) in at least three of the six months immediately preceding the month in which ineligibility for Medicaid began;

2. When the last remaining child eligible for Medicaid extension is no longer eligible for an extension, eligibility for the other family members ceases.

10:90-5.11 Supplemental Work Support Program

(a) The Supplemental Work Support Program (SWS) is intended to provide a monthly work support to former clients who continue to maintain employment. An amount of \$200.00 per month for up to 24 months shall be issued to eligible WFNJ/TANF participants who meet eligibility criteria in (c) below and agree to voluntarily close their WFNJ/TANF case.

(b) Participants of SWS may also be eligible to receive other post-TANF benefits, such as:

1. Child care benefits (up to 24 months of Transitional Child Care (TCC));
2. The Extended WorkPass Program (if public transportation is available and necessary);
3. The Career Advancement Voucher Program;
4. Receipt of full child support payments; and
5. If the Medicaid case closes due to earnings, clients may be eligible for up to 24 months of extended Medicaid benefits.

(c) In order for a client to participate, the following four criteria shall be met:

1. The client must currently be an active WFNJ/TANF case and has been in receipt of WFNJ/TANF benefits for a minimum of the preceding six months;

2. The client must have continuous employment for a minimum of four months prior to receiving SWS and shall agree to continue working;

3. The client must be employed a minimum of 20 hours per week; and

4. The client must have an eligible child as defined at N.J.A.C. 10:90-2.7(a) for the entire 24-month period.

i. If it is determined that the client would not meet this requirement for the full 24-month period, the SWS benefit period shall be limited to the number of months eligibility would exist.

(d) A SWS case shall be reviewed on an annual basis to verify a recipient's continued eligibility. In order to remain eligible a recipient shall meet (c)3 and 4 above, and the recipient's household earned income shall not exceed 250 percent of the Federal Poverty Level (FPL).

1. If a SWS participant becomes unemployed, he or she may re-apply for WFNJ/TANF.

2. If the re-applicant returns to the WFNJ/TANF rolls, the client will be eligible to participate in SWS when he or she again meets the eligibility criteria noted in (c) above.

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

10:90-5.12 Career Advancement Voucher Program

(a) The purpose of the Career Advancement Voucher (CAV) Program is to offer eligible post-TANF recipients, who are employed, an educational or training opportunity by providing opportunities for upward career mobility. This program is intended to foster career advancement to those post-TANF individuals who demonstrate that participation in such an activity will result in the potential for growth at their current job or increased potential for growth in a new job.

1. Post WFNJ/TANF recipients who meet CAV Program eligibility requirements may enroll in a course of study or occupational training by providing vouchers to approved vendors.

2. The CAV Program voucher amount maximum is \$4,000, dependent upon available funds.

3. Payments to approved vendors are made in two parts, 50 percent at time of enrollment and 50 percent upon completion of the program. An exception to this is a community college. CWA's are authorized to pay a community college the full tuition amount prior to or at the beginning of the course.

4. An approved vendor is any entity or institution currently on the Work Force Investment List (see the Federal Workforce Investment Act of 1998 (Pub. L. 105-220)) or any credible vendor about to be put on the list. An approved vendor may also be one that while not on the list, has a known successful track record and participates at the approval of the case management entity or the Workforce Investment Board.

5. The CAV Program shall not be construed as an entitlement program. If the fiscal or other resources necessary to carry out the CAV Program are unavailable, that individual shall not be deemed to have a right to such program.

(b) In order to be eligible for this program, the applicant's WFNJ/TANF case must have closed within the previous 12 months and the applicant shall:

1. Be currently employed, for at least 20 hours a week, and have been employed for at least the previous four months;
2. Have expressed an interest in, and have an opportunity for, career advancement;
3. Agree to remain employed and not reduce work hours in order to participate in the program; and
4. Have not already received a CAV within the previous 18 months or if a CAV was received, the program funded by the CAV was successfully completed. Successful completion means the client has participated through the closing date of the class or training program. It is not a requirement that the client pass the course or receive a graduation certificate or license. (Exceptions may be made on a case by case basis as some institutions require payment for an approved subsequent class prior to the completion date of the first class or training program.)

(c) Child care support services may be available to eligible CAV participants as a part of the TCC Program.

(d) A post WFNJ/TANF participant that received a CAV and successfully completed the CAV funded program may apply for a second voucher up to a maximum of \$4,000, if requested within the 24 month post-TANF benefit period.

(e) CAV participants who lose their job through no fault of their own and need to re-apply for WFNJ/TANF cash assistance, shall be allowed to complete their CAV funded activity and receive the needed supportive services for such attendance.

(f) CAV participants that voluntarily quit a job without good cause and re-apply for WFNJ/TANF cash assistance shall be determined ineligible for WFNJ benefits for a 90-day period beginning with the day of quit. They may still continue to attend their CAV funded activity.

1. During the 90-day period, these clients will be ineligible to continue receiving supportive services for the CAV funded activity.

(g) CAV participants that relocate to another county, if able, may complete the current program with needed supports and the final CAV payment issued by the receiving county.

1. Employed post WFNJ/TANF clients that move to another county are eligible to apply for the CAV program in the receiving county as long as eligibility requirements are met and the request is made within 24 months of case closure.

2. Employed post WFNJ/TANF clients that move to another state are not eligible to apply for a CAV.

3. CAV participants that move to another state during the time of attendance in a CAV funded program, if able, may complete that portion of the program funded through the initial payment. Final payments and supportive services shall not be issued.

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

10:90-5.13 Housing Subsidy Program

(a) In an effort to provide housing stability and eliminate long term dependence on WFNJ/TANF assistance, DFD has established a Housing Subsidy Program. This program is designed to provide rental assistance to former WFNJ/TANF recipients for up to 24 months. Eligibility is determined on an annual basis, with the initial income eligibility standard set at 150 percent or less of the FPL during the first year of the program. The income standard for redetermination after the first 12 months is set at 200 percent or less of the FPL.

(b) In addition to ongoing rental assistance, the subsidy can be used toward a one-time payment of the following:

1. A security deposit;
2. Moving expenses; or
3. Utility turn on, when no other assistance is available.

(c) Checks for rent subsidy will be made payable to the landlord and the housing subsidy recipient has the responsibility of paying the balance of the rent to the landlord.

(d) In order to be initially eligible for the Housing Subsidy Program, recipients shall meet all of the following criteria:

1. The recipient shall be a former WFNJ/TANF recipient whose case has closed within the previous 12 months or a current WFNJ/TANF recipient who agrees to close the TANF case;

2. The recipient shall be currently employed a minimum of 20 hours a week and have maintained employment for the previous four months;

3. The recipient shall have an eligible child as defined at N.J.A.C. 10:90-2.7(a) for the entire 24-month period.

i. If determined that the recipient would not meet this requirement for the full 24-month period, the housing subsidy benefit period must be limited to the number of months eligibility would exist.

4. Initial financial eligibility is based on a gross household income of less than or equal to 150 percent of the FPL;

5. Recipients are required to be spending a minimum of 40 percent of their gross household income on rent; and

6. As a condition of eligibility, all recipients shall apply for Section 8 Housing within 60 days of receipt of the subsidy (or make a good faith documented effort to apply, providing a waiting list is available). The recipients shall also agree to accept the Section 8 Housing if it is offered to them.

(e) Recipients in receipt of a housing subsidy shall continue to receive all necessary post WFNJ/TANF supports, such as, child care, transportation and Medicaid based on existing eligibility requirements.

(f) CWA's are required to conduct an annual redetermination that includes a subsidy recalculation.

1. If the program participant is unemployed at the time of the redetermination, he or she shall obtain new employment within 90 days from the date of the last day of his or her employment to maintain eligibility for the housing subsidy.

2. As part of annual redetermination, the CWA shall verify that the recipient has paid his or her portion of the monthly rent and has kept current with his or her utility payments.

i. The CWA shall allow exceptions for situations involving a landlord dispute when the individual is holding payments until the landlord takes action and the situation is resolved.

3. During the annual redetermination, if there is an increase or decrease in the rent, the subsidy amount shall be adjusted accordingly provided the recipient continues to meet the eligibility requirements.

(g) Recipients are no longer eligible for program participation when any of the following takes place:

1. A recipient loses his or her housing due to criminal activity of the recipient or activity that the recipient knowingly permitted to occur on the premises;

2. A recipient fails to apply for Section 8 Housing (or make a good faith documented effort to apply, providing a waiting list is available);

3. A recipient fails to accept Section 8 Housing if it is offered to him or her;

4. A recipient's household income exceeds 200 percent of the FPL at the time of the annual redetermination; or

5. Rent is less than 40 percent of the recipient's household income.

(h) If a recipient leaves the Housing Subsidy Program, then re-applies, the recipient may be eligible for the balance of the months remaining, up to 24 months, provided the recipient meets the eligibility requirements.

(i) When a recipient moves, whether within or outside of the county issuing the subsidy, the subsidy amount shall remain unchanged during the first 12 months of the subsidy as long as program eligibility is maintained. The county of origin shall maintain responsibility for issuance of the monthly subsidy.

1. If the recipient fails to notify the agency regarding a move and a subsidy payment is subsequently issued to the previous landlord, no new subsidy can be issued on the recipient's behalf for that month. The CWAs shall attempt to secure repayment from the previous landlord.

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

10:90-5.14 Supplemental Living Support (SLS) Program

(a) The Purpose of the Supplemental Living Support (SLS) Program is to offset additional housing or living costs associated with long term disability as evidenced by receipt of assistance in excess of 60 months and designation as an exempt individual.

(b) The SLS Program is available to all cases where at least one active adult has been determined to be exempt from the 60-month time limit and continues to be in receipt of WFNJ Benefits.

(c) The SLS program provides assistance units with an additional \$150.00 per month for those exempt cases where one or both of the adults has met the exemption criteria for post 60-month WFNJ/TANF benefit receipt.

(d) Cases that fail to comply with program eligibility requirements or work requirements and are sanctioned, are not eligible to receive the SLS. In addition, if the exempt status of an individual should change, the household is no longer eligible to receive the SLS payment.

(e) The SLS payment is not included when calculating the WFNJ benefit amount.

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

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

SUBCHAPTER 6. EMERGENCY ASSISTANCE

10:90-6.1 Availability of emergency assistance

(a) Emergency assistance shall be made available through the WFNJ program as a supportive service to meet the emergent needs of WFNJ recipients so that recipients shall not be prevented from complying with the work requirement due to disruptions caused by homelessness and related emergencies. Consequently, in an effort to minimize the incidence of homelessness among the WFNJ recipient population, the county/municipal agency shall be alert to the following circumstances which may reasonably be assumed to, if not addressed by the recipient and the agency, result in imminent or actual homelessness of the individual or family. Upon identification of any of the indicators listed below, the county/municipal agency shall review the case record to determine if the individual or family shall be referred to sources of help, either within or outside the agency, to plan to ensure the availability of uninterrupted housing.

1. When shelter costs equal or exceed total recorded income to the WFNJ assistance unit and the recipient is unable to document other sources of income, for example, loans from relatives, which enable the individual or family to meet monthly housing/living expenses;
2. When the county/municipal agency receives information to the effect that the individual or family's utility bills are in arrearages or utilities have been shut off;
3. When the individual's or family's income is reduced as a result of the reduction in WFNJ benefits or other available income, as long as such reduction is not due to any of the situations listed in (b)2 below;
4. When the individual's or family's rent which had previously been affordable is increased to an amount which makes the current housing costs appear to exceed available income; or
5. When the county/municipal agency receives information that the individual or family is involved in a tenant/landlord dispute or threatened foreclosure.
 - i. When a tenant/landlord dispute or threatened foreclosure exists, the agency shall assist the family in an attempt to prevent the loss of existing permanent housing, including referral to appropriate legal/service agencies.

(b) The EA as listed in (a) above can also be an appropriate form of assistance for WFNJ recipients who are unable to work.

(c) The county or municipal agency shall provide emergency assistance when there has been substantial loss of housing, food, clothing or household furnishings or utilities by fire, flood or other similar disaster, or an actual or imminent eviction from prior housing, and the assistance unit is in a state of homelessness or imminent homelessness due to circumstances beyond their control or the absence of a realistic capacity to plan in advance for substitute housing (see 1 below); and the county or municipal agency determines that the provision of shelter/housing and/or food and/or emergency clothing, and/or minimum essential house furnishings or utilities is necessary for health and safety.

1. A lack of realistic capacity to engage in advance planning shall be said to exist in the following circumstances:

- i. When the assistance unit can demonstrate that there was insufficient time to secure housing between receipt of notice of imminent loss of housing and actual eviction, foreclosure or loss of prior permanent housing; or
- ii. When the assistance unit can demonstrate or signs a document, prepared by the county/municipal agency, certifying that available funds, including liquid resources at N.J.A.C. 10:90-3.20, were exhausted on items deemed appropriate, necessary or reasonable for decent living and such expenditures were made as the result of a significant occurrence or situation, not due to the meeting of the expenses of daily living. The specific event(s) or circumstance(s) upon which the granting of EA is based must be documented in the case record. In addition to expenditures for food, clothing and housing, other appropriate items include, but are not limited to, expenditures for a family emergency, such as, attending the funeral of a family member, or excessive unreimbursed medical expenses; or
- iii. When the assistance unit demonstrates functional incapacity, for example, evidence of alcohol or drug abuse, that would prevent them from planning for or securing substitute housing. Individuals granted EA on this basis must agree as part of their service plan (see N.J.A.C. 10:90-6.6 concerning the development of a service plan) to engage in appropriate treatment for their addiction or other incapacitating condition. Such treatment for addiction or incapacitating condition shall also be included in the IRP in order to coordinate the requirements contained in the IRP.

2. As part of the determination of eligibility for emergency assistance, the agency shall evaluate all potential contributions of support to the household, including income received by ineligible household members, particularly when determining the amount of temporary rental assistance (see N.J.A.C. 10:90-6.3(a)5) to be provided,

and the specific kinds of preventive services which may be required by the individual, couple without dependent children or family with dependent children.

3. Emergency assistance shall not be provided to a WFNJ applicant when an actual or imminent state of homelessness exists as a direct result of the voluntary cessation of employment by the adult household member without good cause (as provided at N.J.A.C. 10:90-4.10). EA shall not be provided for a period of two months to the entire household in which the recipient adult member voluntarily quits employment without good cause while receiving emergency assistance (see N.J.A.C. 10:90-4.11(b) concerning a voluntary quit). Nor shall EA be provided when an eligible household member has caused homelessness by being a disorderly tenant, causing wanton destruction of property or criminal activity which has directly led to eviction from housing.

i. An adult household member who incurs a sanction as a result of his or her failure to comply with the WFNJ program work requirements may apply for and receive emergency assistance for himself or herself and the eligible unit while in sanction status as long as the emergency is not in any manner attributable to nonpayment of rent or mortgage due to the resultant reduction of income to the household.

ii. An adult household member who incurs a sanction due to failure to comply with the WFNJ work requirements (not a voluntary quit) while receiving emergency assistance shall continue to receive such assistance (see N.J.A.C. 10:90-6.4 concerning time limits on receipt of emergency assistance), as may be required, for himself or herself and the eligible unit, unless all WFNJ cash assistance to the eligible unit has been terminated and the case closed as a result of failure to correct a sanction.

4. Emergency assistance is likewise available in situations where there is an indication that an individual, or a parent and his or her children, have left their customary residence and the unit is in a state of homelessness due to imminent or demonstrated domestic violence which imperils the health and safety of the eligible unit.

i. Temporary living arrangements during the period between the occurrence of the incidence of domestic violence and the application for EA do not negate the existence of a state of homelessness.

5. In instances where the Division of Youth and Family Services, in consultation with the county agency, certifies that placement of the children is imminent due only to the fact that the family is being subjected to a serious health or life threatening situation because of the lack of adequate housing, EA shall be provided in accordance with the applicable provisions of this subchapter.

(d) The county agency may authorize EA to a family on behalf of a child in order to facilitate the return of a child from foster care placement when the appropriate District Officer Manager (DOM) of the Division of Youth and Family Services (DYFS) has approved a specific plan for the return of a child from foster care placement and all of the following conditions exist:

1. EA has not been used on behalf of this child before under this provision;
2. The county agency is in receipt of detailed written verification from DYFS that the return is barred solely by insufficient or inadequate shelter, food, clothing or house furnishings and there is no other way by which a deficiency can be remedied;
3. The appropriate DOM of DYFS has certified that the return of the child will be effected on a specific date subject to remedy of the deficiency;
4. The return from placement will be to any parent or relative specified in N.J.A.C. 10:90-2.7(a)3; and
5. Upon return of the child, WFNJ eligibility will exist.

(e) EA is also available in cases where only the child is eligible to receive WFNJ cash assistance (that is, the parent-person is non-needy).

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

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

In (b), added "or utilities", "prior", "or imminent homelessness", and "or the absence of a realistic capacity to plan in advance for substitute housing"; added new (b)1, 1i through iii; recodified former (b)1 and 2 as 2 and 3, added second sentence in 3; added 3i and 3ii; and recodified former 3 and 4 as 4 and 5.

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

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

Added a new (b) and recodified former (b) as (c); added (d) and (e).

10:90-6.2 Persons eligible for emergency assistance

Only WFNJ (WFNJ/TANF and WFNJ/GA) recipients, including those determined eligible for WFNJ benefits based on immediate need, and Supplemental Security Income (SSI) recipients, are eligible for emergency assistance.

10:90-6.3 Kinds of emergency assistance authorized

(a) The county or municipal agency is authorized to provide the following kinds of assistance to meet emergency situations when there is no other source of support available: payment for emergency shelter and emergency temporary housing; and allowances for permanent living arrangements including, but not limited to, allowances for retroactive rental, mortgage or utility payments, security deposits for rent and utilities and advance rent, eviction related costs that are authorized by DFD, reasonable costs of transportation required to search for housing, reasonable costs of temporary storage of personal possessions (see (a)4iv below), moving expenses, food, clothing, essential house furnishings including a one-time purchase of an air conditioning unit when medically necessary and, when applicable, the one-time payment of a Citizenship Application Fee and associated fingerprinting fee.

(d) The county agency shall extend emergency assistance beyond the 12-month limit, for up to six additional months, to an assistance unit with dependent children (WFNJ/TANF) when the agency determines that a case of extreme hardship exists, pursuant to (b)1 above. Agencies are to make a decision on extension applications within 15 days after all extension applications are received for that month and inform the recipient of the agency's decision.

1. Each such case shall be reviewed monthly by the county agency to determine if the extreme hardship continues to exist.

2. If, at the end of the first six-month period, extreme hardship continues to exist in an assistance unit with dependent children, the county agency shall provide an additional six months of emergency assistance to no more than 10 percent of those assistance units with dependent children who are currently in receipt of temporary rental assistance.

(e) County or municipal agencies shall extend emergency assistance beyond the 12-month limit to recipients who are diagnosed as HIV positive with symptoms or who have active AIDS, or are terminally ill and are unable to perform activities of daily living, up to a maximum of 12 additional months.

(f) Agencies are to carefully assess the impact of the termination of EA on victims of family violence, rape or incest. If termination would make it more difficult for a recipient to escape family violence or would unfairly penalize the recipient who is or has been victimized by any such violence, or who is at risk of further family violence, then the 12-month limit shall be deferred for up to six months. Authorization for continuing or granting EA because of family violence beyond this limit may be authorized by DFD on a case-by-case basis.

(g) A Commissioner's pilot project is established to grant a recipient who otherwise qualifies for temporary rental assistance or transitional housing benefits with 12 months of emergency assistance benefits, plus any appropriate EA extensions if eligible, without regard to months of EA previously received.

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

Added new (a)1; recodified former (a)1 as (a)2; in (b), substituted "Additional emergency assistance" for "Emergency housing" and added language regarding new emergencies; in (b)1, added last sentence; in (b)1i through iv, added language detailing when an extension of emergency assistance will be given; added new v; and recodified former (d)3 as (e).

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

In (b), substituted "shall" for "may" preceding "be granted" in the introductory paragraph and added 2; in (d), added the second sentence in the introductory paragraph; added (f) and (g).

10:90-6.5 Recipient contribution

(a) Recipients of emergency assistance, except those individuals with households whose whole source of income is

SSI, shall contribute from their income towards payment of all emergency shelter arrangements, including all forms of alternative housing arrangements, such as transitional housing programs, domestic violence shelters, emergency shelters, placement in hotels or motels and temporary rental assistance.

1. If cooking facilities are not available in temporary housing, or are determined inadequate by the agency, or meals are not provided, the recipient shall contribute 50 percent towards the cost of temporary housing.

2. If temporary housing contains cooking facilities, or meals are provided, the recipient shall contribute 65 percent towards housing costs. TRA recipients shall contribute 65 percent towards housing costs.

3. The EA recipient contribution shall be assessed by the county/municipal agency on the basis of all income available to the EA household. The maximum recipient contribution shall be the appropriate percentage of all household income or the cash assistance payment, whichever is less. Once the county/municipal agency has deducted the recipient contribution from the cash assistance payment, the county/municipal agency shall be responsible for forwarding the full shelter payment to the vendor.

4. The county or municipal agency shall begin deducting the monthly contribution for recipients temporarily housed in hotels/motels, emergency shelters or transitional housing after the second full month following the month in which the family was initially placed in the temporary housing.

5. When a WFNJ recipient is housed in a shelter arrangement that requires an out-of-pocket payment, then the recipient's EA contribution percentage (either 50 or 65 percent, as appropriate) shall be adjusted to take into consideration the out-of-pocket payment. The adjusted percentage will be the difference between the percent charged for the out-of-pocket payment and the percentage designated for the EA contribution.

i. Example (65 percent EA contribution required when shelter provides meals): In this situation the WFNJ recipient is obligated to pay an EA contribution of 65 percent of available income toward the cost of temporary housing. The shelter requires an out-of-pocket shelter payment of 30 percent. The agency reduces the 65 percent by the 30 percent being charged for the out-of-pocket payment and uses the resulting 35 percent to calculate the recipient's EA contribution.

ii. Example (50 percent EA contribution required when meals are not provided): In this situation the WFNJ recipient is obligated to pay an EA contribution of 50 percent of available income toward the cost of temporary housing. The shelter requires an out-of-pocket shelter payment of 30 percent. The agency reduces the EA contribution 50 percent by the 30 percent for the out-of-pocket payment and uses the resulting 20 percent to calculate the recipient's EA contribution.

