

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 Chapter 90, The Handbook for Home Services Program, was repealed by R.1980 d.208, effective May 9, 1980.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 As part of d.226, Subchapter 18, Essex/Atlantic Substance Abuse Research Demonstration was repealed and Subchapter 18, Substance Abuse, and Subchapter 20, The Family Violence Option Initiative, were adopted as new rules.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.

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10:90-4.3 Description of work activities

(a) Unsubsidized employment means employment in the private or public sector which is not subsidized in any way.

(b) Supported employment is an employment activity tailored to meet the needs of those recipients who demonstrate serious barriers to employment (such as learning disability or illiteracy, drug and alcohol problems, and/or physical/mental disabilities). Supported on-the-job employment opportunities and sheltered workshop approaches (modeled after successful programs in the mental health and developmental disabilities field) will serve persons with such barriers. When the participant is experiencing difficulties on the job, a job coach will interact with the participant and the employer to resolve problems that may affect their continued employment.

(c) Community Work Experience Program (CWEP) is to be utilized to provide work and training to enable the recipient to adjust to, and learn how to function in, an employment setting. Placements shall only be with a public, private nonprofit or private charitable employer. CWEP placements are directed towards organizations and agencies directly involved in useful public service areas such as health, recreation, child and adult care, education, environmental protection, social services, etc. A CWEP participant shall not be placed with a private for profit employer.

(d) Alternative work experience programs (AWEP) consists of work and training for WFNJ recipients on a temporary basis 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 the 20 hours per week work experience with 15 hours per week of education (which may include English as a Second Language), substance abuse treatment, vocational exploration and/or job training. An AWEP participant's work experience placement shall not be with a private for profit employer.

(e) On-the-job training (OJT) is an employment opportunity which includes training. The participant is hired by a private or public employer and receives training that provides knowledge or skills essential to the full and adequate performance of the job. At the end of the OJT, the participant shall be retained by the employer as a regular employee if the individual has made satisfactory progress during the OJT contract period.

(f) Job search and job readiness assistance are employment-directed activities in which participants engage in activities with the immediate goal of obtaining full-time employment. Job search is directed to the individual participant's needs and local job market conditions and may serve participants in either group, individual, or self-directed job-seeking activities, or a combination thereof. Job search is an appropriate up front activity for applicants as well as job ready recipients who have basic

workplace skills and experience applicable to the labor market. Job readiness activities will also be combined with job search to enhance the effectiveness of job search activities for those in need of additional skills development.

1. Job search and job readiness activities shall be counted for a maximum of six weeks (four of which may be consecutive) unless New Jersey's unemployment rate is 50 percent greater than the unemployment rate of the United States, in which case this activity may be extended to 12 weeks.

(g) Community service programs are self-directed or scheduled preparatory work activities in which participants may provide an array of vital services designed to increase the common good and/or improve the condition of the community in which he or she resides. Examples include, but are not limited to, the provision of child care as a community service project; mentoring or tutoring activities conducted under the auspices of organizations such as Big Brothers/Big Sisters, Americorps, Habitat for Humanity; physical or administrative labor performed on behalf of a community organization/group; and volunteer work in hospitals, battered women's shelters, libraries, schools or other such public institutions.

1. Community service programs shall be offered as a "bridge" activity to participants who are awaiting the start-up of a new or subsequent activity.

2. Community service programs may be offered to individuals who are employed part-time so that participants can meet the WFNJ and Federal work participation requirement.

3. Community service programs may be offered as an activity in other circumstances with DFD review and approval.

4. Community service programs/sites shall be approved by the county or municipal agency.

(h) Vocational educational training is an activity involving institutional or other classroom training conducted by an instructor in either a worksite or non-worksite setting. Participants receive instruction in specific occupational areas which reflect the current local labor market demand. Providers of this type of activity include, but are not limited to, community based organizations; private for profits; community/county colleges; Voc-Tech school; JTPA's; and adult high schools.

1. This activity shall not be utilized for more than 12 months for any individual.

i. When a WFNJ/GA individual is placed in this activity in compliance with the FSETP, the 12 month limitation shall not apply.

(i) Job skills training directly related to employment is an activity tailored for those recipients who demonstrate seri-

ous barriers to employment (such as learning disability or illiteracy, drug and alcohol problems, and/or physical/mental disabilities) and may include such activity components as pre-employment job coaching and mentoring (modeled after successful programs in the mental health and developmental disabilities field).