(b) When replacement housing is required to resolve the emergency in a child only case, the agency shall determine the amount of its participation in the payment of the costs of such housing based on the need to house the child(ren) adequately. Therefore, EA shall be provided in an amount sufficient to adequately house the assistance unit and the non-needy parent-person(s). When the eligible child and the non-needy parent-person reside with or plan to reside with other individuals who are not WFNJ recipients, the agency shall not include anyone other than the assistance unit and the non-needy parent-person(s) when determining the amount of the EA payment for housing arrangements. All other individuals who benefit from the living arrangement must contribute toward defraying the costs of the emergency housing.

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

Rewrote (a); in (a)1 and 2, added language regarding meals and housing; inserted new 3; rewrote 4; and added 5. 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), inserted " , except those individuals with households whose sole source of income is SSI," preceding "shall contribute" in the introductory paragraph, and rewrote 5; added (b).

10:90-6.6 Recipient/agency responsibilities

(a) The county/municipal agency shares responsibility with the individual/family in receipt of emergency assistance to resolve the emergency situation and to assist the individual/family to secure a suitable permanent housing arrangement. Receipt of emergency assistance is contingent upon the recipient's taking reasonable steps toward resolving the emergent situation. Reasonable steps shall include the recipient's signature on a written notice of recipient responsibilities while receiving temporary housing/shelter; participation in formulating, complying with and carrying out a plan for service; fulfilling the number of housing searches mutually agreed upon; and following agency recommendations related to resolving the emergent situation. Failure to substantially comply with the service plan will result in termination of EA. In no case shall the EA granted exceed the limits set forth in N.J.A.C. 10:90-6.4 concerning time limits and extensions in situations of extreme hardship.

1. The service plan shall be developed between the county or municipal agency and the recipient of emergency assistance within 10 days of the EA authorization date in order to provide a plan of action aimed at working toward securing permanent shelter and also, where directly related to securing such shelter, at resolving the circumstances that contributed to the emergency situation. When appropriate, development of the service plan shall be coordinated with the development of the individual responsibility plan (IRP) discussed in N.J.A.C. 10:90-4.8. For individuals requesting EA for reason of family violence or the risk of family violence, the EA service plan must be coordinated with any services offered through the designated victim service provider agency and included in the family violence safety and service plan in accordance with N.J.A.C. 10:90-20.1(b)1ii. Every effort shall be made to avoid situations in which the development and execution of one plan infringes upon the development and execution of the other, thereby placing the recipient in

danger of being either sanctioned due to noncooperation or terminated from receipt of EA. The service plan shall include, but is not limited to:

i. Selection of a housing arrangement which takes into consideration the recipient's circumstances, such as mental or physical problems.

(1) Every effort will be made to locate suitable housing in the community of prior permanent residence. If, however, shelter/housing is not available at the most reasonable rate, taking into consideration individual circumstances and services provided, within the municipality of customary residence, the recipient, as a condition of eligibility, shall be obliged to accept shelter/housing outside the municipality of customary residence:

ii. Provision of the following specified services:

(1) Information;

(2) Referral;

(3) Assistance in securing shelter, including transportation;

(4) Assistance in arranging for child care; and

(5) Referral for legal services;

iii. Referral to affordable housing (if known) as well as referral to and/or application for other available benefits or services.

2. The county or municipal agency shall monitor compliance with the service plan at least quarterly.

3. The county or municipal agency shall reevaluate and/or revise the service plan as warranted by changes in the recipient's shelter needs and/or other pertinent circumstances.

i. When emergency assistance has been extended beyond the 12-month maximum found at N.J.A.C. 10:90-6.4(a) above for either an initial period of six months or a second period of six months (applicable to WFNJ/TANF recipients only), the service plan must be revised in order to address the special circumstances which have contributed to the hardship which caused the extension.

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

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

Deleted (a)1iv.

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)1, added the third sentence in the introductory paragraph.

10:90-6.7 Payment for emergency shelter

(a) The county or municipal agency shall issue payment for emergency housing provided in hotels and motels in accordance with the schedule of per diem rates as follows:

<u>Emergency Assistance amounts per day</u>	
1 Person/1 room	\$ 50.00
2 Persons/1 room	\$ 60.00
3 Persons/1 room	\$ 75.00
4 Persons/1 room	\$ 75.00
4 Persons/2 rooms	\$105.00
5 Persons/1 room	\$ 85.00
5 Persons/2 rooms	\$105.00

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

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

In (a), substituted "housing provided in hotels and motels" for "shelter"; inserted per diem rates; and deleted (b).

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

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

In the schedule of per diem rates, increased payments for emergency housing.

10:90-6.8 Intercounty/municipality transfer of EA cases

(a) Whenever a single adult, a couple without dependent children or a family with dependent children requiring the provision of EA benefits moves from one county or municipality (WFNJ/GA only) to another, the following provisions shall apply:

1. When the county or municipality of origin (that is, the county or municipality that granted the emergency assistance benefit) places the individual or family in out-of-county/municipality emergency housing, the county/municipality of origin shall retain financial responsibility for the shelter payments, regular assistance payments and issuance of food stamp benefits, if applicable, as well as other monitoring functions until the homelessness is resolved or permanent housing is obtained. If mutually agreed upon by the two counties or municipalities, the new county or municipality of residence may assume full responsibility for administration of the case, provided transfer requirements promulgated by DFD have been fulfilled.

2. When an EA recipient residing in one county or municipality voluntarily takes up residence in another county or municipality, without county or municipal agency intercession, the new county or municipality of residence shall assume responsibility provided the client remains eligible for EA payments, as well as all other monitoring requirements, including any cash assistance benefits, pursuant to transfer requirements promulgated by DFD. The recipient must apply for cash assistance in the new county or municipality and for food stamps in the new county. The time requirements for such transfers as found at N.J.A.C. 10:90-7 shall apply.

3. When a WFNJ recipient voluntarily moves from one county or municipality to another, with or without county or municipal agency intercession, and a subsequent change in circumstances results in the need for EA, the new county or municipality of residence shall immediately assume responsibility to determine eligibility for EA payments, as well as all other monitoring functions, pursuant to case transfer provisions at N.J.A.C. 10:90-7.

4. Any case transfer management disputes which cannot be resolved locally shall be referred to DFD to determine which county or municipal agency has responsibility for administration of the case. The decision of DFD shall be considered final and binding upon all parties involved.

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

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

10:90-6.9 (Reserved)

Emergency New Rule, R.1998 d.363, effective June 24, 1998 (to expire August 23, 1998).

See: 30 N.J.R. 2778(a).

Adopted concurrent proposal, R.1998 d.476, effective August 21, 1998.

See: 30 N.J.R. 2778(a), 30 N.J.R. 3550(b).

Readopted the provisions of R.1998 d.363 without change.

Repealed by R.2000 d.369, effective September 18, 2000 (operative October 1, 2000).

See: 32 N.J.R. 1695(a), 32 N.J.R. 3433(a).

Section was "Commissioner's pilot project for WFNJ/GA emergency assistance extensions".

10:90-6.10 Commissioner's Long Term Support Program (LTSP) pilot project for emergency assistance extensions

(a) This pilot project is established pursuant to P.L. 1997, c.14, § 10 (Work First New Jersey Act), approved January 29, 1997, wherein the Commissioner of the Department of Human Services is authorized to waive compliance with the requirements of the Work First New Jersey (WFNJ) program to the extent the Commissioner deems it necessary to conduct experimental, pilot, or demonstration projects which are likely to help promote the objectives of the WFNJ program. This section expands upon the provisions governing the granting of extensions of Emergency Assistance (EA) to recipients of WFNJ/General Assistance (GA) EA as found at N.J.A.C. 10:90-6.4(c), WFNJ/Temporary Assistance for Needy Families (TANF), and Federal Supplemental Security Income (SSI) payments, as found at N.J.A.C. 10:90-6.4(d), provided such individuals continue to need EA and are otherwise eligible for EA in accordance with N.J.A.C. 10:90-6.1.

(b) The purpose of the Long Term Support Program (LTSP) is to provide intensive case management and housing referral services to WFNJ/TANF/GA and SSIEA recipients. A comprehensive service plan will be developed for each LTSP participant. The LTSP shall assess each recipient's needs for physical health services, mental health services, transportation needs, more affordable and more permanent housing, financial management, AIDS treatment, substance abuse problems, and other specialized services. The LTSP shall identify EA recipients who possibly are eligible to apply for SSI benefits. Once those needs are identified, the LTSP shall refer the individual to the appropriate agencies and services. The LTSP is effective on October 1, 2002, and intake for the LTSP shall cease on October 1, 2005.

(c) Under the LTSP, the following individuals shall be eligible to apply for an EA extension of up to 36 cumulative months: those WFNJ/TANF/GA and SSI recipients who have received EA payments for 12 cumulative months (WFNJ/TANF/GA or SSI) under N.J.A.C. 10:90-6.4(a); or who have received EA payments for 18 cumulative months (WFNJ/TANF or SSI) under N.J.A.C. 10:90-6.4(d); or who are about to lose eligibility for EA due to the expiration of the six-month 10 percent cap on WFNJ/TANF/GA/EA extensions under N.J.A.C. 10:90-6.4(c) or (d)2; or who have

received EA payments for 12 cumulative months under N.J.A.C. 10:90-6.4(e). EA recipients shall have their application for LTSP assistance processed before processing an application for EA under the 10-percent capped hardship extension (N.J.A.C. 10:90-6.4(c) or (d)2).

1. All individuals enumerated in (c) above shall receive extended EA benefits for the month of October 2002, pending agency action on their application for an EA extension under the LTSP, provided that they continue to need EA; remain otherwise eligible for EA; and are in receipt of EA during the month of September 2002.

2. Continued eligibility for the LTSP shall be reviewed at least once every three months.

(d) A WFNJ/TANF/GA or SSI recipient shall be eligible to receive LTSP benefits when the WFNJ/TANF/GA recipient who is about to lose EA benefits meets one or more of the following criteria:

1. There is documentation of long-term medical or psychological problems, which indicates that the individual is unlikely to ever secure and/or maintain employment. The documentation must be for a period of at least two years and shall consist of at least one approved Form WFNJ-5 (DRS1), Examining Physician's Report, or WFNJ-5S, Confidential Medical-Psychiatric Examining Physician's Report, along with actual medical/psychological evidence that was submitted during the two-year period;

2. There is independent documentation of a history of clinical/medical diagnosis that the individual is mentally and/or physically incapable of self-care, resulting in serious actual or potential harm to the individual. Documentation may include, for example, an approved Form WFNJ-5 (DRS1) or WFNJ-5S, actual medical/psychological evidence, or records of hospitalization;

3. There is documentation of current participation in a substance abuse treatment program, including prescribed related aftercare. (Upon completion of a substance abuse program, including any prescribed follow-up plan for the individual, the individual shall be reevaluated to determine whether continued eligibility for EA exists). Documentation may include, for example, a copy of a completed Form WFNJ-90, Work First New Jersey Drug Treatment Report Form, or copies of attendance records/verification forms from the substance abuse treatment center;

4. There is documentation of a history of mental and/or physical inability to take care of oneself, resulting in serious potential or actual harm to the individual based on agency observation as documented in the case file. Documentation may be provided from the case record, worker's observations supported by a Form WFNJ-6, Work First New Jersey Medical-Social Information Report and/or verification from Community-Based Organizations regarding the individual's mental and/or physical incapacity;

5. There is documentation of a history of recurrent inpatient hospital care or institutionalization due to a clinically/medically diagnosed chronic medical/psychological condition, which renders the individual functionally incapacitated;

6. The individual is age 60 or above. The individual shall be required to apply for other benefits for which they may be potentially eligible, such as Retirement, Survivors and Disability Insurance (RSDI) or SSI;

7. The individual has been diagnosed as HIV positive with symptoms, or has active AIDS, or is terminally ill and unable to perform activities of daily living; or

8. The individual has applied for and is either pending approval of, or appealing a denial of, RSDI and/or SSI disability benefits, which shall be supported by a WFNJ-5 or WFNJ-5S substantiating at least 12 months of disability. The individual shall cooperate with all WFNJ requirements related to applying for RSDI/SSI disability benefits.

(e) The county or municipal agency shall be responsible for, but not limited to, the following LTSP activities:

1. The county or municipal agency shall provide both Form WFNJ/EA-11, Application for the WFNJ Emergency Assistance Pilot Project for the Long Term Support Program, as well as Form WFNJ-76, Application for an Extension of Emergency Assistance, to all those individuals enumerated in (c) above when they are served with Form WFNJ-15 (EA), Notification Form. Recipients shall make application in accordance with the provisions contained in this section.

i. EA recipients shall have their application for LTSP assistance processed before applying for EA under 10-percent capped hardship extension (N.J.A.C. 10:90-6.4(c) or (d)2). The county or municipal agency shall first evaluate the application for participation in the LTSP. Only if LTSP eligibility is not approved shall the county or municipal agency then determine if the individual is eligible for the 10-percent capped hardship extension based on the information provided by the applicant on Form WFNJ-76;

2. Intake for the LTSP shall continue through September 30, 2005. Between October 1, 2002 and October 1, 2005, when a county or municipal agency sends out notices of termination of non-LTSP EA to recipients, the county or municipal agency shall provide both the application developed for the LTSP and the regular application for an extension of EA. The county or municipal agency shall first evaluate LTSP eligibility. If LTSP eligibility does not exist, eligibility for the 10-percent capped hardship extension shall be determined. Recipients shall continue to receive EA benefits until LTSP eligibility has been determined;

3. The county or municipal agency shall not deny or terminate LTSP benefits due to either the LTSP's failure to develop or monitor the LTSP service plan;

4. Applicants for an EA extension under the LTSP shall, as a condition of eligibility, be required to be in full compliance with their LTSP service plan and all other WFNJ requirements, including their Individual Responsibility Plans, as appropriate;

5. The county or municipal agency shall determine eligibility by reviewing the LTSP application and supporting documentation and documenting the agency's determination through use of Form WFNJ/EA-12, Certification Form for the WFNJ Emergency Assistance Pilot Project for the Long Term Support Program, for each eligible recipient.

i. All supporting documentation, including the county or municipal agency's certification of recipient eligibility for LTSP participation, shall be maintained in the recipient's case record.

6. The county or municipal agency shall notify recipients of their eligibility status for an EA extension under the LTSP through the use of Form WFNJ/EA-14, Notification Form for an Extension of Emergency Assistance in the Long Term Support Program;

7. The county or municipal agency shall take all necessary steps to move LTSP recipients who are residing in a hotel, motel, or shelter housing arrangement to either a temporary rental assistance (TRA) housing arrangement or a more permanent housing arrangement as soon as possible, but no later than 60 days from the date of granting an extension under the LTSP. This provision shall not apply to special populations, such as victims of domestic violence and individuals with AIDS who reside in housing arrangements that meet their specific needs;

8. The county or municipal agency shall complete and submit monthly reports on the WFNJ/EA pilot project. Form WFNJ/EA-13, Monthly Enrollment Report on the WFNJ/EA Pilot Project for the Long Term Support Program, shall be used for this purpose;

9. If appropriate, the county or municipal agency shall refer the recipient to Legal Services of New Jersey for the purpose of completing an SSI application, or appealing a denial of an SSI application; and

10. The county or municipal agency is not required to develop an EA service plan when the individual is receiving EA benefits under the LTSP. If not acting as the LTSP service provider, the county or municipal agency shall provide the LTSP agency with a copy of the most recent EA service plan developed for the recipient.

(f) The LTSP shall be responsible for the following activities:

1. A LTSP service plan shall be developed, which shall replace the EA service plan otherwise required under N.J.A.C. 10:90-6.6, within 20 working days of the individual's admission to the LTSP. The LTSP service plan shall address the individual's functional level, re-

sources, skills and supports. Documentation in the service plan shall reflect the effects of referrals by the LTSP to linked services, as appropriate. The LTSP service plan shall also reflect all pertinent information obtained from the EA service plan developed by the county or municipal agency for the recipient; and

2. The LTSP shall evaluate LTSP-eligible individuals to determine which services are required by the recipient, and reflect this in the LTSP service plan. The services may include the following:

i. Referrals to appropriate medical agencies and programs to meet the individual's needs, such as substance abuse and medical services;

ii. Coordinating and/or finding appropriate housing for the individual. The LTSP shall conduct an assessment of the recipient's domicile to assure that it is a safe environment;

iii. Financial management, including budget management, when arranging for cash assistance programs. The LTSP shall evaluate whether it is appropriate for the LTSP to serve as representative payee for the individual's cash assistance benefits;

iv. Transportation arrangements;

v. Assuring that the recipient has been referred to apply for SSI, RSDI, or other cash benefits to which the recipient might be entitled;

vi. Mental health screening and services; or

vii. Other emergency services, on an individual as-needed basis.

(g) Those EA recipient and agency responsibilities delineated at N.J.A.C. 10:90-6.6, other than the requirement to develop an EA service plan, are required in the LTSP pilot project.

(h) Recipients of an EA extension under the LTSP who fail to comply with their LTSP service plans or other WFNJ requirements, including their IRP, as appropriate, shall have their EA extension terminated.

(i) Recipients who are not granted an EA extension under the LTSP pilot project, and who request a hearing concerning their denial, shall receive continued EA pending a hearing decision if they are in full compliance with all other WFNJ requirements and signify their desire to receive continued EA benefits.

(j) An LTSP recipient shall be discharged from the LTSP for the following reasons, after allowances for timely advance notice as specified at N.J.A.C. 10:90-9.1(b) and (c):

1. The individual no longer needs the services provided by the LTSP. The LTSP shall document all attempts to link the individual to all needed services before the individual's LTSP participation is terminated;

2. The individual refuses to participate in the LTSP;
3. The individual fails to comply with either his or her LTSP service plan, or other WFNJ requirements; or
4. The individual becomes ineligible for WFNJ/TANF/GA or SSI EA assistance.

New Rule, R.2000 d.369, effective September 18, 2000 (operative October 1, 2000).

See: 32 N.J.R. 1695(a), 32 N.J.R. 3433(a).

Recodified from N.J.A.C. 10:90-6.11 and amended by R.2003 d.226, effective June 16, 2003.

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

In (c), deleted “; or who are otherwise eligible for EA, but will lose eligibility for the EA under the LTCI pilot project after September 30, 2000 due to the LTCI time limits.” in the introductory paragraph; substituted “2002” for “2000” and “2005” for “2003” throughout. Former N.J.A.C. 10:90-6.10, Commissioner’s pilot project for emergency assistance extensions for long term chronically impaired (LTCI) individuals, repealed.

SUBCHAPTER 7. ADDITIONAL AGENCY RESPONSIBILITIES

10:90-7.1 Establishment and maintenance of case records

(a) The case record is the official file, whether computerized or hard copy, of forms, chronological narrative, correspondence and other documents pertinent to the application and determination of eligibility for WFNJ benefits. It constitutes a complete record of the county/municipal agency’s decisions and actions concerning eligibility for assistance in each case. Since it is the record on which decisions to grant, deny or continue assistance in accordance with law and regulations are made, it is mandatory that a case record be established and maintained for every individual who applies for and/or receives WFNJ benefits.

1. Records shall also be established and kept when emergency assistance or service payments are made to or on behalf of SSI recipients. Records shall likewise be established when burial expense payments are made on behalf of non-WFNJ recipients pursuant to the listing of persons who may be eligible for such payments as found in N.J.A.C. 10:90-8.2.

(b) The case record shall be kept confidential as described in N.J.A.C. 10:90-7.7.

(c) It is the right of every applicant for or recipient of WFNJ or his or her authorized representative to review the contents of his or her case file. Applicants or recipients or their authorized representatives shall make an appointment with appropriate agency staff when review of the case file is desired so that the review may take place at the convenience of all the parties. Requests for review shall be responded to in a reasonable amount of time. Applicants shall be given the opportunity to review their case file and to obtain copies of materials contained in their file(s). See N.J.A.C. 10:90-9.11 concerning access to the case file and related documents prior to a fair hearing.

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

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

In (c), added the fourth sentence.

10:90-7.2 Contents of the case record

(a) The validity of all case action rests primarily on the corroborating data in the case record, whether computerized or hard copy. The following items shall be part of the case record:

1. All completed forms necessary for the appropriate assistance programs;
2. A record of any contact with the WFNJ client and a summary of the information obtained;
3. All related referrals, correspondence, memoranda and documents, except those which are required by law or regulation to be maintained in some other files; and
4. A record of all pertinent verifications, such as, but not limited to, birth certificates, Social Security numbers, driver’s licenses, and so forth.

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

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

10:90-7.3 Maintenance, custody, movement and transfer of case records

(a) The county/municipal agency shall maintain an up-to-date record of all cases of recipients approved to receive assistance while out of the State.

(b) There shall be a supervisory review of the status of these cases to assure that no payments are issued beyond the period for which approval has been given, unless and until an extension of continued assistance is approved by the DFD, and that payments are terminated when and if eligibility ceases.

(c) Recipients who are receiving assistance out-of-State shall be afforded the same full advance notice, including information about their hearing rights, in accordance with present policy. A copy of any such notice shall be sent to any out-of-State agency with which there has been communication regarding the case.

(d) Responsibility for WFNJ benefits shall be transferred from one county to another when a recipient/family moves to another county.

(e) A temporary visit by the assistance unit shall not be considered to be a change of county/municipal residence until that visit has continued for more than a one-month period.

(f) Those WFNJ/TANF cases which receive only Medicaid or a Medicaid extension shall also be transferred to the new county of residence in the same manner as active WFNJ/TANF cases when the family moves from the county of origin.

(g) The well-being of recipients shall not be adversely affected by a transfer from one county/municipality to another and their right to uninterrupted assistance shall not be prejudiced by any disagreement that arises between the county/municipality of origin and the receiving county/municipality. In no event shall assistance be delayed or suspended when a recipient moves from one jurisdiction to another. Assistance, including emergency assistance when appropriate, shall be provided by the county/municipality where the applicant/ recipient resides. For a transfer case, if the required documentation is not within the original transfer package, the receiving agency shall contact the county/municipality of origin to obtain the needed information. The sending county/municipal agency shall act promptly on all requests for information.

1. The county of origin shall have the responsibility to:
 - i. Transfer, within five working days from the date it is notified of the actual move, a copy of all pertinent case material to the receiving county; and
 - ii. Instruct the client to contact the receiving county immediately in order to arrange for a transfer of assistance.
2. The receiving county shall have the responsibility to:
 - i. Communicate with the client if case material is received prior to client contact and the client's new address is known;
 - ii. Grant assistance for the next month if initial case material has been received before the 10th day of the month; and
 - iii. Immediately notify the county of origin of the date case records were received and the date assistance will be granted.

(h) Any case transfer management disputes which cannot be resolved locally shall be referred to the DFD to determine which county/municipal agency has responsibility for the case. In such instances, the decision of the DFD shall be considered final and binding on all parties involved.

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).
 Rewrote (g).

10:90-7.4 Issuance of photo identification cards

(a) Each WFNJ/TANF adult recipient shall be required, as a condition of eligibility, either to participate in personal identification requirements, which may employ the use of high technology processes, or to accept a photo identification (ID) card, as appropriate, and agree to be photographed for the purpose of placing a photo on an ID card unless refusal to do so is based on the reasons found in (d)3 and 4 below. Agencies administering the WFNJ TANF/GA program shall have the option of issuing a photo ID card to recipients.

(b) The county agency shall establish a procedure for completion of the ID card that shall ensure that the WFNJ recipient need make only one visit to the agency for that purpose.

(c) Each photo ID card shall, at a minimum, include the name, case number, color photograph and signature of the recipient. The county seal or other type of logo produced via a validation plate shall overlap upon the ID card and the photo to preclude substitution of the photo.

(d) If the payee in the assistance unit refuses to accept the ID card or refuses other than for reasons of religious belief or disfigurement (see (e)3 and 4 below) to be photographed for the purpose of placing a photo on an ID card, the following shall apply to families with children:

1. If there is only one adult in an assistance unit with dependent children, that individual shall be considered ineligible for assistance and any WFNJ benefits to which the children in the assistance unit are entitled shall be issued in the form of protective payments (see N.J.A.C. 10:90-3). The ineligible adult may not be named as payee.
2. If there are two adults in the assistance unit with dependent children, the other adult shall be given the opportunity to become the payee, be photographed and accept the ID card. If the other adult also refuses to be photographed and/or accept the ID card, both adults shall be considered ineligible for WFNJ benefits and any benefits to which the remaining members of the assistance unit are entitled shall be issued in the form of protective payments. Neither ineligible adult may be named as protective payee.
3. In instances where a recipient payee's religious beliefs do not allow the taking of his or her photograph, the payee may accept an ID without a photograph.
4. In instances where a recipient payee does not wish to be photographed because of disfigurement, the payee may accept the ID card without a photograph.
5. Where a protective payee has been appointed, such payee may elect to either accept or refuse an ID card, with or without a photograph. This equally applies to non-needy parent persons and SSI recipients.

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).

Rewrote (a); deleted former (b) and recodified former (c) through (e) as (b) through (d).

10:90-7.5 Lost or stolen benefits

(a) Upon notification from a recipient that his or her WFNJ benefits have been lost or stolen, the county/municipal agency shall immediately secure the recipient's affidavit of the facts and circumstances. In a situation in which the benefits were issued by check, the county/ municipal agency shall file a stop payment order with the bank. Within 10 working days, the county/municipal agency shall either issue a duplicate check or provide written notice that the check shall not be replaced. The notice will be provided in accordance with N.J.A.C. 10:90-9 concerning notices and fair hearings.

(b) The county/municipal agency shall decline to issue a replacement check when any of the following exists:

1. The payee of the check fails or refuses to make a report to the local police about a stolen check or fails or refuses to cooperate in a police investigation;
2. The payee of the check fails or refuses to provide an affidavit of the facts and circumstances of the loss or theft;
3. The endorsement on the original check is certified to be that of the payee by a person qualified to present expert testimony in handwriting analysis before the New Jersey courts. Such expertise may be available through or from the New Jersey State Police, the Office of the Attorney General, a county prosecutor, a member of the American Society of Questioned Document Examiners or a member of the National Association of Document Examiners; or
4. The identification of the person cashing the original check as the payee or representative of the payee is convincingly established by one or more mechanical or procedural methods such as a photograph, a videotape, or the recording at the time of the transaction of the number of an ID card which has not been reported lost or stolen.

(c) In any situation in which an original check is later returned bearing the true endorsement of the intended payee, the agency will shall honor the check, even though a stop payment order may have interfered with its negotiation, provided 10 calendar days prior to honoring the check the intended payee is afforded advance written notice and an opportunity to contest the intended action. The county/municipal agency shall refuse to honor an original check which is returned without the true endorsement of the intended payee, the effectiveness of a stop payment order notwithstanding.

(d) In any situation in which the issuance of a duplicate check in accordance with (a) above produces a payment in excess of authorized amounts, the agency shall observe N.J.A.C. 10:90-3 and 11, as appropriate.

(e) In a situation in which benefits are issued by way of the EBT system the county/municipal agency shall follow the policies and procedures governing the replacement of benefits and EBT cards as found in N.J.A.C. 10:88-6.

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 second sentence; rewrote (e).

10:90-7.6 Reporting of child abuse and neglect

County and municipal agencies are required by State law to report known or suspected instances of or risk of child abuse and neglect of a child to the Division of Youth and Family Services. Instances of abuse or neglect involve situations where a child experiences physical or mental injury, sexual abuse or exploitation or negligent treatment or maltreatment under circumstances which indicate that the child's health or welfare is threatened.

10:90-7.7 Confidential nature of information

(a) Information about applicants for or recipients of WFNJ benefits shall be used or disclosed only for purposes directly related to the administration of public assistance and related services, including Title IV-E (foster care and adoption assistance programs), HUD Section 8 housing, school lunch programs, which cannot be offered without such information. County/municipal officials and appointees, members of the governing body and county/municipal employees not under the jurisdiction of the county/municipal agency director are not permitted access to public assistance records.

1. Any person or entity under contract to provide services to the program shall comply with this section.
2. The provisions of this section shall not be construed as prohibiting the exchange of information among agencies, organizations or other entities as prescribed by the Commissioner or pursuant to Federal requirements.

(b) Pursuant to the New Jersey Address Confidentiality Program Act, P.L. 1997, c.369, eligible WFNJ participants, who are victims of family violence, may apply to participate in the New Jersey Address Confidentiality Program (ACP) to protect confidentiality of personal information for victims of family violence. The WFNJ agency shall advise individuals of the ACP in conjunction with the FVO notification process at the time of initial application. Participants that make use of this service may utilize a substitute address service and will receive security records handling from State and local government agencies.

1. An individual interested in making application for the ACP must be a victim of domestic violence who has relocated to an address unknown to the batterer. Applicants must be at least 18 years old, an emancipated minor, a parent or guardian acting on behalf of a minor or guardian acting on behalf of an incapacitated person.
2. Local victim assistance programs such as the Department of Human Services' (DHS) Designated Domestic Violence Programs and/or Rape Crisis Programs and Victim Witness Advocacy Programs (within each county prosecutor's office) will work with victims of domestic violence to complete applications and forward them to the ACP's office. An ACP staff person will review the application and certify an individual as a program participant and issue an ACP authorization card designated by the Division on Women.

3. Once accepted into the ACP, participants may use their substitute address when creating records with State and local government agencies. The ACP authorization card must be presented to an agency when requesting the use of a substitute address.

(c) Information considered confidential includes, but is not limited to, the following:

1. Names and addresses, including lists; and
2. Information contained in applications, reports of investigations, reports of medical examinations, correspondence, evaluations (whether written or verbal), and other records concerning the condition or circumstances of any person from whom or about whom information is obtained.

(d) The county/municipal agency director is authorized to release, subject to the consent of the client or as required pursuant to Federal rules, relevant and necessary information under the following circumstances:

1. For clearances on applications and cases with social service agencies, banks, Bureau of Vital Statistics, insurance companies, and so forth;
2. To procure a service or benefit for the client; or
3. To provide necessary information to agencies subcontracted to provide services and/or benefits to clients.

(e) Recipient address information shall be furnished to State and local law enforcement officials attempting to locate a fugitive felon (see N.J.A.C. 10:90-2.8 concerning fugitive felons). Likewise, pursuant to P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the safeguards listed in this section shall not prevent a county/municipal agency from furnishing a Federal, State, or local law enforcement agency with the current address of any recipient, if the agency provides the county/municipal agency with the name of the recipient and notifies the county/municipal agency that the information is necessary for the law enforcement agency to conduct official duties and the location and apprehension of the recipient is within such official duties.

(f) Information concerning applicants or recipients shall also be released to the Division of Youth and Family Services in instances involving child abuse and neglect as described in N.J.A.C. 10:90-7.6.

(g) Any member of the county/municipal agency staff called to testify and/or produce agency records in conjunction with a judicial or quasi-judicial proceeding shall confer with county/municipal agency legal counsel concerning the nature of testimony and the provision of records to the court.

(h) Information necessary to the performance of quality assurance reviews, regular or special audits by State staff or a municipality's registered municipal accountant (RMA) shall be released.

1. County and municipal agencies shall cooperate in any quality assurance reviews conducted by staff of the DFD. Failure to do so shall result in the imposition of penalties as prescribed by the DHS Commissioner pursuant to authority granted in N.J.S.A. 30:1-12 concerning

the imposition of sanctions where agencies have failed to comply with rules promulgated by DHS.

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).

Added a new (b) and recodified former (b) through (g) as (c) through (h).

10:90-7.8 Settlement of suits and claims

(a) Pursuant to P.L. 1997, c.38, (N.J.S.A. 44:10-64), upon liquidation of a claim or interest (other than liquidation of nonexempt real property) for which a written promise to repay (Form WFNJ-10D, Agreement to Repay) has been executed, regardless of whether or not the person(s) involved are receiving assistance at the time, the county or municipal agency shall notify the person(s) of its claim and pursue repayment of the assistance granted from the date of eligibility for that payment, with the exception of any portion of a personal injury award which a court specifically awards to a child to make the child whole as a result of an injury, or any other benefits specifically protected by law.

1. RSDI, SSI (unless subject to interim assistance agreements), Railroad Retirement, Worker's Compensation, Veteran's Administration benefits, temporary disability benefits, and term life insurance are exempted by law from the repayment process. However, lump sum payments from these sources are subject to the lump sum regulations at N.J.A.C. 10:90-3.18.

2. Nothing in these rules shall be held as preventing the county/municipal agency from moving to recover assistance granted from other sources, such as, but not limited to, payments in the nature of a windfall, such as inheritances, lottery, casino and racetrack winnings. Such funds shall be subject to the rules of this section, less any portion which has been disregarded in order to purchase items which are integral to promoting self-sufficiency. Any remaining funds shall then be subject to the lump sum income provisions at N.J.A.C. 10:90-3.

(b) Whenever the county/municipal agency ascertains that a recipient or former recipient, living or dead, of WFNJ/TANF or WFNJ/GA, or any of its predecessors, including a child who dies prior to his or her 21st birthday and leaves an estate, has real or personal property above what is necessary for his or her maintenance and the maintenance of a spouse or minor children, the agency shall move, in reliance upon established legal procedures, to recover all assistance paid. The county/municipal agency's claim shall take priority over all other unsecured claims, except for reasonable funeral expenses and terminal medical and hospital expenses.

(c) If a person refuses to repay assistance granted pending liquidation of a claim or interest, including refusal by any party acting for or on behalf of either or both parents or relative, the county/municipal agency shall take all necessary and proper action under State law to enforce the promise to repay, including the withholding of benefits from the uncooperative individual(s) for as long as the refusal to repay persists.

(d) Any partial or initial payments made to the county/municipal agency from the settlement of a claim or interest made by or on behalf of a single adult, couple without dependent children, either or both parents or caretaker relative, subsequent to notice of claim and prior to express written approval by the county/municipal agency, shall obligate that person to the county/municipal agency in the amount of the payment.

(e) The county/municipal agency may, with the consent and approval of the DFD, compromise and settle any claim for repayment of WFNJ benefits or its predecessors. At the discretion of the agency, up to \$500.00 may be deducted from the proceeds of a claim or interest, without the consent and approval of the DFD. Primary consideration shall be given to whether or not release of additional funds will promote the goal of self-sufficiency, if this consideration is appropriate under the circumstances.

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

In (e), added language permitting agency to deduct funds from the proceeds of a claim for repayment of benefits.

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), inserted the N.J.S.A. reference in the introductory paragraph, added a new 1, recodified former 1 as 2 and rewrote the paragraph; in (b), deleted the last sentence.

SUBCHAPTER 8. SPECIAL PROVISIONS FOR PAYMENT OF FUNERAL AND BURIAL EXPENSES

10:90-8.1 Payment of funeral and burial expenses

(a) Payment of funeral and burial expenses may be provided for recipients of WFNJ and certain others as identified in this subchapter. Payments for such expenses are not a benefit automatically payable at death, but are a means of supplementing the resources, when available, of the deceased recipient, of his or her family, including voluntary contributions.

(b) Payment, if issued, shall be made by the chargeable county or municipal agency which occurs first in the following order: the agency which granted assistance for the month in which the person died; the agency which would, but for the death, have made the next grant of assistance; the agency which made the most recent grant of assistance; or the agency which took an application for assistance and had determined the person eligible but had issued no benefits prior to death. With respect to SSI recipients, the chargeable county agency for any burial and/or funeral claim is the county agency of the county in which the decedent was last a resident. Residence is not changed by entering a hospital but is changed by entering a residential health care facility or long-term care facility.

(c) It is recognized that county agencies may encounter situations where burials must be provided at public expense for persons who do not come within the classifications specified in N.J.A.C. 10:90-8.2. Such burials are governed by statutes unrelated to the WFNJ program. State aid cannot be used to pay for these burials. The statutes applicable to this situation include N.J.S.A. 40A:9-49.1.

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 (b), added the second and third sentences; in (c), substituted "county agencies may" for "municipal agency directors, who are also exercising the functions previously charged to the overseer of the poor," preceding "encounter situations", substituted "WFNJ" for "WFNJ/GA" preceding "program" and deleted "44:1-157 and" preceding "40A:9-49.1".

10:90-8.2 Persons who may be eligible

(a) Claims for funeral and burial expenses may be received and considered with respect to:

1. A person who was in active receipt of assistance at the time of death, including WFNJ/TANF, WFNJ/GA and Supplemental Security Income (SSI) benefits;
2. A person for whom eligibility for WFNJ/TANF, WFNJ/GA, SSI, or Medicaid Only can be otherwise determined provided that an application for assistance was made prior to death. This includes stillborn infants and deceased newborns who would have been included in a previously existing WFNJ case. It also includes parents and infants for whom application for WFNJ had been made in anticipation of eligibility at the birth of a child;
3. A person whose eligibility had been established within 15 calendar days prior to death, but for whom no payment of WFNJ/GA had been issued;
4. A former recipient of WFNJ or its predecessors whose admission to any public institution within this State, other than a penal or correctional institution, was the only reason for the suspension or termination of the assistance payment, and whose death occurred within six months of confinement to such institution;
5. A person who died while a patient in a general hospital and who had been receiving WFNJ/GA at the time of admission to the hospital;
6. Recipients of Medicaid Only residing in the community and in Title XIX (Medicaid approved) facilities;
7. Recipients of Medically Needy benefits in nursing homes;
8. Recipients of SSI who were in hospice care programs;
9. Individuals in Adult Foster Care;
10. Recipients of the Community Care Program for the Elderly and Disabled (CCPED);

11. Individuals who died while satisfying a WFNJ sanction;

12. Children who are subject to the family cap provisions of the WFNJ program and its predecessors;

13. Recipients of the AIDS Community Care Alternative Program (AACAP);

14. An individual who had received WFNJ/GA at any time within six months prior to his or her death;

15. Individuals determined eligible for Assisted Living services on the basis of the receipt of SSI payments or eligibility for Medicaid Only;

16. Residents of long term care facilities, who entered the facility as Medicaid patients but elected to receive the services of a hospice agency while in the facility as long as the individual remains financially eligible for Medicaid while receiving hospice care. This does not apply to individuals receiving hospice care in the community;

17. Recipients of the New Jersey Care-Special Medicaid Program for Aged, Blind and Disabled; or

18. Recipients of SSI (or its predecessor programs) or Medicaid Only who were admitted or committed to any tax supported institution within this State, other than a penal or correctional institution, with such admission or commitment being the only reason for suspension or termination of public assistance, and whose death occurs while confined to such institution.

(b) Claims for the funeral or burial expenses incurred by a family in receipt of extended Medicaid (see N.J.A.C. 10:90-5.9(c)) for any child who is born or legally adopted by the family during the extension period are not authorized for payment.

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

Added (a)14.

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), inserted "for WFNJ/TANF, WFNJ/GA, SSI, or Medicaid Only" preceding "can be otherwise determined" in 2, substituted "Adult Foster Care" for "Alternative Family Care (ACF)" in 10, and added 15 through 18; added (b).

10:90-8.3 Funeral and burial contracts

(a) The right and responsibility to arrange and contract for funeral and burial services rests with the next of kin of the decedent. In the absence of any next of kin, arrangements may be made by any interested party such as a friend, member of the clergy, or nursing home or hospital administrator. This subchapter shall not control or impair a contract between a funeral director or next of kin or other party except to the extent that the contract shall not result in a claim against the county or municipal agency or against any assets legally owed to the agency.

1. In the complete absence and only in the complete absence of any next of kin and when no other person is

available to make the arrangements, the county or municipal agency may do so. The availability of funds is not to be a factor in determining whether or not the agency will make the arrangements. The county or municipal agency will select funeral directors for such contracting in consultation with the county association of funeral directors.

i. A contract negotiated by a county or municipal agency shall be in accord with all provisions of this subchapter, including the cost, even though the cost may not be met from public funds.

ii. A contract negotiated by a county or municipal agency may be concluded orally but shall be confirmed by letter from the county or municipal agency to the funeral director.

(b) Regardless of whether or not it is one of the contracting parties, the county or municipal agency shall not authorize any cremation. Nor shall it authorize any postmortem examination or any other procedure which is not a part of regular funeral and burial services.

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

10:90-8.4 Definitions and conditions

(a) When either of the contracting parties contemplates that a county or municipal agency will be asked to pay any part of the cost of a funeral and burial or cremation, either or both parties shall notify and consult with the county or municipal agency before the services take place. The probable allowance or disallowance of the claim shall be discussed at that time, but the agency is under no obligation to make a commitment of payment. The requirement of prior notice may be waived by the county or municipal agency upon a showing of good cause (as determined by the agency) which is not prejudicial to the validity of the claim.

1. If, however, the religious traditions of the decedent mandate that burial must occur within a timeframe which will not permit prior notice due to closure of the county or municipal agency on weekends or holidays, either or both of the contracting parties shall be permitted to notify the appropriate agency of the anticipated petition for payment on the first business day following the day of burial.

(b) Rules concerning the submission of petition for payment are the following:

1. The funeral director or other claimant shall, within 30 calendar days following burial or cremation, submit to the county or municipal agency a petition on Form WFNJ-11, or a substantially similar document acceptable to the agency, which certifies to services rendered, to payments contracted, received and expected; and to compliance with all applicable rules and regulations. Petitions submitted beyond the 30 calendar day period may be considered upon a showing of good cause (as determined

by the agency) which is not prejudicial to the validity of the claim.

2. A claim filed with a county or municipal agency for funeral, burial or cremation is not a demand for payment owing under a contract but is merely a petition for an allowance to be granted or denied consistent with these regulations. It has the effect of a demand, however, when the agency was the contracting party.

(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) 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. Cremation as well as burial of the urn are permissible expenses and are to be charged toward the burial 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.

1. The county or municipal agency may, in any case in which it determines that any of the resources in N.J.A.C. 10:90-8.4(c) should be waived or omitted to avoid hardship or inequity, present a recommendation to the DFD for disposition.

(b) The payment to be made is the maximum total of allowances as reduced by the combined resources of the decedent. 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.

(c) Payments 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.

(d) The Statewide Inheritance Tax Waiver Affidavit (Form L-10) shall be used by agency directors to release funds from accounts of deceased recipients with balances of less than \$2,000 for use in defraying funeral/burial cost. The county surrogate shall appoint the county/municipal welfare director as the administrator of the intestate decedent's estate upon presentation of a death certificate. The banks must release the bank account(s) to the agency director when presented with a Short Certificate and the L-10 form in accordance with the provisions of N.J.S.A. 54:35-19.

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).

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 which should have been available but were not known or made available, the county or municipal agency shall immediately take all appropriate steps to secure its rights to refund or recovery.

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

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

10:90-8.8 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 repayment 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.

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

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

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

1. The county or municipal agency has information confirming the death of a recipient or of the payee when there is no relative to serve as the new payee;
2. The county or municipal agency receives a clear written statement signed by a recipient that he or she no longer wishes to receive assistance, or that provides information which requires termination or reduction of assistance. In such instances, the recipient must indicate, in writing, that he or she understands that supplying such information will result in a reduction or loss of assistance;
3. The payee has been admitted or committed to an institution, and payments to that individual are no longer permitted under State law;
4. The recipient has been placed in a long term care or intermediate care facility, or is hospitalized;
5. The recipient's whereabouts are unknown and the county or municipal agency mail directed to him or her has been returned by the postal service indicating no known forwarding address. The recipient's benefit must, however, be made available to him or her if his or her whereabouts become known during the payment period of issuance covered by the returned check, unless (d)5i below applies.