1. The Division of Family Development's Welfare to Work Disability Case Management Initiative provides rehabilitation services to WFNJ recipients identified as having barriers to employment related to a disability. This initiative provides a range of services to eligible participants which include vocational counseling, career guidance and specialized skills training.

(j) Education directly related to employment is an activity involving a participant without a high school diploma or a general equivalence diploma (GED) in a course of study leading to a high school diploma or GED when combined with community work experience participation or other approved work activities, including employment.

(k) Post-secondary educational opportunities directly related to employment shall be offered to recipients with a high school diploma or GED, when combined with community work experience participation or other approved work activities, including employment.

1. Post-secondary education are those professional and educational programs offered at colleges, mostly community colleges, and other post-high school institutions that lead to recognized careers for which there is or will be a demand in the New Jersey job market as published by the New Jersey Department of Labor.

i. Post-secondary programs that may be of longer duration than two years in certain circumstances, shall lead to a recognized college credential such as a certificate, license, associate degree or other recognized college credential.

(l) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence is an activity that shall be utilized in the case of a recipient who is 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. (See N.J.A.C. 10:90-4.4 for what constitutes satisfactory attendance.)

(m) Provision of child care services is an activity that involves the WFNJ recipient in the direct provision of child care services to another WFNJ individual who is participating in a community service program or other State approved employment-directed program.

(n) Other work activities may be added to those set forth above in this section in order to comply with Federal or State laws and/or to maximize Federal funds.

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

In (c) and (d), deleted "unpaid" preceding "work and training"; and in (j)1, deleted "significant" preceding "demand".
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 1 through 3; added (i)1; deleted (j)1; added a new (k) and recodified former (k) through (m) as (l) through (n).

10:90-4.4 Satisfactory attendance

(a) Individuals are expected to participate in required activities 100 percent of the time. However, individuals shall be considered to be satisfactorily participating in WFNJ work requirement activities if it is determined that the individual attends no less than 75 percent of the scheduled hours of activity during a month. The following are exceptions to this provision:

1. Satisfactory attendance shall be based on what the secondary school or equivalency program considers mandated attendance in order to complete the course or program.

2. For purposes of job search or job readiness participation, a county or municipal agency, as appropriate, shall consider, only on one occasion per individual, less than a week of participation (that is, three or four days) as a full week.

10:90-4.5 Conditions under which CWEP and AWEP shall be regarded as employment

(a) Participation by a recipient in CWEP or AWEP activity provided by a sponsor, pursuant to the Federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, shall not be considered employment for any purpose, except that such participation shall be regarded as employment as follows:

1. The "Law Against Discrimination," P.L. 1945, c.169 (N.J.S.A. 10:5-1 et seq.), and the sponsor, not the program, shall be deemed the employer for purposes of any action brought under this act;

2. The "New Jersey Public Employees' Occupational Safety and Health Act," P.L. 1983, c.516 (N.J.S.A. 34:6A-25 et seq.) when the sponsor is a public employer subject to this Act;

3. The "Conscientious Employee Protection Act," P.L. 1986, c.105 (N.J.S.A. 34:19-1 et seq.) and the "Worker and Community Right to Know Act," P.L. 1983, c.315 (N.J.S.A. 34:5A-1 et seq.);

4. The purposes of Chapter 15 of Title 34 of the Revised Statutes (Worker's Compensation), and the participant shall be regarded an employee of the State and the sponsor, subject to the provisions set forth below at N.J.A.C. 10:90-4.6; and

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 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;
 - ii. Non-work activity information to be entered on the IRP shall include the name of the activity or referral, its location, a contact person, and telephone number (if known), as well as, any scheduled time frames.
 3. Supportive services to be provided to enable participation in the 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.

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

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

Added (a)2ii.

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 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, assists in identifying barriers that hinder the recipient's success in reaching self-sufficiency. Identified issues shall trigger subsequent referrals/actions to address such concerns.

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

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

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

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

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

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

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

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

(g) Actions taken as a result of the comprehensive assessment must be included in the IRP. Some of the assigned actions set forth in the IRP may not be work related depending on the issues and barriers identified on the CSA.

Sanctions will apply in those situations of non-compliance with assigned work or work related activities only. Participation in the Substance Abuse Initiative (SAI) 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.

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

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

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

10:90-4.10 Deferrals from the work requirement

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

1. Individuals age 60 or older;

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

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

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

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

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

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

6. A woman in the third trimester of pregnancy;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 (c)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.

iii. In consultation with DYFS, EA shall be provided to a DYFS family, even if the family caused its own homelessness, provided that the family meets all other EA eligibility requirements.