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

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

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

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

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

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

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

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

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

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

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

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

10:90-10.4 Resettlement

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

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

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

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

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

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

10:90-10.6 Eligibility

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

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

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

1. Rules concerning WFNJ/GA type cases are as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (d), rewrote 1.

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

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

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

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

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

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

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

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

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

8. Determination of eligibility for refugee medical assistance (RMA), shall be based on the applicant's income and resources on the date of application, rather than on a refugee's income averaged prospectively over the RMA application processing period. A newly arrived refugee, who applies for RMA soon after arrival and becomes employed within the first 30 days in the U.S. subsequent to filing the RMA application, shall not lose RMA eligibility.

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

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

10:90-10.8 Social services

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

10:90-10.9 Fair hearings

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

10:90-10.10 Case records

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

(b) Each case record shall contain:

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

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

SUBCHAPTER 11. INTENTIONAL PROGRAM VIOLATION

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

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

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

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

1. The misrepresentation or concealment must have been deliberate and done knowingly. IPV does not exist if the misrepresentation or concealment is the result of an unintentional act, a misunderstanding or mental incompetence. Distinction must also be made between an intent to defraud on the part of an individual, and omission, neglect or error by the county or municipal agency's representatives in securing and recording information;
2. The misrepresentation or concealment must have been undertaken for the express purpose of receiving or obtaining benefit from, or attempting to receive or obtain benefit from, a payment of assistance to which the individual was not entitled; and
3. If the misrepresentation or concealment, or the attempt to misrepresent or conceal a relevant fact, had been known to the county or municipal agency, assistance would not have been granted or would have been granted in a lesser amount.

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

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

(e) A person is presumed innocent until proven guilty. Except as provided in N.J.A.C. 10:90-11.6(b), assistance shall be continued to an eligible person, even though there is reason to suspect that IPV has been committed, while the facts are under review by the county or municipal agency, or the law enforcement authority.

(f) The county or municipal agency shall ensure that an individual under investigation shall have the following rights:

1. The county or municipal agency shall ensure that information obtained from or concerning a person under investigation shall be restricted in accordance with N.J.A.C. 10:90-7.7. The county or municipal agency shall take special precautions in obtaining information from a third party so that no accusations relevant to the alleged IPV are disclosed, including the reason for the investigation or the nature of the allegation, without the written consent of the individual under investigation.

2. The county or municipal agency shall ensure that investigative methods do not infringe on the civil liberties of the individual or interfere with due process of law. The county or municipal agency shall be prohibited from obtaining forced entry, conducting residence searches without consent of the client, making home visits during normal sleeping hours (generally 10:00 P.M. to 7:00 A.M.), or requiring that an individual be subjected to a lie detector test.

3. Rules on warning and waiver of rights are as follows:

i. When the questioning of an individual regarding a possible charge of IPV becomes accusatory in nature, no individual may be asked or permitted to sign any waiver of rights before he or she has had an opportunity to read, or if necessary have read to him or her, the individual's right to refrain from answering any questions and to terminate the interview at will at any time. The individual shall also be given a copy of the statement explaining the individual's rights. The individual shall also be advised at that time of the opportunity, where available, to obtain legal counsel through Legal Services, the Legal Aid Society, or the lawyer referral service of the Office of the Public Defender. The individual shall be advised at that time that if he or she requests the presence of an attorney, the county or municipal agency shall postpone the interview for a reasonable period of time so that the individual may arrange for legal representation.

ii. The county or municipal agency representative shall ask if the individual wishes to sign the waiver of rights statement, indicating that he or she acknowledges his or her rights and agrees to discuss the matter without the presence of an attorney. The county or municipal agency representative shall witness the waiver by signing and dating the document. A copy of the signed document shall be given to the individual.

iii. If the individual refuses to sign the waiver, no further questioning shall occur at this time. If the individual requests the presence of an attorney, the county or municipal agency shall postpone the interview for a reasonable period of time so that the accused individual may arrange for legal representation. However, the investigation shall not be delayed pending the interview.

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

10:90-11.2 Methods of determining IPV

(a) The county or municipal agency shall proceed against any individual member of an WFNJ assistance unit, regardless of WFNJ payment status, who it believes has committed IPV. The county or municipal agency may secure a finding of IPV either through an administrative disqualification hearing conducted by the Office of Administrative Law (OAL), or a court of appropriate jurisdiction. In proceed-

ing against any such individual, the county or municipal agency shall coordinate the IPV investigation and any resultant hearing with any action being taken under the Food Stamp Program, when the factual issue(s) arises from the same or related circumstances. A finding of IPV may also be made if the accused signs either the waiver of right to an administrative disqualification hearing (N.J.A.C. 10:90-11.4), or a disqualification consent agreement (N.J.A.C. 10:90-11.9).

(b) A referral for an administrative disqualification hearing or referral to a court of appropriate jurisdiction shall be initiated by the county or municipal agency whenever the county or municipal agency has sufficient documentary evidence to substantiate that an individual has intentionally committed one or more acts of IPV, as defined at N.J.A.C. 10:90-11.1, regardless of the current eligibility of the individual.

10:90-11.3 Referral for administrative disqualification hearing

(a) Referral for an administrative disqualification hearing shall be made:

1. When the facts of the case do not warrant prosecution through the court system;
2. When a case previously referred for prosecution is declined by the appropriate legal authority; or
3. When no action has been taken on a case which has been referred for prosecution and the county or municipal agency has decided to formally withdraw the referral.

(b) A referral for an administrative disqualification hearing shall not be made against an individual whose case is currently being referred for prosecution, or subsequent to any action taken against the accused individual by a court of appropriate jurisdiction.

(c) IPV cases which are referred to the prosecutor and/or a court of appropriate jurisdiction and are handled through prosecution, pre-trial intervention, or are plea-bargained shall not be subsequently referred for an administrative disqualification hearing.

(d) The county or municipal agency shall consolidate an individual's fair hearing with an administrative disqualification hearing based on the same or related circumstances, provided that the individual receives prior notice of the consolidation.

10:90-11.4 Waiver of right to administrative disqualification hearing

(a) The accused individual shall have the option of waiving his or her right to an administrative disqualification hearing. The county or municipal agency shall provide written notification of this option to the client only after ensuring that the evidence against the client has been

reviewed by someone other than the eligibility worker assigned to that case and that such evidence warrants the scheduling of a disqualification hearing. A mandatory written notification, which informs the individual of the option of waiving his or her right to a disqualification hearing, shall include:

1. The date that the signed waiver must be received by the county or municipal agency to avoid the holding of a hearing and a signature block for the accused individual;
2. A statement explaining that the caretaker relative must likewise sign the waiver if the accused individual is not the caretaker relative;
3. An appropriately designated signature block for the caretaker relative;
4. A statement explaining the accused individual's right to remain silent concerning the charge(s), and that anything said or signed by the individual concerning the charge(s) can be used against him or her in a court of law;
5. A statement explaining that waiver of the individual's right to appear at a disqualification hearing may result in a disqualification penalty and a reduction in the assistance payment for the appropriate period, even if the accused individual does not admit to the facts as presented by the county or municipal agency;
6. A statement indicating that the accused individual shall be provided the opportunity to specify whether or not he or she admits to the facts as presented by the county or municipal agency; and
7. The telephone number and, if possible, the name of the person at the county or municipal agency to contact for additional information.

10:90-11.5 Administrative disqualification hearing procedures

(a) Administrative disqualification hearings will be conducted in accordance with the requirements of this section, and with those stipulated under N.J.A.C. 1:1 and 1:10. OAL will assign an administrative law judge (ALJ) to preside over the hearing.

(b) Administrative disqualification matters shall be transmitted by DFD to the OAL for the purpose of conducting a hearing pursuant to N.J.A.C. 1:1 and 1:10.

(c) The final decision shall be made by the Director of DFD based on the hearing record, and shall comply with Federal and State law and regulations.

(d) The hearing record shall be retained for a period of three years. This record shall be available to the WFNJ assistance unit, or its representative, at any reasonable time for copying and/or inspection.

(e) Within 90 calendar days of the date the individual is notified in writing that an administrative disqualification hearing has been scheduled, the hearing shall be conducted and a decision shall be rendered.

(f) The county or municipal agency shall provide advance written notice of the hearing to the individual suspected of IPV at least 30 calendar days in advance of the date an administrative disqualification hearing has been scheduled. The notice shall be mailed by certified mail-return receipt requested. In the event that the individual refuses to accept delivery of the advance notice and the mail receipt notes that fact, the receipt will be accepted as proof of notice served. The certified letter shall be clearly marked "deliver to addressee only" in order to ensure that notice is served to the correct individual. A return receipt for certified mail which contains the signature of an individual other than the person addressed is insufficient evidence that proper advance notice was given. Letters sent by certified mail which are returned to the county or municipal agency with notations such as "unclaimed" or "undeliverable" offer no proof that advance requirements have been met. The advance notice shall contain at a minimum:

1. The date, time, and location of the hearing;
2. The charge(s) against the individual;
3. A summary of the evidence, and how and where the evidence can be examined;
4. A warning that the decision will be based solely on information provided by the county or municipal agency if the individual fails to appear at the hearing without good cause;
5. A statement that the individual, or his or her representative, will have 10 calendar days from the date of the scheduled hearing to present good cause to DFD or the county or municipal agency for failure to appear, in order to receive a new hearing;
6. A warning that a determination of IPV will result in a six-month disqualification for the first violation, 12-month disqualification for the second violation, and permanent disqualification for the third violation, and a statement of which penalty the county or municipal agency believes is applicable to the case at the time of scheduling of the hearing;
7. A listing of the individual's rights as provided under N.J.A.C. 1:10;
8. If there is an individual or organization available that provides free legal representation, the notice shall advise the assistance unit member of the availability of that service;
9. A statement that the individual may request a postponement of the hearing provided that such request is made to the OAL at least 10 calendar days in advance of the scheduled hearing;

10. An explanation that the individual may waive his or her right to appear at the administrative disqualification hearing as provided in N.J.A.C. 10:90-11.4;

11. A statement of the accused individual's right to remain silent concerning the charge(s) and that anything said or signed by the individual concerning the charge(s) may be used against him or her in a court of law; and

12. A statement which informs the assistance unit of its right to obtain, upon request, a copy of the State agency's published hearing procedures.

(g) The time and place of the hearing shall be arranged so that the hearing is accessible to the individual suspected of IPV (see N.J.A.C. 10:90-9.5(a)5).

(h) If the individual is found to have committed IPV but a determination is subsequently made that the individual or his or her representative had good cause for not appearing, the previous decision shall no longer remain valid. The individual has 10 calendar days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. If good cause for failure to appear is established, a new hearing shall be conducted. The ALJ who originally ruled on the case may conduct a new hearing. The ALJ shall enter the good cause decision into the hearing record.

(i) Medical assessments, which may either corroborate or disprove an accused individual's statements, shall be obtained at county or municipal agency expense and made part of the record if the ALJ considers it necessary.

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 (g), added the N.J.A.C. reference.

10:90-11.6 Participation while awaiting a hearing

(a) A pending administrative disqualification or court hearing shall not affect the individual's right to participate in the program. Since the county or municipal agency cannot disqualify an individual for IPV until the hearing or court decision establishes that the individual has committed IPV, the county or municipal agency shall determine the eligibility of the individual based on the individual's current circumstances.

(b) The county or municipal agency shall reduce or terminate the individual's assistance if the county or municipal agency has documentation which substantiates that the individual is either ineligible or eligible for a lesser amount of assistance benefits. This provision applies even if the same evidence leads to the suspicion of IPV and the scheduling of a disqualification hearing. For example, the county or municipal agency may have facts which substantiate that the individual failed to report a change in his or her circumstances even though the county or municipal agency has not yet demonstrated that the failure to report involved an act

of IPV. If the county or municipal agency reduces or terminates the individual's assistance before or after the scheduling of an IPV hearing, the individual has the right to request a fair hearing and to continue participation in the program pending the outcome of that fair hearing, in accordance with N.J.A.C. 10:90-9.3(e), notwithstanding a pending hearing to determine whether the individual committed IPV.

10:90-11.7 No further administrative appeal

No further administrative appeal procedure exists beyond the signing of a waiver of the right to a disqualification hearing by the accused individual, or an adverse decision following a disqualification hearing. The disqualification penalty cannot be reversed by a subsequent fair hearing decision. The individual, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to a stay by a court of appropriate jurisdiction or other injunctive remedy.

10:90-11.8 Referral of IPV cases for prosecution

(a) County or municipal agencies are encouraged to refer for prosecution those individuals suspected of intentionally making false or misleading statements or concealing or withholding facts for the purpose of receiving WFNJ assistance.

(b) The county or municipal agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution.

(c) The county or municipal agency shall also encourage prosecutors to recommend to the courts that a disqualification penalty be imposed in addition to any other civil or criminal penalties for such violations.

10:90-11.9 Disqualification consent agreement

(a) An individual accused of IPV who is referred to a court of appropriate jurisdiction but for whom no determination of guilt is obtained due to the accused individual having met the terms of a court order, or who is not prosecuted due to the fact that the accused individual has met the terms of an agreement with the prosecutor, shall be allowed to sign a disqualification consent agreement. The county or municipal agency shall make arrangements with the county prosecutor to provide advance written notification to the individual of the consequences of consenting to disqualification as a result of deferred adjudication and to include the disqualification consent agreement in agreements between the prosecutor and the accused individual or in the court order.

(b) The advance notice and agreement shall include, at a minimum:

1. A statement of understanding for the accused to sign which states that the accused understands the consequences of consenting to IPV, along with a statement

explaining that the caretaker relative must likewise sign the consent agreement if the accused individual is not the caretaker relative, with an appropriately designated signature block for that relative and/or the accused individual;

2. A statement indicating that signing the agreement will result in disqualification and a reduction in payment to the assistance unit during the period of disqualification, even though the accused individual was not found guilty of civil or criminal misrepresentation or fraud; and

3. A warning statement indicating the disqualification penalties imposed for IPV under the WFNJ Program. Those penalties include a six-month disqualification for the first violation, a 12-month disqualification for the second violation and permanent disqualification for the third violation. An additional statement must further explain the specific penalty imposed as a result of the accused individual having consented to disqualification.

(c) If the individual signs the disqualification consent agreement, he or she shall be disqualified in accordance with N.J.A.C. 10:90-11.11. If the court specifies a disqualification period or specifies a date for initiating disqualification, the county or municipal agency shall adhere to the court order. If an individual whose case has been terminated signs a consent agreement, the disqualification period shall be postponed until after a reapplication for WFNJ assistance is approved.

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

10:90-11.10 Reversed IPV disqualifications

(a) In cases where the determination of guilty of IPV is reversed by a court of appropriate jurisdiction, the county or municipal agency shall reinstate the individual in the program if the assistance unit is otherwise eligible for WFNJ benefits.

(b) The county or municipal agency shall restore any benefits to the eligible WFNJ assistance unit that were lost as a result of the disqualification of the individual, in accordance with the procedures specified in N.J.A.C. 10:90-2.

10:90-11.11 IPV disqualification penalties

(a) IPV disqualification penalties affect only the individual found to have committed IPV; those penalties are not applied against the entire assistance unit. Individuals found to have committed IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction (not including pre-trial intervention), or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the program as follows:

1. For a period of six months for the first violation;

2. For a period of 12 months for the second violation; and

3. Permanent disqualification for the third violation.

(b) During the disqualification period, the county or municipal agency shall not take the individual's needs into account when determining the WFNJ assistance unit's need and amount of assistance. Any resources and income of the disqualified individual will be considered in its entirety, available to the assistance unit.

(c) If an individual had previously been found guilty of committing welfare fraud before the implementation of the WFNJ IPV disqualification penalties, that finding shall not be considered as a previous IPV in determining the appropriate disqualification period to be applied in accordance with (a) above. The WFNJ IPV disqualification penalties shall be applicable to any act of IPV based upon information which was provided by the assistance unit in an WFNJ application for assistance, and that application informed the assistance unit of the WFNJ IPV disqualification penalties.

(d) If the court does not specify a disqualification period for a finding of IPV, the county or municipal agency shall impose the appropriate disqualification period unless contrary to the court order.

(e) If the court directs the county or municipal agency to either impose a specific disqualification period, or not to impose a disqualification period, the county or municipal agency shall comply with the directive of the court.

(f) Any period for which a disqualification penalty is imposed shall remain in effect, without the possibility of an administrative stay, unless and until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction.

(g) In cases where a disqualification penalty and other sanctions or penalties imposed by the court apply, the IPV disqualification penalties shall be in addition to, and cannot be substituted for, any other sanctions or penalties which may be imposed by law for the same offenses.

10:90-11.12 Imposing disqualification periods

(a) If the individual is not eligible at the time the disqualification period is to begin, the period shall be postponed and becomes applicable upon reapplication by the individual for WFNJ benefits if the individual is determined eligible for such benefits, or becomes applicable upon the expiration of a previously imposed program sanction at such time that the individual would normally resume receipt of benefits. However, once a disqualification period is imposed, the period of disqualification shall continue uninterrupted regardless of the eligibility of the individual.

2. The municipal agency shall utilize DFD's Universal Application Process software, supplied by the DFD.

3. The municipal agency shall update and/or enhance equipment needs, as appropriate, and determined by the DFD.

(d) In the transition of the administration of WFNJ/GA, the municipality shall assure that the county is provided with all information and materials, formerly in the possession of the municipality, necessary to administer the WFNJ/GA program, including transfer of records, and information regarding existing worksites for clients to engage in work activities. The materials and information shall be transferred timely and orderly within a timeframe specified by the Commissioner.

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), deleted "fingerprinting" following "(EBT)," in 3i.

10:90-12.4 Municipalities that continue to administer WFNJ/GA

(a) Municipalities that continue to administer the WFNJ/GA program shall:

1. Provide for the municipal office administering the WFNJ/GA program to be open a minimum of three hours a day, Monday through Friday, and to be accessible to the public seven hours a day, Monday through Friday, to take applications for assistance and to provide emergency assistance, and maintain a system approved by DFD to cover emergencies 24 hours a day;

2. Provide for the issuance of cash assistance benefits, in accordance with these regulations, by paper check, electronic benefit distribution, or other appropriate means approved by the Commissioner;

3. Report all required case data and financial information regarding the WFNJ/GA program to the Commissioner through the electronic means specified by the Commissioner and in accordance with the timeframes/timelines established by the Commissioner;

4. Issue photo identification cards for each client at the municipality's option in order to facilitate benefit transactions; and

5. Establish and maintain a sufficient number of affiliation agreements with local human services agencies for shelter and other services to timely meet clients' needs.

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

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

In (a), rewrote 4 and 5.

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), deleted former 5 and recodified former 6 as 5.

10:90-12.5 Evaluating county/municipal agency performance

(a) To ensure that WFNJ/GA program benefits are being provided to eligible individuals in an accessible and efficient manner, the performance of the county and municipal agency shall be assessed by the DFD through prescribed routine performance evaluation activities or, as warranted, through special performance evaluation activities. Assessable areas to be used by DFD for routine performance evaluation purposes shall correspond to the requirements set forth throughout this chapter in the following areas:

1. Procedures on the administration of the WFNJ/GA program are as follow:

i. Evaluation as to whether WFNJ/GA applications and interviews have been completed;

ii. Evaluation as to whether all necessary case file data has been maintained;

iii. Evaluation as to whether required verifications of eligibility factors have been completed as prescribed;

iv. Evaluation as to whether the case processing and redeterminations of eligibility and ongoing verifications have been completed as prescribed, including, but not limited to:

(1) Monthly reviews, where applicable; and

(2) Redeterminations of eligibility;

v. Evaluation as to whether individual responsibility plans are completed;

vi. Evaluation of the timeliness and adequacy of adverse action notifications;

vii. Evaluation of the timeliness and accuracy of the submittal of county or municipal budget for approval;

viii. Evaluation of the adequacy and correctness of the tracking mechanisms utilized to monitor compliance with the 60 month cumulative lifetime limit of receipt of cash assistance;

ix. Evaluation of the adequacy and correctness of the tracking systems in place to monitor and record required work activity and work requirements history and information;

x. Evaluation of the adequacy of the automated system; and

xi. Evaluation of the accuracy and timeliness of the transmittal of information to the automated client data base;

2. Rules on the administration of the Emergency Assistance component of the WFNJ/GA program are as follows:

i. Accuracy and detail of documentation of the client's emergency;

ii. Establishment and compliance with mutually developed Service Plans which includes:

- (1) Provision of transportation;
- (2) Assistance with recipient's search for permanent or alternative shelter; and
- (3) Referrals to other appropriate services; and

iii. Securing authorization for granting of temporary rental assistance (TRA);

3. Fiscal procedures are as follows:

i. Timely and accurate transmittal of the following WFNJ/GA program documents:

(1) Report of Assistance Expenditures and Case Activity (WFNJ/GA-6), and Statistical Summary (WFNJ/GA-6A), shall be transmitted to DFD;

(2) Quarterly Financial Report (WFNJ/GA-535-Q) and the Annual Financial Report (WFNJ/GA-535-A); and

(3) Repayment of Interim Assistance Authorization Payment Verification (WFNJ/GA-31), shall be transmitted to DFD;

ii. Submittal of Social Security Administration Supplemental Social Security Income Notice of Interim Assistance Reimbursement (SSA-(L) 8125) to the New York Social Security Administration office;

iii. Reimbursement of assistance as follows:

(1) Completion and submittal of Authorization for Reimbursement of Initial Supplemental Security Income (SSI) Payment or Initial SSI Posteligibility Payment (WFNJ/GA-30); and, completion of Agreement to Repay Assistance from Initial SSI Payment (WFNJ/GA-30A);

iv. Accuracy of benefit payments verified through audits and Quality Assurance Reviews;

4. Fraud procedures are as follow:

i. Matched reports shall be completed and transmitted to DFD (see N.J.A.C. 10:90-14.9);

ii. WFNJ/GA cases identified as having sufficient evidence to support fraudulent activity shall be investigated for fraud, including referral for findings of intentional program violations (see N.J.A.C. 10:90-11); and

iii. Appropriate activity shall be initiated, as a result of local fraud investigative findings; and

5. Other evaluations, such as:

i. Status of county or municipal agency performance as determined by DFD from results of other evaluation findings; and

ii. A special performance evaluation shall constitute the undertaking of a statistically valid eligibility review in a specific county or municipal agency, when the DFD determines that a county or municipality cannot reasonably provide a legitimate reason for the following occurrences:

(1) At the end of each calendar quarter (March 31, June 30, September 30 and December 31), a county's or municipality's expenditures exceed its estimate to an extent proportionally in excess of other counties or municipalities of equal size; or

(2) A pattern of non-payment of WFNJ/GA exists in a specific county or municipality.

(b) County or municipal agency performance, as appropriate, shall be evaluated as follows:

1. When a routine performance evaluation is conducted, overall county or municipal performance shall be measured using no less than an 85 percent tolerance level for each of the evaluation categories identified at (a)1 through 5 above (that is, administration of WFNJ/GA program, emergency assistance, fiscal, fraud, and other evaluations).

i. Satisfactory performance shall mean that a county or municipality has achieved a rating of at least 85 percent in all of the evaluation categories.

(1) A satisfactory performance rating shall not be subject to county or municipal appeal.

ii. Below satisfactory performance shall mean a rating of below 85 percent in one or more of the evaluation categories.

2. When a special performance evaluation is conducted, county or municipal performance shall be measured in accordance with the DFD's established Quality Assurance review procedures. Review results indicating agency error shall be handled as follows:

i. If excessive county or municipal expenditures are identified and the review results in a finding of overpayments or payments made to ineligible individuals, audit exception shall be initiated against the agency based on individual cases found incorrect due to agency error.

ii. If a pattern of non-payment exists and the review results in a finding that a county or municipal agency is not providing eligible clients WFNJ/GA benefits, that county or municipality shall be advised that immediate corrective action measures shall be undertaken as described in (c) below.

(c) Rules governing a below satisfactory performance rating are as follows:

1. When a county/municipality's performance rating is below satisfactory, the Commissioner shall at any time, based on his or her discretion regarding the severity of the below satisfactory rating, exercise the right to assume direct administration of the county administered WFNJ/GA program or transfer the administration of the WFNJ/GA program from the municipality to the county.

i. Since WFNJ/GA shall be administered either by the county or municipal agency, (c)2 below governs "below satisfactory performance" for both county and municipal agencies.

2. Counties or municipalities whose overall performance rating results in a below satisfactory level shall be subject to the following corrective action measures:

i. State and county or municipal staff shall meet to identify possible causes of the deficiencies in operations.

ii. A corrective action plan to improve county or municipal WFNJ/GA operations shall be mutually developed and implemented within a reasonable period of time agreeable to both the DFD and the county or municipality.

iii. Upon implementation of the corrective action plan, county or municipal agency operations shall be monitored by DFD staff to ensure that planned corrective actions are taking place as stipulated in the mutually agreed upon manner.

iv. State staff shall reassess the county or municipality's WFNJ/GA operations at the end of the mutually designated period.

(1) Counties or municipalities whose WFNJ/GA operations have improved to at least a satisfactory level shall be deemed to have satisfied the terms of their corrective action plans.

(2) Counties or municipalities whose WFNJ/GA operations do not improve or which fail to show a good faith effort toward improvement shall be subject to the following:

(A) DFD shall arrange a meeting with the county agency director or the municipal agency director to discuss the unsatisfactory performance.

(B) When it is determined that, after meeting with the agency director, barriers for improvement remain and cannot be resolved, DFD shall advise the county or municipal governing authority, in writing, of its finding concerning the unsatisfactory performance of the county or municipality, as appropriate.

(C) If, after all contact with the county or municipal governing authority, the DFD determines that the situation cannot be resolved internally, DFD shall proceed to advise the county or municipal governing authority, in writing, of the unsatisfactory status of the county or municipal operation, and the necessity for the county or municipal agency to take immediate corrective action measures, subject to the consent and approval of the Commissioner to resolve the unsatisfactory situation.

(D) When it is determined that, in the case of a county administering the WFNJ/GA program, despite DFD's intervention efforts, barriers for improvement remain and cannot be resolved, the State shall notify the county, in writing, of its intent to assume direct administration of the WFNJ/GA program in accordance with provisions at N.J.A.C. 10:84-1.4.

(E) When it is determined that, in the case of a municipality administering the WFNJ/GA program, despite DFD's intervention efforts, barriers for improvement remain and cannot be resolved, the State shall advise, in writing, of its intent to require the municipality to transfer administration of the WFNJ/GA program to the county agency. Final notification from the Commissioner shall be made, in writing, within 30 days of the mailing date of DFD's initial communication to the municipal governing authority. The notice shall include the basis for the State action to transfer the program and the date the State's action to transfer is expected to commence.

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), deleted former iii(1) and recodified former iii(2) as iii(1) in 3 and deleted former i and recodified former ii through iv as i through iii in 4.

10:90-12.6 State fair hearings for action of the State to transfer WFNJ/GA from the municipality to the county

(a) Any municipality that wishes to appeal a decision by the State to transfer municipal WFNJ/GA operations to the county is entitled to request a State fair hearing within 10 days of the mailing date of the notice advising of the impending State action. The request shall be made, in writing, to DFD's Bureau of Administrative Review and Appeals (BARA) by the municipal agency director, or by a representative of the municipal governing authority.

1. When a request is received by BARA, it shall immediately be registered as of that date.

2. All hearing requests shall be transmitted to the Office of Administrative Law (OAL) for a hearing before an Administrative Law Judge (ALJ).

(b) The OAL shall schedule the hearing and send any necessary notices to all appropriate parties concerned. The

hearing shall be conducted by an ALJ who shall issue an initial decision.

1. Any adjournment of a scheduled OAL hearing requested by the municipality and granted by the OAL may not operate to extend the deadlines for a final decision and implementation of the final decision.

2. Failure to appear for a scheduled hearing without proper notice, and failure to submit an explanation for the nonappearance within 10 days of the scheduled hearing date, shall result in the issuance of an initial decision without a hearing. The State may amend or reverse its decision to transfer at any time before or during the OAL hearing or the hearing may be withdrawn at any time before or during the hearing upon satisfactory reconciliation of the matter at issue.

(c) The municipality shall be provided the opportunity to review the State documents and/or records to be used in the OAL hearing. Such materials shall be made available by the State, upon request at a reasonable time, before the scheduled hearing date, as well as during the hearing.

(d) The municipal director, or a representative of the municipal governing authority, may appear at a proceeding with or without legal representation.

(e) A final administrative hearing decision shall be rendered by the Commissioner of DHS or designee. The municipal agency shall be notified by mail of any decision or order. The final decision shall be effective on the date of issuance.

1. The municipality may appeal the final decision rendered by the Commissioner of DHS or designee through the Appellate Division of the Superior Court; however, such appeal shall not delay implementation of the final decision.

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

10:90-12.7 State fair hearings for action of the State to assume administration of WFNJ/GA from the county

Refer to N.J.A.C. 10:84-1.5 for any county that wishes to appeal a decision by the State to assume administration of WFNJ/GA.

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

10:90-12.8 Obligation to provide assistance

It is the basic obligation of every municipality in the State, which elects to continue to administer the WFNJ/GA program, to provide financial assistance and medical care, to the extent established by State regulations and as State resources permit, for all eligible persons living in that community who are in need.

10:90-12.9 Organization of local assistance board

(a) Each municipality that chooses to maintain its operation of the WFNJ/GA program through adoption of a resolution shall organize a local assistance board (LAB); specify the composition of the board and the terms of the office; empower the LAB to appoint a director of welfare; and appoint any other necessary employees. These requirements are mandatory upon every municipality. Where the organization of a LAB is not a requirement under a Faulkner Act municipality, the entity or official designated to serve instead of the LAB should be so recognized. Therefore, the designated alternate shall represent in meaning, the LAB as set forth throughout this chapter, except in LAB membership composition, appointment of agency director and/or other duties that are not appropriate under such structure.

1. Municipalities governed under an optional form of government pursuant to the Faulkner Act are referred to in this chapter as Faulkner Act municipalities. During the transition period to such optional form, the municipal governing body will determine whether the LAB is to be continued or abolished and will act accordingly. After the transition period, the governing body may abolish the LAB only by adoption of the appropriate ordinance.

(b) The LAB shall be composed of either three or five members, as determined by the municipal governing body. On both a three-member board and a five-member board, at least one member must be a woman. While it is not mandatory for a member of the municipal governing body to serve on the LAB, the law prohibits the appointment of more than one such member. Members of the LAB shall serve without compensation but will be allowed necessary and actual expenses.

1. In Faulkner Act municipalities, the municipal governing body may, by adoption of an appropriate ordinance, reorganize the LAB and/or adjust the terms of office of the members. In such event, the LAB shall, nonetheless, be composed as described in this section.

2. Terms of office rules are:

i. For municipalities with a board of three members, the term of one member shall be for one year only, and such one-year term must be assigned to the member of the municipal governing body if there is one. The other two members serve terms of two years each, with expiration dates staggered in order to expire at the end of alternate years.

ii. For municipalities with a board of five members, one member shall serve a term of one year only, and such one-year term must be assigned to the municipality governing body representative if there is one. The other four members serve terms of four years each. Such terms are staggered in order that only one expires at the end of each successive year.

iii. The term of each member of the LAB shall begin on January 1. When a vacancy occurs before the expiration of a term, the new member serves only the unexpired portion of the term of the person he or she is replacing.

iv. When circumstances such as illness or a governmental irregularity preclude timely appointment of a new member, the incumbent shall continue until such new appointee can take office.

v. Annually at the first of each year, each LAB shall organize and select, from among its membership, a

chairman and a secretary. The agency director shall be the chief administrative officer of the board.

(c) Each municipality that administers WFNJ/GA shall submit annually a certification form, Status Report for Calendar Year (WFNJ/Form GA-15), to DFD signed by the municipal clerk and attesting to the appointment of the board members, if any, and the agency director. The agency director shall be responsible for informing the municipal clerk and other appropriate local officials regarding the required certification, and arranging for the completion of the Status Report and filing same with DFD on or before March 1 of the year to which the certification applies.

(f) The LAB is responsible for establishment of the official municipal agency office and designation of hours of operation.

1. The office of the municipal agency shall be in a location accessible to the general public and adequate for efficient operation.

2. The office of the municipal agency shall be open to the public a minimum of three hours a day during the five-day work week to take applications for assistance and to provide emergency assistance. Additional arrangements shall be instituted by the LAB to ensure that someone is accessible to the public seven hours a day during the five-day work week to take applications for assistance and provide emergency assistance, and that persons in need of assistance are served without delay at times other than normal office hours.

i. Each municipal agency office shall be required to post a sign(s), in a conspicuous place(s), which lists the telephone number(s) and the person or agency available to handle emergencies beyond normal office hours.

(g) The LAB shall act as a body in discharging its duties. A board member shall not individually take upon himself or herself the responsibility for creation of policy, investigation of a client or disclosure of data contained in a case record. Actions taken by the LAB on all matters pertaining to the administration of WFNJ/GA shall be discharged by the board at regular or special meetings and recorded in the secretary's minutes. Functions and activities of the LAB include the study of employment possibilities in local industry, health, housing, and social conditions of the community. Analysis of municipal financial needs, insofar as they are related to WFNJ/GA, shall also be a matter of concern to the LAB.

1. The LAB shall undertake the following additional activities:

i. Seek and utilize opportunities to interpret to the community the purposes of the WFNJ/GA program as provided by law, and the needs of the community as revealed through the LAB's experience with the administration of the program;

ii. Confer with the director on concerns, criticisms or recommendations coming to it from citizens in the community;

iii. Meet with individuals and organizations interested in the administration of the assistance program;

iv. Accept and act upon complaints relating to the administration of the WFNJ/GA program when submitted to the board, in writing, prior to its meeting;

v. Review problem cases presented by the director for discussion; and

vi. Make recommendations as to the adequacy in number and qualifications of personnel for the administration of the program.

2. Specific duties of the local assistance board include, but are not limited to, the following:

i. The LAB shall provide space within the municipal office for the proper protection and maintenance of all reports, case records and any other materials essential to the administration of WFNJ/GA.

(1) Access to case records shall be granted by the LAB, through the agency director, only to the following persons: employees of the municipal agency acting in an official capacity; representatives of another recognized public or private health or welfare agency, organization or institution for the purpose of obtaining information relevant to providing service to a current or former recipient of WFNJ/GA or to a member of his or her family; the client or his or her representative, in accordance with N.J.A.C. 10:90-9.11 and authorized representatives of the DFD relevant to State audits and quality control reviews.

(2) As a matter of policy, only the agency director or the LAB, by formal action and for a just cause, shall authorize the removal of a case record from the office.

(3) Information may be released to authorized persons for statistical purposes but shall not bear the name of the public assistance recipient or any other indication of his or her identity; and

ii. Responsibility is vested in the LAB to safeguard the applicants for and/or recipients of public assistance from discrimination by municipal agency employees and vendors who provide services to clients. Any discrimination based upon race, color, sex, religious creed, national origin, marital or birth status, political beliefs or disability is unlawful and subject to appropriate action (see N.J.A.C. 10:90-1.7).

(h) Nothing in this section shall be construed so as to allow access to confidential information beyond that authorized in N.J.A.C. 10:90-1.11.

(i) In Faulkner Act municipalities where no LAB exists, the authority, duties and responsibilities of the LAB resides with the mayor or manager as applicable to the form of government. Functions of the secretary of the LAB are assumed by the municipal clerk.

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

In (d)1, added a fourth sentence.

10:90-12.10 Appointment of employees

Employees for the municipal agency shall be appointed by the governing body in accordance with municipal ordinances

and in numbers adequate for the proper administration of the WFNJ/GA program. While the LAB shall appoint the agency director, the municipal governing body is responsible for the appointing of department staff.

10:90-12.11 Establishment of Public Assistance Trust Fund Account

(a) The governing body of the municipality shall establish a bank account titled "Public Assistance Trust Fund Account," with the municipal treasurer or other designated official as custodian (see N.J.A.C. 10:90-14.3).

(b) The governing body of the municipality may, at the request of the LAB, establish a Public Assistance Petty Cash Fund Account. Such fund shall be established and operated in accordance with N.J.A.C. 10:90-14.6.

SUBCHAPTER 13. MEDICAL SERVICES FOR WFNJ SINGLE ADULTS AND COUPLES WITHOUT DEPENDENT CHILDREN

10:90-13.1 Medical services for WFNJ/GA recipients

Medical services for WFNJ/GA recipients (excluding those residing in a nursing facility) shall be provided by NJ FamilyCare (see N.J.A.C. 10:49). For travel costs for medical care for WFNJ/GA recipients see N.J.A.C. 10:90-13.4.

Special New Rule R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).

See: 32 N.J.R. 3615(a).

Former N.J.A.C. 10:90-13.1, Payment of medical service claims, specially recodified to N.J.A.C. 10:90-13.2.

New Rule, R.2001 d.42, effective December 27, 2000.

See: 32 N.J.R. 3651(a), 33 N.J.R. 564(a).

Former N.J.A.C. 10:90-13.1, Payment of medical service claims, specially recodified to N.J.A.C. 10:90-13.2.

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

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

Amended the N.J.A.C. reference.

10:90-13.2 Payment of medical service claims for WFNJ/GA recipients residing in a nursing facility

(a) Claims resulting from medical services provided to WFNJ/GA recipients residing in a nursing facility, on or after February 1, 1997, shall be processed and paid by the New Jersey Division of Medical Assistance and Health Services (DMAHS) through its fiscal agent, in accordance with the rules appropriate for the services rendered (see N.J.A.C. 10:49). Payment of claims submitted to the fiscal agent for medical services covered under the WFNJ/GA program shall be based upon the Medicaid reimbursement methodology for the respective services. Those medical services identified at (a)2 below shall not be considered eligible for payment by the fiscal agent for WFNJ/GA program purposes.

1. Medical service claims with service dates on or after February 1, 1997 shall be submitted directly to the fiscal agent by the medical provider/vendor for payment processing. The original claim must be received by the fiscal agent within the time frame of one year from the date the service was rendered or the product was provided. If the original claim is not received by the fiscal agent within the one year time frame the claim shall not be processed for payment.

i. The provider/vendor shall direct all concerns relating to the payment or processing of WFNJ/GA medical service claims to the fiscal agent.

(1) A provider/vendor may, however, contact the agency in which the WFNJ/GA recipient is receiving assistance to ascertain information concerning WFNJ/GA policies, coverage of services and/or eligibility.

ii. Medical service claims, except for prescription claims, with service dates prior to February 1, 1997 shall be processed by the county/municipality. Such claims, however, must be received by the county/municipality within a time frame of six months from the date the service was rendered in order for that claim to be considered eligible for payment processing.

2. The following services are not considered eligible medical services for WFNJ/GA program purposes and shall not be processed for payment by the fiscal agent:

i. Inpatient or outpatient hospital services/care provided in a hospital either in-State or out-of-State, including, but not limited to, psychiatric hospitals, acute care hospitals, special hospitals, rehabilitation hospitals, Christian Science sanatoria and county or State hospitals;

(1) Exception: Inpatient hospitalization at Mt. Carmel Guild in Newark is an eligible medical service for the WFNJ/GA program.

ii. Professional services rendered to residents in public/private medical institutions;

iii. Professional services to WFNJ/GA clients residing in residential treatment centers for drug or alcohol abuse;

iv. Nursing facility per diem payments for individuals residing in Medicaid approved nursing facilities;

(1) See N.J.A.C. 10:90-13.5 concerning per diem payments for WFNJ/GA clients residing in non-Medicaid nursing facilities on or prior to June 30, 1995;

v. Early and periodic screening, diagnosis and treatment (EPSDT) services;

vi. Services provided under a home and community based services waiver, in accordance with Section 1915(c) of the Social Security Act, 42 U.S.C. § 1396n;

2. WFNJ/GA-SSI Match Report: A match of the WFNJ/GA files with the (SDX) State Data Exchange which lists all SSI recipients.

i. The WFNJ/GA-SSI Match Report is sent to agencies on a monthly basis;

3. WFNJ/GA-WFNJ/GA Match Report: A match of all municipalities matched against each other.

i. The WFNJ/GA-WFNJ/GA Match Report is sent to agencies on a monthly basis;

4. WFNJ/GA-FAMIS Match Report: A match of all WFNJ/GA cases matched against the FAMIS (county agency) files.

i. The WFNJ/GA-FAMIS Match Report is sent to agencies on a monthly basis;

5. WFNJ/GA-UIB Match Report: A match of the WFNJ/GA cases with the Department of Labor's Unemployment Insurance Benefits files. The WFNJ/GA-UIB Match Reports are sent to the agencies on a monthly basis;

6. WFNJ/GA-NY State Wage Files Match Report: A quarterly match of the WFNJ/GA cases with NY State Wage Files; and

7. WFNJ/GA-Veterans Benefits Match Report: An annual match of WFNJ/GA cases with Veterans' benefits.

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

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

Recodified from N.J.A.C. 10:90-14.9 and 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 2i, 3i and 4i, and substituted "are sent to the agencies" for "are sent only to the computerized agencies" in 5. Former N.J.A.C. 10:90-14.7, Retention and destruction of case records, recodified to N.J.A.C. 10:90-14.6.

10:90-14.8 (Reserved)

Special amendment, R.2000 d.392, effective September 1, 2000 (to expire March 1, 2001).

See: 32 N.J.R. 3615(a).

In (a), changed N.J.A.C. reference.

Amended by R.2000 d.42, effective December 27, 2000.

See: 32 N.J.R. 3615(a), 33 N.J.R. 564(a).

In (a), changed N.J.A.C. reference.

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

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

Section was "Processed medical service claims".

"Active participation" means participation in a Department of Health and Senior Services' licensed or approved residential or in-patient or out-patient substance abuse treatment program and that the WFNJ applicant/recipient shall cooperate with the program's recommended treatment plan.

"Adjusted allowance" means the balance remaining as a result of subtracting the assistance unit's total income from the appropriate public assistance allowance amount for that assistance unit.

"Adjusted gross income" means, when self-employed, the net income as determined by subtracting the cost of producing the income from total gross earnings.

"Adverse action" means any action by the county or municipal agency resulting in denial of an application for assistance, suspension, reduction or termination of assistance. The term is also applicable to decisions pertaining to protective and restricted payments and denial of request for special payments.

"Allowance" means the amount of money recognized for a specific purpose.

"Alternative Work Experience Program (AWEP)" means work and training only with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine that experience with education and job training.

"Appeal" means the process of exercising the right to challenge a decision or action of the administering entity and to have such decision or action reviewed by an impartial agency.

"Applicant" means a person who makes a written request for benefits provided by the WFNJ Program. An applicant can be an individual, couple without dependent children, natural or adoptive parent(s), parent-person(s), parent-minor, or legal guardian acting on behalf of the assistance unit.

"Application" means a written request for public assistance made by an applicant or legal guardian acting on behalf of the assistance unit.

"Application process" means the required actions necessary to make an official determination of the disposition of the application for benefits.

"Approved residential substance abuse treatment program (RSATP)" means a residential substance abuse treatment program; drug treatment facility; alcoholism treatment facility; or halfway house that has made application to the Department of Health and Senior Services' for licensure or licensure renewal and is identified by DHSS as an approved facility.

SUBCHAPTER 15. DEFINITIONS

10:90-15.1 Definitions

The following words and terms used within this chapter shall have the following meaning unless the context clearly indicates otherwise.

“Arrears” means the amount of support determined through a court order or administrative order from this State or another state for support and maintenance of a child(ren) or of a child(ren) and the custodial parent, which has not been paid.