(1) When EA is granted to a DYFS family that caused its own homelessness, the CWA and DYFS shall establish communication to ensure coordination of the DYFS plan, the EA service plan and the IRP.

(A) Every effort shall be made to avoid situations in which the development and execution of one plan infringes upon the development and execution of another, thereby placing the recipient in danger of being either sanctioned due to noncooperation or terminated from receipt of EA.

(B) Failure to comply with the DYFS service plan or the EA service plan may, in consultation with DYFS, result in the termination of EA.

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. 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;

2. 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;

3. The return from placement will be to any parent or relative specified in N.J.A.C. 10:90-2.7(a)3; and

4. 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, ii 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). Amended by R.2004 d.436, effective December 6, 2004.

See: 36 N.J.R. 3339(a), 36 N.J.R. 5354(a).

In (c), substituted "see (c)1 below" for "see 1 below" following "advance for substitute housing" in the introductory paragraph, added iii in 3; in (d), recodified 2 to 5 as 1 to 4.

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.

(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)liii 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 WFNJ/MED-1, Examination Report that states that substance abuse is the reason for the unemployable status. If the updated WFNJ/MED-1, Examination Report indicates that the WFNJ/GA recipient is no longer unemployable, then the WFNJ/GA employable requirements at N.J.A.C. 10:90-3 shall apply.

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

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

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

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

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

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

In (a), rewrote 2i.

10:90-18.4 SAI sanctions

For WFNJ recipients subject to mandatory participation in the SAI, failure to comply with the completion and signing of the required SAI forms, the substance abuse assessment and/or the requirements of the treatment plan, including biological testing if appropriate, and follow-up, when it is clinically appropriate and in the therapeutic interest of the SAI participant, shall result in a sanction in accordance with N.J.A.C. 10:90-4.13, unless the CCC determines that treatment is not clinically appropriate for the WFNJ recipient at the time or the criteria established for conciliation at N.J.A.C. 10:90-4.12 apply.

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

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

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

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

10:90-18.6 Eligibility rules for convicted drug felons

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

1. A person convicted on or after August 22, 1996 under Federal or State law of any offense which occurred on or after August 22, 1996 which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the possession, or use of, a controlled substance as defined in section 102(6) of the Federal "Controlled Substances Act" (21 U.S.C. § 802(6)).

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

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

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

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

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

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

(a) Self-disclosure of past or present family violence concerns or the risk of family violence by WFNJ TANF/GA applicants/recipients, or other program applicants/recipients, shall be handled in a confidential and private manner by all CWA/MWA staff. Self-disclosure of family violence concerns by individuals is a voluntary admission. The decision to self-disclose is the individual's alone to make. An applicant/recipient may self-disclose and/or, under WFNJ TANF/GA, request a WFNJ FVO Waiver of one or more WFNJ TANF/GA programs requirements at any time, such as, but not limited to, the following situations:

1. At any point of contact with CWA/MWA staff;
2. At any time during the WFNJ TANF/GA application or redetermination processes for WFNJ TANF/GA program benefits including child support services when the non-custodial or alleged non-custodial parent may place the individual at risk of harm;
3. During the Comprehensive Social Assessment (CSA) process;
4. During discussion with staff of the Substance Abuse Initiative (SAI) or the Mental Health Initiative (MH);
5. At the time of request for EA benefits, including individuals receiving Supplemental Security Income (SSI);
6. At the time of WFNJ TANF/GA program sanctioning, when an individual is questioned as to why he or she failed to comply and what concerns precluded his or her complying with the WFNJ TANF/GA program requirements; or
7. At any time during the program process (including WFNJ TANF/GA, Food Stamps, child support, EA or Medicaid) throughout the individual's association with the CWA/MWA for program benefits.

(b) A WFNJ applicant, recipient or employee of any program administered by the CWA /MWA has the right to voluntarily discuss any issues or requests for information about available community resources with a CWA FVO representative or designated MWA worker. CWA/MWA program contact staff shall offer all WFNJ and other program applicants/recipients a referral to the CWA FVO representative or designated MWA worker.

1. For WFNJ/GA applicants/ recipients handled by the CWA, voluntary discussion with the CWA FVO representative is also possible.
 - i. Details concerning the specifics of the violence, relayed by the individual, shall not be written into any CWA/MWA case record document.

(c) A WFNJ/GA applicant/recipient being serviced by a MWA shall be provided with information about victim services by the designated MWA worker as determined by the MWA. The designated MWA worker shall offer the

WFNJ/GA applicant/ recipient a referral to the designated victim service provider agency in that county.