“Assistance payment” means the money amount authorized and issued to the assistance unit.

“Assistance unit” means a single adult without dependent children; a couple without dependent children; dependent children only; or a person or couple who are legally or blood related to or the legal guardian of one or more dependent children who live together as a household unit.

“Authorized representative” means an individual (or organization) whom a client designates, orally or in writing, to act on his or her behalf; or in cases of incompetence the person designated by the court to act for the client.

“BARA” means the Bureau of Administrative Review and Appeals in the Division of Family Development.

“Benefits” means any financial or service assistance available to the assistance unit through WFNJ.

“Calculated earned income” means amount of earned income remaining after applicable disregards and deductions have been subtracted from total gross earnings. This is the countable amount to be used in determining the assistance unit’s total income.

“Case management” means the provision of certain services to WFNJ recipients.

“Case record” means the official file, including electronically stored data, that constitutes a complete record which supports the decisions and actions of the WFNJ entity on a case and may include, but is not limited to, forms, chronological narrative, correspondence, record of work requirement compliance and other documents pertinent to the application and eligibility of the client.

“Certificate of Parentage (COP)” means the official form for paternity acknowledgment in New Jersey.

“Child care center” means any home or facility licensed by the Division of Youth and Family Services, which is maintained for the care, development or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

“Child only case” means an assistance unit comprising a child(ren) only who is (are) receiving WFNJ/TANF benefits and is(are) residing with a non-needy parent-person who has been designated as the payee for the child(ren)’s cash assistance grant.

“Child support” means the amount required to be paid under a judgment, decree, or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or child and the parent with whom the child is living, which provides monetary support, health insurance, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney’s fees and other relief.

“Client” means an all inclusive term for an applicant or recipient of assistance.

“Collateral investigation” means contact with a source other than members of the applicant’s or recipient’s immediate household which is made with the knowledge and consent of the applicant(s) for the purpose of obtaining or verifying information.

“Commissioner” means the Commissioner of the New Jersey Department of Human Services.

“Community Work Experience Program (CWEP)” means work and training only with a public, private nonprofit or private charitable employer, provided to a recipient when, and to the extent, that such experience is necessary to enable the recipient to adjust to, and learn how to function in, an employment setting.

“Cooperation with child support” means making a good faith effort to establish parentage and establish, modify and/or enforce a support order(s) and/or health care coverage.

“County agency” means the county agency that was administering the Aid to Families with Dependent Children program at the time the Federal “Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” P.L. 104-193, was enacted and which shall also administer the WFNJ Program in that county.

“County residence” means that county where an applicant or recipient is residing.

“Couple” means two individuals who live together, function as one economic unit, and present themselves as a couple to the WFNJ agency.

“CSP” means the Child Support and Paternity Program.

“Custodial parent” means the primary resident parent prior to the establishment of the order determining custody.

“Date of eligibility” means for an eligible applicant, the date of the application or as soon thereafter as there is evidence of financial need; or when verification of eligibility has been satisfactorily completed.

“Denied application” means a determination that, for a specific reason, the applicant is determined ineligible for assistance.

“Department” means the New Jersey Department of Human Services.

“Designated payee” means a person signing the application to whom the assistance benefits will be issued.

“Disability” means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working; a record of such an impairment; or being regarded as having such an impairment (Americans with Disabilities Act of 1990 and Rehabilitation Act of 1973).

“Dismissed application” means recognition that eligibility need not be considered further because the applicant moved to another state during the application process or cannot be located, or the application was registered in error.

“Disregards” means the amount of earned income which is not considered in the WFNJ program when determining the amount of the assistance benefit.

“DDD” means the Division of Developmental Disabilities.

“Division of Employment Services (DES)” means the office within the State Department of Labor and Industry responsible for administration of Unemployment Insurance and Temporary Disability Benefits programs and for operation of the State Employment Service.

“Division of Family Development (DFD)” means the office within the State Department of Human Services responsible for supervision of the administration of county and municipal agencies.

“DVRs” means the Division of Vocational and Rehabilitation Services.

“DYFS” means the Division of Youth and Family Services in the Department of Human Services.

“Electronic Benefit Transfer (EBT)” means the utilization of a Families First debit card by which a recipient may draw benefits through an approved financial institution or vendor.

“Eligible medical institution” means a facility or specified section thereof certified as an approved institution for the purpose of treating acute illness (private or general hospitals) or providing care for the chronically ill (long term care facilities).

“Emergency assistance” means a program of assistance and related services to WFNJ recipients for brief periods of time, necessitated by unusual circumstances which were neither foreseen nor controllable by the recipient.

“Enrollment” means the WFNJ applicant/recipient has been admitted to a Department of Health and Senior Services’ licensed or approved residential substance abuse treatment program, is physically residing at the treatment facility, or has been admitted to a DHSS in-patient or out-patient facility.

“Exempt resource” means a resource which is not to be taken into consideration when computing extent of need and is not subject to liquidation requirements.

“Families First” means the program which utilizes Electronic Benefit Transfer as an alternate method of distributing benefits, such as but not limited to cash assistance and food stamps, to eligible individuals and families.

“Family violence” means subjecting an individual(s) to extreme cruelty or physical battering, as defined at 408(a)(7)(C) of the Social Security Act. These behavioral acts of abuse by a perpetrator are those behaviors that result in, or threaten to result in, physical or mental injury/abuse; threatened or attempted sexual assault; sexual assault activity involving a dependent child; the forcing of an individual as the caretaker relative of a dependent child to take part in non-consensual sexual acts or activities; and neglecting or preventing the individual(s) from getting medical care. Such harmful physical and controlling behavior(s) by the perpetrator, that may have occurred in the past or are presently taking place, can cause, but is not limited to, economic intimidation and isolation of the intimate partner(s) or other family member(s), and may impact that individual’s compliance with WFNJ program requirements or in seeking needed services for fear of their own or their child(ren)’s safety.

“Filiation proceedings” means court action to establish paternity and responsibility for support of a child born out-of-wedlock.

“Financial income eligibility” means it is determined that the applicant’s total monthly income is less than the applicable maximum income level established for needy individuals and families in the WFNJ program.

“Food Stamp Program” means a program to increase the food purchasing power of low income households.

“Full-time employment” means employment unsubsidized by any level of government in which a person is engaged for at least 35 hours a week.

“Full-time post-secondary student” means a student enrolled for a minimum of 12 credit hours in a post-secondary school.

“FVO Risk Assessment” means the specific contracted services of the Department of Human Services’ (DHS) designated domestic violence agency or the Department of Community Affairs (DCA), Division On Women’s (DOW) sexual assault service program to assess WFNJ TANF/GA individuals, who are granted a Family Violence Option (FVO) Waiver, for the purpose of confirming the individual’s need for a waiver or continued need for a waiver. The assessment includes a safety and service plan or a strategy consistent with the identified needs and safety concerns of WFNJ TANF/GA individuals; and the identification of intervention services.

“FVO Risk Assessment Process” means the standardized process established within each WFNJ CWA to refer WFNJ TANF/GA individuals, granted a FVO Waiver to the DHS’ designated domestic violence agency or the DCA, DOW’s sexual assault service program for a FVO Risk Assessment.

“Good faith effort for WFNJ/GA” means that the GA individual shall provide oral, written or additional information and documentary evidence known to, possessed by or reasonably obtainable by that individual, which leads to the identification of his or her child(ren) and the identification of the custodial parent(s), and is relevant to establishing paternity when applicable, and to obtaining a support order(s) and/or health care coverage.

“Good faith effort for WFNJ/TANF” means that the TANF individual shall provide oral, written or additional information and documentary evidence known to, possessed by or reasonably obtainable by that individual, that may lead to the identification and/or location of the non-custodial parent(s), and is relevant to establishing paternity when applicable, and to obtaining a support order(s) and/or health care coverage.

“Gross earned income” means the total earnings of members of the assistance unit before applicable disregards and deductions are subtracted, or the net profit from self-employment before income tax or personal taxes are deducted.

“Head of household” means the individual who is recognized by other members of the household as having primary responsibility for financial control and direction of the household.

“Homelessness, state of” means when the physical health and safety of an assistance unit, through no fault of its members, is imperiled by substantial loss of shelter.

“IM” means income maintenance.

“Incapacity” means physical or mental defect, illness or impairment, supported by competent medical testimony, of such a debilitating nature as to reduce substantially or eliminate an individual’s ability to support or care for himself or herself and/or the otherwise eligible child in his or her care, which is expected to last for at least 30 days.

“Income” means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, rent receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, Federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, inheritances, annuities, retirement benefits, veteran’s benefits, union benefits, or other source that may be defined as income by the Commissioner.

“Income eligibility standard” means the income eligibility threshold based on assistance unit size for benefits provided within the limit of funds appropriated by the Legislature.

“Income exclusions” means income that is not to be taken into consideration when determining WFNJ financial eligibility.

“Income-in-kind” means income received in the form of goods or services rather than cash.

“Inquiry” means any request for information about assistance programs which is not a request for an application.

“Institution” means a public or private facility providing 24 hour residential placement, care or incarceration.

“Intervention services” means those activities and services offered by the DHS’ designated domestic violence agencies, the DOW’s sexual assault service programs or through other community providers, such as, but not limited to, counseling.

“Legal custody” means the general right to exercise continuing control over the person of a child derived from court order or otherwise.

“Legal guardian” means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child’s upbringing, pursuant to a court order.

“Legally-related” means a relationship created through marriage, adoption or legal guardianship procedures.

“Licensed residential substance abuse treatment program” means a Department of Health and Senior Services’ licensed residential substance abuse treatment program; drug treatment facility; alcoholism treatment facility; or halfway house.

“Location” means verified information about the alleged father’s and/or non-custodial parent’s physical whereabouts, employer(s), and/or other sources of income or assets, as appropriate, which are sufficient and necessary to take the next appropriate action on a case.

“MDO” means Medicaid District Office in the Division of Medical Assistance and Health Services.

“Medicaid” means the New Jersey Medical Assistance and Health Services Program in the Department of Human Services.

“Medicaid Only” means provision of medical assistance only to a family or certain individuals who are eligible for WFNJ benefits and choose to waive the money payment benefit portion.

“Medicaid Special” means Medicaid coverage available to any dependent child under 21 or an independent child under age 21 based on financial eligibility only regardless of other program requirements (for example, WFNJ, employment, training, CSP or school attendance).

“Medical Assistance (MA)” means payments on behalf of recipients to providers for medical care and services.

“Money payment” means an assistance check paid to, or funds deposited through EBT for a recipient or his or her authorized payee.

“Monthly amount” means the amount of money required, provided or received for one month.

“Monthly grant” means the amount of money payment to be made each month to an assistance unit.

“Municipal agency” means an agency within a municipality that has been designated, via municipal resolution, to administer the WFNJ/GA Program.

“Municipality” means any city, borough, township, town, village or municipality governed by a board or commissioners or an improvement commission.

“Needy person” means a person who requires and qualifies for a money payment in the WFNJ program.

“New application” means a signed request for assistance by an individual who has never previously applied under that program in any county or municipality in the State.

“NJSES” means the New Jersey State Employment Service, New Jersey Department of Labor.

“Non-custodial parent” means the non-primary resident parent prior to the establishment of an order determining custody.

“Noneligible person” means a person who is neither sanctioned nor required by law or regulation to be included in the WFNJ assistance unit.

“Non-needy caretaker” means a relative caring for a dependent child, or a legal guardian of a minor child who,

in the absence of a natural or adoptive parent, assumes parental responsibility for such minor child.

“Obligee” means the individual or entity entitled to receive child support and health insurance or provide health insurance under a court order for support and shall include agencies of this and another jurisdiction to which an obligee has assigned the obligee’s right to support.

“Obligor” means the individual who according to applicable law(s) has the obligation to pay child support and/or provide health insurance coverage.

“On-the-job-training (OJT)” means an activity in which a participant is hired by a public or private sector employer for which the employer is reimbursed a portion of the individual’s wages while he or she is learning on the job.

“Out-of-wedlock child” means a child born to a mother who is not married to the father of such child.

“Ownership of real or personal property” means, for WFNJ program purposes, any and all rights, title or interest, legal or equitable, to such property.

“Parent” means natural and/or adoptive parent(s), parent-person(s), or legal guardian(s).

“Parent-minor” means a parent of a child or children who is himself or herself under the age of 18.

“Parent-person” means certain relatives of a child who, in the absence of a natural or adoptive parent, assume parental responsibility.

“Payee” means the person designated to receive assistance payments on behalf of the eligible members of an assistance unit.

“Pending application” means a general term for application, reapplication, reopened application, or transferred application prior to official disposition.

“Per capita” means an amount equal to one individual’s share of the total (allowance, cost, income, and so forth).

“Personal interview” means face-to-face discussion between individuals.

“Potential resource” means a resource which, through liquidation, will provide cash for the use of the assistance unit or for reimbursement to the agency.

“Poverty level” means the official poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B of the “Community Services Block Grant Act,” Pub. L. 97-35 (42 U.S.C. § 9902(2)).

“Program” means the Work First New Jersey (WFNJ) program.

“Protective payee” means a person authorized by the WFNJ entity under certain conditions to receive and administer assistance payments on behalf of an eligible family.

“Protective payment” means assistance payment made to an individual other than the parent or parent-person, as designated by the WFNJ entity under certain conditions.

“Provider” means any person, public or private institution, agency or business concern, approved by the Division, who lawfully provides medical care, services, goods and/or supplies, and holding, where applicable, a current valid license to provide such services or to dispense such goods and/or supplies.

“Public assistance” means assistance rendered to needy single adults, couples without dependent children and families with dependent children and includes all benefits provided under the WFNJ program.

“Reapplication” means a signed request for assistance by an individual who has previously applied for, but never received, assistance under that program in any county or municipality in the State.

“Recipient” means a recipient of benefits under the WFNJ program.

“Recovery” means the repayment of assistance improperly obtained.

“Redetermination of eligibility” means a review and investigation of all facts and circumstances relating to the recipient’s application to determine continuing eligibility for receipt of WFNJ assistance benefits.

“Referral” means a request for assistance and/or services from a public or private agency or individual on behalf of another individual.

“Refugee Resettlement Program (RRP)” means a Federally funded program designed to help meet the needs of refugees as defined by the Immigration and Naturalization Service.

“Registration” means the action of the WFNJ administrative entity in making an official record of and assigning a control number to an application.

“Reopened application” means a signed request for assistance by an individual who has previously received assistance under that program in any county or municipality in the State.

“Representative payee” means a person appointed by the court under certain conditions to receive and administer payments on behalf of an eligible family or individual.

“Resident of New Jersey” means a person who is living in the State for other than a temporary purpose and who has no intention of moving from the State.

“Resources” means all real and personal property.

“Resource limit” means the maximum amount of resources/assets, that will not be taken into consideration when determining eligibility for the WFNJ program.

“Responsible adult” means a person who agrees to be designated to receive assistance payments on behalf of a parent minor and his or her child(ren) and who is 21 years of age or older, of reputable character who can provide a safe, nurturing home life and/or will advocate on behalf of the parent-minor as well as provide stability, guidance and support to a parent-minor and his or her child(ren).

“Restricted payments” means checks drawn to the order of a specified person and subject to some condition or restriction which prevents immediate and unconditional negotiation and use by the payee upon delivery; checks drawn to the order of a third person or a vendor and intended for use on behalf of the client.

“Retirement, Survivors and Disability Insurance (RSDI)” means the Federal program administered by the Social Security Administration (SSA) which provides protection to workers and their families against loss or stoppage of earnings resulting from retirement at age 62 or older, death or disability.

“Return to state of origin” means that a family, who has resided in New Jersey for a relatively short period desires to return to the state from which it came.

“RSDI” means Retirement, Survivors and Disability Insurance.

“Sanction” means loss of receipt of assistance benefits for a designated period of time because of noncompliance with program requirement(s).

“Services” means any WFNJ benefits that are not provided in the form of cash assistance.

“Social Security payment” means RSDI benefit.

“Spouse” means a husband or wife of a specified individual.

“Spousal-support obligation” means a support obligation for a spouse or former spouse of the obligor.

“SSA” means Social Security Administration.

“SSI” means Federal Supplemental Security Income Program.

“State IV-D Agency” means the Department of Human Services (DHS).

“State institution” means any institutional facility for the mentally ill or developmentally disabled, penal institution or veteran’s hospital under the jurisdiction of the State of New Jersey.

“State office” means the Division of Family Development.

“Substance Abuse Initiative” means active participation in substance abuse treatment services that requires a substance abuse assessment administered by a professional clinical care coordinator (CCC) and treatment services as determined clinically appropriate by the CCC, for all WFNJ eligible applicants and recipients who have substance abuse problems.

“Suspended grant” means a payment which is withheld from the recipient pending clarification of continuing eligibility and/or extent of need or because of temporary increase of available resources.

“TANF” means the Federal welfare reform program called Temporary Assistance for Needy Families.

“Temporary payee” means a person designated temporarily by the WFNJ entity to receive assistance payments on behalf of an eligible individual or family, usually in an emergency situation.

“Time-limited assistance” means an aggregate total of 60 cumulative months of receipt of WFNJ benefits whether or not those months are accrued consecutively or intermittently during periods of program participation.

“Timely notice” means a notice that is mailed to a WFNJ applicant/ recipient by a county or municipal agency at least 10 calendar days before the effective date of an agency’s decision or action concerning WFNJ benefits.

“Title IV-D” means Part D, “Child Support and Establishment of Paternity,” of subchapter IV of the Social Security Act (42 U.S.C. § 651 et seq.) under which states receive partial Federal reimbursement of their administrative expenses for establishing paternity and collecting child support.

“Total countable income” means the sum of all recognized income of the assistance unit, including unearned and calculated earned income.

“Transfer application” means a signed request for assistance from a recipient who is presently receiving assistance under the same program in another county or municipality in the State.

“Unrestricted payments” means checks drawn to the order of and delivered to the recipient or authorized payee and received by such person without direction of any kind as a condition of receiving the payment.

“Vendor payment” means a payment drawn to the order of a person or facility for providing goods or services to or for the client, representing payment for such goods or services.

“Vocational training” means providing recipients with classroom training experience and instruction related to specific occupational areas in demand in their labor market area. Training may be combined with CWEP.

“Voluntary acknowledgment of paternity” means consent to the parentage of a child(ren) by signing a Certificate of Parentage. This includes a request by the alleged father and/or the non-custodial parent for genetic testing.

“WFNJ/TANF” means the Work First New Jersey/Temporary Assistance for Needy Families Program.

“WFNJ/GA” means the Work First New Jersey/General Assistance Program.

“Withdrawn application” means an oral or written request by an applicant that the WFNJ entity terminate its activity on his or her application.

“Work activity” means, but is not limited to, the following: employment, on-the-job-training, job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalency, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

“Work First New Jersey participants” means all individuals in the assistance unit.

“Work First New Jersey program” means the single public assistance program established pursuant to P.L. 1997, c.13, c.14, c.37 and c.38, which provides assistance to single adults, couples without dependent children and families with dependent children.

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

Inserted “Legal custody” and “Legally-related”; and in “Parent”, added a reference to legal guardians.

Amended by R.1999 d.66, effective March 1, 1999.
See: 30 N.J.R. 3629(a), 31 N.J.R. 685(a).

Inserted “Substance abuse research demonstration (SARD)”.
Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Inserted “Cooperation with child support”, “Good faith effort for WFNJ/GA” and “Good faith effort for WFNJ/TANF”.

Amended by R.2000 d.371, effective September 18, 2000.

See: 32 N.J.R. 2203(a), 32 N.J.R. 3435(a).

In “Substance Abuse Research Demonstration (SARD)”, deleted a reference to applicants.

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

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

Rewrote the section.

SUBCHAPTER 16. CHILD SUPPORT AND PATERNITY

10:90-16.1 Introduction

(a) P.L. 93-647 establishes Title IV-D of the Social Security Act, which mandates procedures for locating non-custodial parents, establishing paternity for children born out-of-wedlock and establishing, enforcing and/or modifying support obligations owed by non-custodial parents to their children. Title IV-D services with regard to paternity determinations and support collections shall be available to a WFNJ individual, a Medicaid individual, a Title IV-E individual or any other individual not receiving WFNJ who files an application for child support services.

(b) The WFNJ program is designed to promote self-sufficiency. Support collections are a vital financial resource to all individuals attempting to attain and/or maintain self-sufficiency. Applicant/recipient cooperation with the county welfare agency child support unit (CWA/CSU) is a necessary step in obtaining support collections. Child support cooperation is an interactive ongoing process based on individual case circumstances. The applicant/recipient has a continuing responsibility to provide all necessary and new information available to them. The CWA/CSU is responsible for assisting the clients in obtaining information in its efforts to make paternity determinations and to obtain support collections from their responsible parent(s).

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

Added the second sentence.

Amended by R.2000 d.347, effective August 21, 2000.

See: 32 N.J.R. 2031(a), 32 N.J.R. 3070(a).

Rewrote the section.

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

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

In (b), substituted “CWA/CSU” for “CWA/CSP”.

10:90-16.2 Cooperation with child support for WFNJ eligibility

(a) The first step in the WFNJ application process is cooperation with child support. In addition to the eligibility requirements contained in N.J.A.C. 10:90-2.2 and 3.2 or 3.4, requirements for WFNJ eligibility shall include the following:

1. The application process for WFNJ benefits for both WFNJ/TANF and WFNJ/GA individuals begins with the agency worker assigned to ascertain cooperation requirements of child support. For TANF purposes, at the time of the IV-D interview with the WFNJ/TANF applicant/recipient, the CWA/CSU worker shall explain the child support cooperation requirements set out in this section and N.J.A.C. 10:90-16.3, the good faith effort requirement set out in N.J.A.C. 10:90-16.4, and what constitutes a claim for good cause exceptions from the child support requirements, as outlined at N.J.A.C. 10:90-16.5 and the related procedures for those individuals affected by family violence at N.J.A.C. 10:90-20. The CWA/CSU worker, as an agency program contact person, shall notify all WFNJ/TANF individuals having contact with the CWA/CSU of the WFNJ Family Violence Option (FVO) in accordance with N.J.A.C. 10:90-20.2, and explain the purpose of the WFNJ FVO and of the availability and opportunity for referral to the CWA FVO representative. Except in extraordinary circumstances, the IV-D interview shall be conducted at the time of application.

- i. For TANF purposes, the IV-D interview to establish cooperation shall begin with the applicant/recipient signing the affidavit of cooperation and completing the child support questionnaire which includes providing information related to the non-custodial parent in accordance with N.J.A.C. 10:90-16.4(b) and (c), unless the WFNJ/TANF individual requests a WFNJ FVO Waiver in accordance with N.J.A.C. 10:90-16.5 and 20.6 for reason of family violence as a good cause exception from child support requirements, or any of the other reasons for good cause exemption from child support requirements in accordance with N.J.A.C. 10:90-16.5. The WFNJ FVO Waiver and WFNJ/TANF Waiver mean the same as a good cause exception from the child support requirements for reason of family violence or the risk of family violence and are used interchangeably throughout this subchapter.

- (1) The WFNJ/TANF applicant/recipient is required to provide information related to the non-custodial parent at the time of the IV-D interview but no later than 30 calendar days from the date of the notice of initial cooperation with child support in accordance with N.J.A.C. 10:90-16.4(d).

10:90-16.9 (Reserved)

Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "County payment of fees for services".

10:90-16.10 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Responsibility of the State agency".

10:90-16.11 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Responsibilities of the county agency".

10:90-16.12 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Rewrote the introductory paragraph of (b); and changed rule refer-
 ences throughout.
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Responsibilities of the county agency CSP Unit".

10:90-16.13 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Rewrote the section.
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Fiscal record maintenance".

10:90-16.14 (Reserved)

Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Notification of deletions, terminations, suspension or
 transfer of case/individual".

10:90-16.15 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 In (a), substituted a reference to N.J.A.C. 10:90-16.16 for a reference
 to N.J.A.C. 10:90-16.15.
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Parent locator service".

10:90-16.16 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "County agency parent locator responsibilities".

10:90-16.17 (Reserved)

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

Section was "State PLS/Federal Parent Locator Services (PLS)".

10:90-16.18 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Disclosure of information".

10:90-16.19 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Closing criteria for IV-D cases".

10:90-16.20 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Deleted former (c) and (d).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Retention and destruction of case records".

10:90-16.21 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Child Support Guidelines (New Jersey Supreme Court
 Rule 5:6A)".

10:90-16.22 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Income withholding".

10:90-16.23 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Distribution of arrearage payments on child support
 orders".

10:90-16.24 (Reserved)

Amended by R.1998 d.42, effective January 20, 1998.
 See: 29 N.J.R. 3971(b), 30 N.J.R. 389(a).
 In (a), substituted a reference to N.J.A.C. 10:90-16.12(m)1 for a
 reference to N.J.A.C. 10:90-16.10.
 Repealed by R.2003 d.226, effective June 16, 2003.
 See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).
 Section was "Application fee for NPA applicants".

10:90-16.25 (Reserved)

Amended by R.1998 d.42, effective January 20, 1997.

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

Rewrote (f).

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

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

Section was "Review and adjustment of child support orders (WFNJ/TANF, foster care and Medicaid cases".

SUBCHAPTER 17. EARLY EMPLOYMENT INITIATIVE (EEI)

Authority

N.J.S.A. 44:10-3; Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); and the Work First New Jersey Act, P.L. 1997, c.14, approved January 29, 1997.

10:90-17.1 Purpose and scope

(a) Consistent with the policy of the WFNJ program that seeking and accepting employment is a critical element of the program and is one of the primary requirements for receipt of cash assistance as outlined in N.J.A.C. 10:90-1.1(d), a program entitled "Early Employment Initiative (EEI)" has been established. The EEI involves mandatory participation by an adult member(s) of an applicant family, who meets certain EEI eligibility criteria, in an up-front concentrated job search/placement strategy that will provide an opportunity for the family to regain independence and self-sufficiency through obtaining unsubsidized employment, thereby avoiding receipt of WFNJ/TANF cash assistance. The EEI is designed to provide immediate up-front short-term financial investments for such EEI eligible applicant families. In return for this up-front assistance, the adult member(s) of such families shall be required to cooperate and actively participate in the EEI for a minimum period of 15 days to a maximum period of up to 30 days (which shall run parallel to the time frame for determining WFNJ program eligibility), in accordance with the provisions set forth in this subchapter, as a condition of eligibility for the WFNJ/TANF program (see N.J.A.C. 10:90-2.1(b)1).

(b) If an individual is determined EEI eligible in accordance with N.J.A.C. 10:90-17.2, and thereafter has a change in circumstances placing the family in immediate need prior to the expiration of the minimum 15 day participation period, the family shall be immediately referred to the WFNJ county agency for an immediate need determination. Such individuals shall have been considered to have met their EEI participation requirement.

(c) Participation in the EEI is subject to the availability of slots at the EEI entity. On a daily basis, the WFNJ agency shall confirm the availability of EEI slots prior to taking any action concerning determining EEI eligibility. The lack of an EEI slot shall not delay the processing of the WFNJ/TANF application. When EEI slots are not available, the WFNJ agency shall not screen any applicant for participation in the EEI, and participation in the EEI shall not be considered an eligibility requirement for those applicants. No further action shall be taken by the WFNJ agency to refer such applicants for EEI participation during this WFNJ/TANF application process, however, at the time of a subsequent reapplication for WFNJ/TANF cash assistance, the family may be referred for EEI participation, if applicable.

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

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

Rewrote (a).

10:90-17.2 Determining eligibility for the EEI

(a) When it has been confirmed that EEI slots are available, the county WFNJ agency shall, during the WFNJ application interview, determine whether or not the WFNJ/TANF adult applicant(s) meets the eligibility criteria for mandatory participation in the EEI. More than one adult per family may be determined eligible for mandatory participation in the EEI. Eligibility for mandatory EEI participation shall be determined if an adult WFNJ/TANF applicant meets all of the following criteria:

1. Has a work history that equals or exceeds four months of full time employment in the last 12-month period;
2. Has at least one child;
3. Appears to meet all financial and non-financial WFNJ eligibility requirements, including initial cooperation with child support, and is considered an eligible candidate for receipt of WFNJ cash assistance;
4. Is not in immediate need, in accordance with the immediate need provisions at N.J.A.C. 10:90-1.3; and
5. Does not meet the criteria for a deferral from the work requirements under the WFNJ program (see N.J.A.C. 10:90-4.9).

(b) A WFNJ/TANF adult applicant who does not meet the criteria in (a)1 above for mandatory EEI participation, but has a work history that equals or exceeds four consecutive weeks of employment within the 52 weeks prior to applying for WFNJ cash assistance and meets all of the other EEI eligibility criteria at (a)2 through 5 above, shall be given the opportunity to voluntarily participate in the EEI. The county WFNJ agency shall inform the applicant who is eligible for participation in the EEI under this voluntary criteria that once the decision is made to voluntarily participate, he or she shall be considered a mandatory EEI participant and shall be obligated to comply with all the provisions set forth in this subchapter.

(c) On the same day the WFNJ application is taken, the WFNJ/TANF agency shall determine whether or not any of the adult members of the applicant family meet the EEI eligibility criteria in (a) or (b) above.

1. For those applicants who meet the EEI eligibility criteria, the WFNJ agency shall prepare an initial Individual Responsibility Plan (IRP) with the applicant and utilize form CAGE-8, Addendum to the Individual Responsibility Plan, to allow the applicant to self-identify a potential drug or alcohol problem prior to being referred for participation in the EEI. It is to be noted that the responses to the CAGE-8 questions are voluntary. If an applicant chooses not to respond to the drug and alcohol questions, the WFNJ agency shall make a notation on the CAGE-8 form, accordingly. In all instances, the WFNJ agency shall attach the CAGE-8 form, along with the initial IRP, to the applicant family's WFNJ application.

i. If the individual indicates that he or she has a drug or alcohol problem, the individual shall not be referred to the EEI entity for participation during this WFNJ application process and the family's eligibility determination for WFNJ cash assistance shall continue without interruption. In such instances, when the family's WFNJ application is approved, the individual's self-identified drug or alcohol problem shall be taken into consideration and addressed, as appropriate.

2. For those adult applicants who meet the EEI eligibility criteria for participation and maintain that they do not have a drug or alcoholic problem, participation in the EEI shall be mandatory. Likewise, those adult family members who choose not to respond to the CAGE-8 drug and alcohol questions and who meet the eligibility criteria for EEI participation at (a) or (b) above, shall also be referred to the EEI entity for mandatory participation.

(d) Once it is determined that an adult individual meets all the criteria for mandatory participation in the EEI, the WFNJ agency shall immediately take action to refer that adult to the EEI entity as follows:

1. The county WFNJ agency shall provide a verbal explanation of what participation in EEI means as well as provide a copy of an "EEI Important Notice."

2. The county WFNJ agency shall require the mandatory EEI participant to sign form WFNJ/EEI-1, Early Employment Initiative Participation Agreement. Refusal by the participant to sign this form shall constitute non-cooperation with the EEI, in accordance with the EEI cooperation provision at N.J.A.C. 10:90-17.3(b), and shall result in the denial of the applicant family's WFNJ application for cash assistance. In addition, the WFNJ agency shall complete a WFNJ Agency Referral to EEI which shall include the earned income amount that would render the family ineligible for WFNJ/TANF cash assistance, if an EEI participant secures employment. The originals of the WFNJ/EEI-1 and the WFNJ Agency Referral shall be retained at the WFNJ agency and attached to the WFNJ application. The EEI participant shall be provided a copy of the EEI Participant Agreement. The WFNJ agency shall immediately fax, to the appropriate EEI entity, a copy of the signed WFNJ/EEI-1, along with a copy of the referral form.

3. At the time the county WFNJ agency refers the EEI participant to the EEI agency, the WFNJ agency shall also refer the EEI participant to the Unified Child Care Agency (UCCA) for post-EEI child care service arrangements. The WFNJ agency shall provide notification to the UCCA of the need for post-EEI child care services by preparing a WFNJ Agency Referral to the UCCA Agency and immediately faxing it to the UCCA. The WFNJ agency shall retain the original UCCA referral and attach it to the EEI participant's WFNJ/TANF application.

Amended by R.2000 d.205, effective May 15, 2000.
See: 32 N.J.R. 639(a), 32 N.J.R. 1771(a).

In (a)1, substituted a reference to four months for a reference to six months.

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

In (b), in the first sentence deleted "a high school diploma or a GED or" preceding "a work history".

10:90-17.3 EEI participation

(a) For those WFNJ adult applicants who meet EEI eligibility criteria at N.J.A.C. 10:90-17.2(a) or (b), participation in the EEI shall be mandatory and non-cooperation shall result in denial of the WFNJ cash assistance application for both the applicant and the applicant's entire family.

1. EEI participant's shall be required to comply with all aspects of the cooperation and participation provisions of the EEI, as set forth in this subchapter, unless good cause exists, which aspects include, but are not limited to:

i. Keeping all scheduled appointments timely;

ii. Giving reasonable notice and explanation of the inability to keep an appointment;

iii. Cooperating in the development of an WFNJ individual responsibility plan (IRP);

iv. Signing the Early Employment Initiative Participation Agreement, and abiding by the provisions of that Agreement, which includes the agreement to withdraw the family's WFNJ application effective the date unsubsidized employment is secured when the gross earnings from that employment, along with any other countable income, of the family, exceed the maximum allowable income level for WFNJ financial eligibility; and

v. Contacting the UCCA to arrange for post-EEI participation child care services, as appropriate.

(b) Participation in EEI shall be for a minimum period of 15 days to a maximum period of 30 days (which shall run parallel to the time frame for determining WFNJ program eligibility).

1. The applicant shall be referred to the administering entity charged with the responsibility for providing the up-front job search/placement service for EEI. The EEI entity shall develop an EEI plan with the participant, which shall identify the dates and times of the activities, as appropriate, as well as the desired employment goal.

In addition, the plan shall state whether an activity support payment is to be provided to cover necessary employment-related expenses to allow participation in the job search/placement activity outlined in the plan. The EEI plan shall be signed by the EEI participant and a copy of the plan shall be provided to the EEI participant.

2. The family's application for WFNJ, Medicaid and/or Food Stamps shall continue to be processed by the county agency, as appropriate, without delay.

i. Activity support payments and one time lump sum payments associated with participation in the EEI program, as set forth in (c) below, are disregarded as income in accordance with the State Plan for Title XIX when determining eligibility for AFDC-Related Medicaid.

3. All EEI participants shall be required to participate in an up-front job search/placement activity for the sole purpose of obtaining unsubsidized employment during which time the WFNJ county agency shall continue to process their application for WFNJ cash assistance. The EEI participation requirement is a minimum period of 15 days to a maximum period of 30 days or anytime after the 15 day minimum period when a final decision is reached on the client's WFNJ application (but not to exceed the 30-day maximum period). During the EEI participation period, the EEI family shall be eligible for an activity support payment, in accordance with the EEI Payment Schedule at (d) below, to cover employment-related expenses necessary to allow participation in the EEI, when such services are not available without charge from any other source. This activity support payment shall be based on identified job search/placement needs and shall not exceed the maximum activity support payment for the family size as indicated in the EEI Payment Schedule at (d) below.

i. If the WFNJ/TANF application was denied because of non-cooperation with EEI (see (a)1 above), and the family reapplies for WFNJ/TANF within 30 calendar days of that original WFNJ application date, any activity support payment provided to the family shall be considered as unearned income when determining WFNJ/TANF eligibility and calculating the WFNJ/TANF grant.

(c) When an EEI participant secures employment, the EEI entity shall determine whether or not the participant's gross earnings shall render the participant's family ineligible for WFNJ cash assistance by comparing the participant's gross earnings to earned income amount which the WFNJ agency entered on the "WFNJ Agency Referral to the EEI Entity" form.

1. If the EEI participant's gross earnings are equal to or less than the earned income amount indicated for that

family on the referral form, the family may remain eligible for WFNJ cash assistance and the EEI entity shall refer the family to the WFNJ agency for a final determination of eligibility for cash assistance.

2. EEI participants who are successful in obtaining full-time unsubsidized employment and whose anticipated gross earnings, when combined with all other countable income available to the WFNJ assistance unit, exceed the earned income amount indicated for that family on the referral form, which exceeds the initial maximum allowable income eligibility level for WFNJ/TANF (Schedule I at N.J.A.C. 10:90-3.3(b)), shall be required to withdraw their family's WFNJ application for cash assistance. Before requiring the participant to initiate a withdrawal of the applicant family's WFNJ/TANF application, the EEI entity shall inquire whether any changes in the applicant family's assistance unit size or other countable income has occurred as of the date of the WFNJ application. If the participant states that changes have occurred, the EEI entity shall contact the WFNJ agency to ascertain the impact of such changes on the applicant family's WFNJ eligibility for cash assistance. If it is determined, by the WFNJ agency, that the changes reported by the EEI entity indicate that the applicant family may remain eligible for the WFNJ cash assistance, the EEI agency shall refer the participant back to the WFNJ agency for a final determination of eligibility for WFNJ cash assistance. If, however, the participant expresses that no changes have occurred since the date of the WFNJ application and the applicant family withdraws the WFNJ application, the participant's family shall be eligible to receive the following under the EEI, as appropriate:

i. A one-time lump sum payment to cover expenses necessary to avoid loss of housing or for other employment-related expenses necessary to enable the employed individual to continue to engage in his or her employment such as, but not limited to, transportation, uniforms, car maintenance, tools, supplies, licenses and testing fees. This one-time lump sum payment shall be provided to the family by the EEI entity based on specific need and shall not exceed the one-time lump sum payment ceiling for the participant's family size as designated in the EEI Payment Schedule at (d) below; and

ii. Up to two years of child care in accordance with the WFNJ child care services provisions at N.J.A.C. 10:90-5.2.

(d) The EEI Payment Schedule below identifies the activity support and one-time lump sum payment ceilings for EEI. These ceiling amounts are based on the WFNJ assistance unit size; therefore, the ceiling amounts shall remain constant even if more than one adult of the WFNJ applicant family is participating in EEI. The activity support payment and the one-time lump sum payment issued by the EEI entity shall not count toward the 60 month lifetime limit for receipt of WFNJ cash assistance.

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

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

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

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

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

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

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

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

10:90-18.2 Referral to the SAI

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

1. WFNJ TANF/GA recipients who are pregnant and choose to voluntarily participate in the SAI beyond the third trimester, when the recipient is otherwise deferred, without the risk of sanction;

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Persons convicted on or after August 22, 1996 for an offense which occurred on or after August 22, 1996 involving possession or use of a controlled substance who want to establish eligibility for WFNJ cash assistance benefits, unless the person meets the good cause criteria set forth at N.J.A.C. 10:90-18.6.

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

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

1. Drug Court Initiative (DCI) participants; and

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

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

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

2. During the application for EA;

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

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

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

1. All of the information provided is confidential;

2. Substance abuse treatment is available at no cost.

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

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

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

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

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

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

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

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

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

10:90-18.3 Mandatory SAI treatment

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

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

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

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

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

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

i. In the instances as noted in (a)2 above, the CCC shall advise the WFNJ agency worker to request a new Examining Physician's Report, WFNJ-5, or the Confidential Medical-Psychiatric Examining Physician's Report, WFNJ-5S, determination that states that substance abuse is the reason for the unemployable status. If the updated Physician's Report, WFNJ-5 or Confidential Medical-Psychiatric Report, WFNJ-5S indicates that the WFNJ/GA recipient is no longer unemployable, then the WFNJ/GA employable requirements at N.J.A.C. 10:90-3 shall apply.

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

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

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

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

10:90-18.4 SAI sanctions

For WFNJ recipients subject to mandatory participation in the SAI, failure to comply with the completion and signing of the required SAI forms, the substance abuse assessment and/or the requirements of the treatment plan, including biological testing if appropriate, and follow-up, when it is clinically appropriate and in the therapeutic interest of the SAI participant, shall result in a sanction in accordance with N.J.A.C. 10:90-4.13, unless the CCC determines that treatment is not clinically appropriate for the WFNJ recipient at the time or the criteria established for conciliation at N.J.A.C. 10:90-4.12 apply.

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

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

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

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

10:90-18.6 Eligibility rules for convicted drug felons

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

1. A person convicted on or after August 22, 1996 under Federal or State law of any offense which occurred on or after August 22, 1996 which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the possession, or use of, a controlled substance as defined in section 102(6) of the Federal "Controlled Substances Act" (21 U.S.C. § 802(6)).

i. Under the laws of the State of New Jersey, a crime is defined at N.J.S.A. 2C:1-4(a) as "an indictable offense . . . for which a sentence of imprisonment in excess of 6 months is authorized."

ii. A person convicted in accordance with (a)1 above of possession or use of a controlled substance may be eligible for WFNJ TANF/GA cash assistance and/or Food Stamp program benefits, if the person enrolls in and actively participates in or completes a

DHSS' licensed or approved RSATP at the conclusion of which the person is certified drug free by an authorized program representative or the person is able to establish good cause in accordance with N.J.A.C. 10:90-18.6(c).

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

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

(A) During the first 60 days after completion of a RSATP or at the time of application or case redetermination, it must be determined, via testing by an entity designated by DFD, that the person is free of any non-prescribed controlled substance. If the person is determined not to be free of any controlled substance during, or at the conclusion of, the 60 day period, the person's eligibility for benefits shall be terminated immediately.

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

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

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

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

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

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

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

(2) The provisions at (a)1ii(2) above, with respect to continued eligibility for Food Stamp program benefits, also apply to persons convicted of distribution of a controlled substance.

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

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

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

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

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

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

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

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

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

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

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

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

(C) The person is in need of in-patient or out-patient substance abuse treatment at a DHSS' licensed or approved facility. Treatment shall become mandatory and a condition for WFNJ initial and continued eligibility and receipt of WFNJ TANF/GA cash assistance.

(2) The person is a participant in the Drug Court Initiative (DCI) and provides written verification, on agency letterhead confirming the following:

(A) A Treatment Assessment Services for the Courts (TASC) evaluator's substance abuse assessment has been completed;

(B) The level of treatment required by the court; and

(C) The name and telephone number of the DCI liaison to the WFNJ agency.

3. The person entered a DHSS' licensed or approved RSATP on his or her own.

4. The person was enrolled in a DHSS' licensed or approved RSATP then later discharged as a result of the participant's physical or mental health problems including pregnancy.

i. Individuals discharged from a facility in accordance with (c)4 above shall provide written documentation from the facility the person was discharged from, on agency letterhead, confirming the reason for the discharge and the date of discharge.

5. The person meets the good faith effort requirements in accordance with (e) below and the person is denied entry in a DHSS' licensed or approved RSATP due to the following:

i. The facility's inability to provide services to accommodate the person's physical or mental health problems (including pregnancy);

ii. The facility reached its capacity and cannot accommodate the person's request for enrollment at the time of application for WFNJ cash assistance benefits only; and

6. Individuals experiencing other unusual circumstances as determined by the DHS.

(d) The provisions at (c)1 through 6 above, with respect to good cause reasons, also apply to persons convicted of

distribution of a controlled substance that want to establish eligibility only for Food Stamp program benefits.

(e) Persons convicted of possession or use of a controlled substance that establish good cause for the reasons identified in (c)5i or ii above, shall be required to make a "good faith" effort to enter a facility as noted below:

1. The person shall make a good faith effort by attempting to enroll in at least three DHSS' licensed or approved RSATPs.

i. Attempts by the individual to enroll in a facility may be pursued by telephone.

2. The person shall provide documentation of his or her good faith efforts.

i. Documentation shall consist of a written verification from each licensed or approved RSATP, on agency letterhead, confirming that the person sought entry in the facility; and, the date(s) and reason (mental or physical health reasons or capacity issues in the treatment programs) the facility denied the individual's request for enrollment.

ii. The required documentation shall be provided promptly, as a condition of eligibility, so that the eligibility determination can be completed within the 30-day time frame in accordance with N.J.A.C. 10:90-1.5.

iii. If the person making the good faith effort wants to establish eligibility for WFNJ TANF/GA cash assistance benefits and indicates that the facility will not provide the requested documentation, then the county or municipal WFNJ agency, with the cooperation of the applicant, shall follow-up by contacting the DHSS' licensed or approved RSATP(s) by telephone.

iv. Individuals who establish eligibility for WFNJ TANF/GA cash assistance benefits through the good cause process shall be referred to the SAI immediately at the time of application, unless the person submits written documentation from a substance abuse treatment program, that he or she is free of any non-prescribed controlled substance at the time of application.

(f) The provisions at (e) above, with respect to making a good faith effort also apply to persons convicted of distribution of a controlled substance that want to establish eligibility only for Food Stamp program benefits.

10:90-18.7 Responsibility of the SAI CCC

(a) The responsibilities of the CCC are to:

1. Notify the WFNJ agency worker, through a liaison, within 24 hours of the scheduled assessment of a WFNJ recipient;
2. Conduct the assessment and provide the WFNJ agency worker with the individual's status as to assessment, treatment plan and placement in treatment, if it is determined that treatment is necessary;
3. Monitor and follow-up on treatment service;
4. Evaluate, authorize and pre-approve treatment for persons convicted of possession or use of a controlled substance who are referred to the SAI for participation in treatment service or payment of treatment service; and
5. Inform the WFNJ agency worker of any changes during a WFNJ participant's course of treatment as well as when it is appropriate for an individual to engage in an additional work activity.

10:90-18.8 Responsibilities of the county/municipal WFNJ agency for SAI

(a) The responsibilities of the county and/or municipal WFNJ agencies are to:

1. Refer eligible WFNJ recipients for participation in the SAI/SARD;
2. Perform system updates;
3. Provide transportation;
4. Provide supportive services; and
5. Notify the CCC immediately when the SAI participant's case will be closed and provide the effective closing date.

10:90-18.9 Fair hearings

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

SUBCHAPTER 19. KINSHIP CARE SUBSIDY PROGRAM (KCSP)

10:90-19.1 Purpose and scope

(a) Based on P.L. 2001, c.250, the Kinship Care Subsidy Program (KCSP) is being established. The KCSP involves providing monthly cash subsidies for children residing with low income individuals, known as kinship legal guardians, who take responsibility for raising a child whose parents are unable or unwilling to do so. The KCSP is designed to provide cash assistance for the needs of children residing with kinship legal guardians, in accordance with the provisions set forth in this subchapter.

(b) The KCSP shall provide subsidies for eligible children up to the financial cap allotted to the program. The KCSP slots shall be allocated by county to serve eligible children on a first come, first served basis.

(c) P.L. 2001, c.250 creates a new type of court awarded kinship legal guardianship, which addresses the needs of children and caregivers in long-term kinship relationships. Participation in the KCSP is subject to the caregiver's establishment of a court ordered kinship legal guardianship arrangement.

(d) A child is determined eligible for the KCSP if the child's caregiver has been granted kinship legal guardianship and has an annual family income of less than or equal to 150 percent of the Federal Poverty Level (FPL). Children whose caregivers meet the specific KCSP eligibility criteria will be eligible for up to a \$250.00 per month/per child subsidy.

10:90-19.2 Defining kinship legal guardianship

(a) "Kinship legal guardianship" is defined as a caregiver who is willing to assume care of a child due to parental incapacitation, with the intent to raise the child to adulthood, and who is appointed the kinship legal guardian of the child by the court pursuant to P.L. 2001, c.250.

1. "Parental incapacity" means incapacity of such a serious nature as to demonstrate that the parent is unable, unavailable or unwilling to perform the regular and expected functions of care and support of the child.

2. This form of legal guardianship provides permanency for children and stronger legal protection for caregivers, without termination of parental rights and adoption.

i. A kinship legal guardian shall be responsible for the care and protection of the child and providing for the child's health, education and maintenance.

ii. Under kinship legal guardianship, the child's parent(s) retain the power to consent to the adoption or name change of the child, the obligation to pay child support and the right to maintain a continued relationship with the child through visitation as determined by the court. An award of kinship legal guardianship does not limit or terminate any rights or benefits derived from the child's parents, including inheritance and social security or insurance benefits.

3. Any adult family friend or person with a biological or legal relationship to a child, other than the child's parent, who has been providing care and support for the child living in the caregiver's home for 12 consecutive months, may petition the court for kinship legal guardianship.

(b) Caregivers who have obtained other forms of guardianship through the Surrogate and Probate Departments of the Superior Court must receive kinship legal guardianship to be eligible to apply for the subsidy. A kinship legal guardian shall have the same meaning as the term "legal guardian," as defined in 42 U.S.C. § 675, except that the process, procedure and ruling for kinship legal guardianship shall be apart from and shall not amend, supplant or contravene N.J.S.A. 3B:12-1 et seq.

(c) The Superior Court, Chancery Division, Family Part has jurisdiction to award kinship legal guardianship. Consistent with rules and procedures adopted by the Supreme Court, the determination will be based on a petition filed by the caregiver that contains a kinship caregiver assessment certifying to the ability of the petitioner to care for the child. The assessment shall also contain the results from a criminal history record background check, domestic violence central registry check and a child abuse record check of the caregiver and any adult residing in the caregiver's household.

1. The Department of Human Services (DHS) may, subject to the availability of funding, provide payments for assessments associated with obtaining kinship legal guardianship for caregivers meeting the definition of a Temporary Assistance for Needy Families (TANF) parent person with family incomes of less than or equal to 150 percent of the FPL. The costs for the assessment shall be borne by DHS in cases where an eligible individual is applying for cash assistance provided by the Division of Family Development for which kinship legal guardianship is a requirement and for the Division of Youth and Family Services cases. In cases where DHS is paying for the assessment associated with obtaining kinship legal guardianship, after filing an application for child support services the caregiver may contact the Kinship Navigator Program for a referral to an appropriate entity. The caregiver assessment shall be conducted by a designated entity contracted by the DHS or by the Division of Youth and Family Services.

(d) Kinship legal guardianship terminates when the child reaches 18 years of age or when the child is no longer continuously enrolled in a secondary education program, whichever event occurs later, or when kinship legal guardianship is otherwise terminated.

1. An order or judgment awarding kinship legal guardianship may be vacated by the court prior to the child's 18th birthday if the court finds that the kinship legal guardianship is no longer in the best interests of the child or, based upon clear and convincing evidence, the court finds that the parental incapacity or inability to care for the child that led to the original award of kinship legal guardianship is no longer the case, and termination of kinship legal guardianship is in the child's best interests.

2. An order or judgment awarding kinship legal guardianship may be vacated by the court if, based upon clear and convincing evidence, the court finds that the

guardian failed or is unable, unavailable or unwilling to provide proper care and custody of the child, or that the guardianship is no longer in the child's best interests (see N.J.A.C. 10:90-19.3(h)).

10:90-19.3 Determining eligibility for the KCSP

(a) When it has been confirmed that kinship legal guardianship has been granted, eligibility for KCSP participation shall be approved if the kinship legal guardian's family income is less than or equal to 150 percent of the FPL and funds are available.

(b) Based upon the total gross income of the kinship legal guardian's family and the child, the designated entity shall calculate the annual income to determine if the family's income is less than or equal to 150 percent of FPL eligibility requirement. Income definitions reflective of those used to determine WFNJ/TANF eligibility will be utilized when determining eligibility for the KCSP.

1. All countable earned and unearned income of the kinship legal guardian's family and the child, with the exception of Work First New Jersey (WFNJ)/TANF benefits received on behalf of the child, is to be counted in the financial determination. Kinship subsidy eligibility shall not exist if the total countable gross annual income exceeds 150 percent of the FPL guidelines 66 Fed. Reg. 10,695 (February 16, 2001) for the appropriate family size.

(c) For purposes of determining eligibility for the kinship care subsidy, the kinship legal guardian's family shall include the kinship legal guardian(s), his or her spouse, his or her children and the child or children for whom kinship legal guardianship has been awarded. The family also includes dependent children who are over the age of 18 or other adults who are not legally responsible for the children for whom kinship legal guardianship has been awarded but who are dependent on the kinship legal guardian and who live in the household.

(d) Sources of countable income reflect WFNJ/TANF income definitions found at N.J.A.C. 10:90-3.9(b) and include, but are not limited to, employment (including self-employment), rental income, Social Security (disability, retirement or survivor's) benefits, State disability, rental property managed by an agent, worker's compensation, pensions/annuity/401K payments, alimony received, railroad retirement, General Assistance payments, TANF payments (excluding payments for the kinship child), unemployment, interest and dividend income, veterans benefits and any child support received.

1. For purposes of determining kinship family eligibility, exempt income, as stipulated at N.J.A.C. 10:90-3.19, includes, but is not limited to, SSI benefits, and foster care payments and shall be excluded from the 150 percent FPL income eligibility test in the same manner that such benefits are excluded when determining WFNJ/TANF eligibility. Any member of the family who receives SSI or

foster care benefits is not counted as a member of the kinship family for this determination.

(e) Resources shall not be considered when determining financial eligibility for the kinship subsidy.

(f) Kinship subsidy eligibility calculations shall be based on an estimate of the gross annual income of the kinship legal guardian's family, using income averaging and a prospective budgeting methodology reflective of that used to determine WFNJ/TANF eligibility as stipulated at N.J.A.C. 10:90-3.11. To determine the estimated income of the family, all earned and unearned income shall be considered.

1. For purposes of determining financial eligibility for the kinship subsidy, the entity shall determine earnings by obtaining wage information for the four consecutive week period immediately preceding the date of application or redetermination. Likewise, all unearned income received within this four-week period shall be verified and documented in the case file.

(g) Once it is determined that a kinship legal guardian meets the criteria for participation in the KCSP, the designated entity shall refer him or her to the appropriate county welfare agency (CWA) to apply for the subsidy benefit for the child.

1. Eligibility for the kinship subsidy shall be redetermined on an annual basis (12 months from the date of application) by the designated entity.

i. Once determined KCSP eligible, the recipient shall continue to receive the subsidy for the remaining balance of the 12-month eligibility period. However, there are circumstances that may result in termination of the kinship subsidy payment prior to the 12-month redetermination date. These include, but are not limited to, termination of kinship legal guardianship, if the child leaves the kinship legal guardian's home, if the child moves out of New Jersey or if the child's countable income exceeds \$250.00 per month.

(h) Kinship subsidy eligibility shall extend beyond the age of 18 if the child is a full-time student in a secondary school (or equivalent level of vocational or technical training) and expected to complete the program before reaching age 19. Kinship subsidy eligibility shall be extended to age 21 if the child is enrolled in a special education program per N.J.A.C. 10:90-2.7(a). If the court terminates kinship legal guardianship prior to the child's 18th birthday, eligibility for the KCSP shall no longer exist.

(i) Continued participation in the KCSP shall not be affected by time limitations on WFNJ/TANF benefits for the kinship legal guardian's family. If a TANF recipient who has kinship legal guardianship reaches the 60 month time limit, the child may continue to receive the kinship subsidy with the caregiver continuing to act as the "payee." If the family meets WFNJ/TANF exemption or extension criteria, the case continues unchanged. The child remains eligible for the subsidy until eligibility is redetermined.

10:90-19.4 Kinship Care Subsidy Program application process

The Kinship Care subsidies shall be administered through the CWAs. The kinship legal guardian must apply for the KCSP in order to receive the kinship subsidy benefit for the child. All kinship legal guardians are considered the "payee" for a related child in his or her care when the child is not their natural or adopted child. The applicant shall provide his or her case file papers that were completed by the designated entity, including the original eligibility determination, which shall be retained and attached to the kinship subsidy application. To receive the kinship subsidy for the eligible child, the kinship legal guardian shall sign the application and agree to cooperate with efforts to collect child support from the parents of the child. The decision to apply rests with the applicant.

10:90-19.5 Kinship Care subsidy payments

(a) A calculation utilizing WFNJ/TANF income definitions will be performed by the CWA to determine the amount of the kinship subsidy. Any countable income (see N.J.A.C. 10:90-3.9) the child receives shall be considered and will reduce the subsidy benefit. If there is more than one child eligible for a kinship subsidy in one household, the children shall be considered a "kinship unit." In a kinship unit, the combined subsidy amount is reduced by the combined countable income of the kinship unit members.

1. The subsidy amount shall be the full subsidy benefit of \$250.00, multiplied by the number of eligible children in the unit, less all combined countable income of the eligible children.

(b) When calculating the subsidy for children living with kinship legal guardians receiving WFNJ/TANF cash benefits, the CWA worker will re-calculate the TANF benefit for the assistance unit without counting the kinship child(ren) or the kinship subsidy income. The kinship child is not a member of the TANF unit for purposes of cash assistance. An additional calculation will issue the kinship subsidy for each child. The subsidy issuance will be sent to EBT along with the TANF issuance, if applicable, for the designated payee on the case.

(c) When calculating the subsidy for children who do not receive WFNJ/TANF benefits, the CWA worker shall initiate the application process for the kinship subsidy as a child only case at the request of the kinship legal guardian. If the child is already receiving a WFNJ/TANF child only benefit, the CWA worker will re-calculate the payment to issue the kinship subsidy.

10:90-19.6 Kinship subsidy supportive services

(a) Although a child who is eligible to receive the kinship subsidy is not a member of the assistance unit for purposes of receipt of WFNJ cash assistance, the child is considered a member of the WFNJ/TANF assistance unit for all benefits and support services. These include, but are not limited to, child care, medical assistance and food stamp benefits.

1. Any penalties imposed on the assistance unit related to a WFNJ sanction shall not affect eligibility for or issuance of the kinship subsidy.

(b) The CWA worker shall determine Medicaid eligibility for the kinship child. The kinship subsidy shall be disregarded in determining Medicaid eligibility.

SUBCHAPTER 20. THE FAMILY VIOLENCE OPTION INITIATIVE

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

Source and Effective Date
R.2003 d.226, effective June 16, 2003.
See: 34 N.J.R. 2713(a), 35 N.J.R. 2670(a).

10:90-20.1 General provisions and purpose

(a) Based on P.L. 1997, c.13, c.14, c.37, and c.38 (Work First New Jersey Act), approved January 29, 1997; the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996; and the final Federal Temporary Assistance for Needy Families (TANF) regulations, issued on April 12, 1999, the WFNJ Family Violence Option (FVO) Initiative is established to help promote the goals of the WFNJ program. The objective of the WFNJ FVO Initiative is to safely move WFNJ TANF/GA applicants/recipients, who may be past or present victims of family violence or are at risk of family violence, from dependency on WFNJ TANF/GA cash assistance benefits to employment and self-sufficiency, to the extent possible.

1. Past or present situations involving family violence or any situation that places the WFNJ individual and/or family member(s) at risk of family violence may affect the individual's current ability to cooperate with the WFNJ TANF/GA program requirements because the individual has or fears emotional or physical harm. Family violence means situations involving domestic violence and/or sexual assault in accordance with the definition at N.J.A.C. 10:90-15.

2. Family violence circumstances may affect a WFNJ TANF/GA individual's and/or his or her family member's safety, may limit the person's ability to move beyond the violence or trauma of the violence and, as such, may affect the individual's current ability to comply with WFNJ TANF/GA program requirements such as, but not limited to:

- i. Cooperating in establishing paternity or in establishing and enforcing orders of support on a non-custodial or alleged non-custodial parent;
- ii. His or her ability to work or participate in a work activity;
- iii. The length of time of receipt of public assistance; and
- iv. His or her ability to maintain housing and/or comply with EA requirements.

(b) The New Jersey Department of Human Services' (DHS) Division of Family Development (DFD) in collaboration with the New Jersey Coalition for Battered Women (NJCBW) established the WFNJ FVO Initiative. The WFNJ FVO Initiative provides WFNJ TANF/GA applicants/recipients with notification of the WFNJ FVO process; screenings which may identify individuals with a past or present history of family violence or who may be at risk of family violence; provides for the safety provision that allows one or more of the WFNJ TANF/GA program requirements to be considered for a WFNJ FVO Waiver, including a good cause exception from the WFNJ/TANF child support requirements and requests for EA for reason of family violence, if and when a waiver is necessary, and for as long as the waiver may be needed.

1. All requests for a WFNJ FVO Waiver of any WFNJ TANF/GA program requirement(s) are coupled with the requirement for participation in the standardized WFNJ FVO Risk Assessment process. This involves the formal referral of WFNJ TANF/GA individuals applying for or in receipt of WFNJ TANF/GA cash assistance benefits to the designated victim service provider agency for completion of the Federally required WFNJ FVO Risk Assessment and for possible referral to intervention services.

i. The WFNJ FVO Risk Assessment includes a safety and service plan strategy consistent with the identified needs and safety concerns of the individual, as determined by the WFNJ TANF/GA individual and the victim service provider agency's risk assessor.

ii. The EA service plan completed at the CWA/MWA for WFNJ TANF/GA individuals requesting EA for reason of family violence or the risk of family violence must be coordinated with any services offered through the designated victim service provider agency and included in the family violence safety and service plan.

2. The CWA/MWA notifies, screens for, and processes any WFNJ FVO Waiver requests made by WFNJ TANF/GA/EA individuals for reason of family violence.

3. Designated WFNJ CWA/MWA staff shall refer any individual who requests help in accessing victim services, in their community, to the designated victim service provider agency of that county.

i. The WFNJ FVO Initiative provides for the informal referral of WFNJ TANF/GA individuals, who are victims/survivors and do not request a WFNJ FVO Waiver, to the designated victim service provider agency for information and/or services. Such informal referrals are also available, upon request, to anyone from the public at large having contact with the WFNJ CWAs/MWAs and for CWA/MWA employees.

(c) All WFNJ CWAs/MWAs shall make referrals to the designated victim service provider agency.

1. The MWA shall make a referral for the WFNJ FVO Risk Assessment when the WFNJ/GA individual requests a WFNJ FVO Waiver of one or more WFNJ/GA program requirements, unless the individual is making application for or participating in the WFNJ/GA program in an area of the Statewide program where the WFNJ FVO Initiative process has not yet administratively been implemented or made operational. In these excepted case situations, the WFNJ/GA process for waivers shall follow that operational process that preceded the WFNJ FVO Initiative, until such time as that process becomes effective for that MWA.

(d) The purposes of the WFNJ FVO Initiative are as follows:

1. To provide all WFNJ TANF/GA applicants/recipients with the following:

i. Safety and flexibility in meeting the WFNJ TANF/GA work requirements and WFNJ/TANF child support requirements;

ii. Notification of the right to request a WFNJ FVO Waiver of one or more WFNJ TANF/GA program requirements, including a good cause exceptions from the WFNJ/TANF child support requirements, and requests for EA for reason of family violence;

iii. Identification of the specific WFNJ TANF/GA program requirements that may be waived;

iv. An explanation of the WFNJ FVO Waiver process and the WFNJ FVO Risk Assessment requirements;

v. Advice that any individual, who wants information about or who is in need of victim services, of his or her right to request a referral to the designated victim service provider agency, where certified professionals trained in the area of domestic violence or sexual assault may assist the person with specialized services, including completion of the WFNJ FVO Risk Assessment, when a WFNJ FVO Waiver has been requested; and

vi. Basic written and oral information about the New Jersey Address Confidentiality Program (NJACP);

(1) Applications for the NJACP shall be made through the designated victim service provider agency in accordance with State law at N.J.S.A. 47:4-1 et seq.;

(A) If the applicant/recipient does not meet the criteria for the NJACP, or is in the process of applying for the NJACP, then the CWA address may be used for the individual on appropriate agency documents to protect the individual's location due to safety concerns;

(B) If a WFNJ TANF/GA applicant/recipient is placed in a domestic violence shelter (DV) or is currently residing in a DV shelter, the WFNJ agency shall not use the DV shelter address for the individual in order to ensure the safety of the WFNJ applicant/recipient and other families placed in the shelter; and

2. To educate WFNJ TANF/GA applicants/recipients, the public at large having contact with the CWAs/MWAs, including Medicaid and Food Stamp applicants/recipients, and CWA/MWA employees about access to and availability of family violence services in the community.

10:90-20.2 WFNJ FVO notification process for WFNJ TANF/GA applicants/recipients

(a) Each CWA/MWA shall provide every WFNJ TANF/GA applicant/recipient with the following:

1. Basic written and oral information about the WFNJ FVO Initiative; and

2. Information regarding the WFNJ TANF/GA applicant's/ recipient's right to request a WFNJ FVO Waiver of one or more WFNJ TANF/GA program requirements, at any point in the WFNJ process throughout the individual's association with the CWA/MWA for WFNJ program benefits, that includes, but is not limited to, the following:

i. The purpose and availability of, and process for obtaining, a WFNJ FVO Waiver of WFNJ TANF/GA program requirements;

ii. The WFNJ TANF/GA program requirements that may be waived, including a good cause exception from the WFNJ/TANF child support requirements and requests for EA for reason of family violence;

iii. Mandated participation in the WFNJ FVO Risk Assessment process when such waiver is requested in accordance with the provisions of C.F.R. 260.55 concerning requirements for Federal recognition of good cause domestic violence waivers;

iv. All requests for a WFNJ FVO Waiver, including good cause exceptions from the child support requirements and requests for EA for reason of family violence require completion of a WFNJ FVO Risk Assessment with a certified victim service provider agency's risk assessor, and discussion about access to and the availability of intervention services; and

v. Basic written and oral information about the NJACP.

(1) Applications for the NJACP shall be made in accordance with the provisions at N.J.A.C. 10:90-20.1(d)1iv(1).

(b) Each CWA/MWA shall provide the public at large having contact with the WFNJ CWAs/MWAs, including Medicaid and Food Stamp applicants/recipients and CWA/MWA employees, with basic written and oral information about the WFNJ FVO Initiative.