10:90-20.4 WFNJ TANF/GA program requirements that may be waived

(a) WFNJ/TANF applicants/recipients may request a WFNJ FVO Waiver of the following WFNJ/TANF program requirements, under the WFNJ FVO Initiative:

1. The WFNJ work requirement (see N.J.A.C. 10:90-2.6 and 4.10(a)11);
2. The WFNJ time limit (see N.J.A.C. 10:90-2.4, 2.5 and 2.6);
3. A good cause exception from the child support requirements when the non-custodial/alleged non-custodial parent may place the individual at risk of harm (see N.J.A.C. 10:90-2.6, 16.5, and N.J.A.C. 10:110-9.5);
4. Limitation on an increase of WFNJ/TANF cash assistance benefits as a result of a child conceived as a result of family violence, (see N.J.A.C. 10:90-2.18(a)4);
5. Good cause exceptions for WFNJ/TANF parent minor living arrangements (see N.J.A.C. 10:90-2.17(c));
6. Residency requirements pertaining to qualified aliens.
 - i. An alien, regardless of program eligibility/non-eligibility may be referred to the designated victim service provider agency for help with family violence concerns; and/or
7. Requests for EA, to cover needs, for reason of family violence or the risk of family violence in accordance with N.J.A.C. 10:90-6.1(c)4.

(b) WFNJ/GA applicants/recipients may request a WFNJ FVO Waiver of the following WFNJ/GA program requirements, under the WFNJ FVO Initiative:

1. The WFNJ/GA work requirement (N.J.A.C. 10:90-2.6 and 4.10(a)11);
2. The WFNJ/GA time limit (N.J.A.C. 10:90-2.4, 2.5 and 2.6); and/or
3. Residency requirements pertaining to qualified aliens (N.J.A.C. 10:90-2.10(b)3).
 - i. An alien, regardless of program eligibility/non-eligibility may be referred to the designated victim service provider agency for help with family violence concerns; and/or
4. Requests for EA, to cover needs, for reason of family violence or the risk of family violence in accordance with N.J.A.C. 10:90-6.1(c)4.

10:90-20.5 Referral of WFNJ TANF/GA individuals to the CWA FVO representative or designated MWA worker

(a) When a WFNJ TANF/GA individual initially requests a WFNJ FVO Waiver of a WFNJ TANF/GA program requirement(s) or seeks to continue the WFNJ FVO Waiver at redetermination, a referral shall be made to the CWA FVO representative or designated MWA worker.

(b) The following individuals who self-disclose family violence concerns shall be referred to the CWA FVO representative or designated MWA worker for further discussion:

1. WFNJ TANF/GA individuals who do not request a WFNJ FVO Waiver of WFNJ program requirements;
2. The public at large having contact with the CWA/MWA, including Medicaid and Food Stamp applicants/recipients, and CWA/MWA employees; and
3. Persons who request a referral.

(c) Each CWA shall follow the procedures established in its agency for the referral of any individual to the CWA FVO representative.

(d) MWAs do not utilize the function of the FVO representative but rather follow internal procedures for discussion of the WFNJ FVO Initiative with applicants/recipients and for referral to the victim service provider agency.

10:90-20.6 WFNJ/TANF Waiver process

(a) When a WFNJ/TANF applicant/recipient requests a WFNJ FVO Waiver of one or more WFNJ/TANF program requirements (see N.J.A.C. 10:90-20.4), including a good cause exception from the child support requirements and requests for EA for reason of family violence, the individual shall be granted a WFNJ FVO Waiver, by the CWA. The appropriate WFNJ FVO forms shall be completed by the responsible CWA worker, be signed by the individual as appropriate to his or her case circumstances, and a referral shall be made immediately to the CWA FVO representative. The CWA FVO representative shall explain the WFNJ FVO Waiver and WFNJ FVO Risk Assessment processes to the WFNJ/TANF applicant/recipient. The explanation shall include informing the individual that he or she must complete the WFNJ FVO Risk Assessment process within 10 calendar days of the referral to the victim service provider agency in accordance with N.J.A.C. 10:90-20.8(b); and that failure to complete the WFNJ FVO Risk Assessment will result in cancellation of the waiver in accordance with (a)4 below. The CWA FVO representative shall refer the WFNJ/TANF individual to the victim service provider agency for the required WFNJ FVO Risk Assessment.

1. The WFNJ FVO Waiver shall identify the specific WFNJ TANF program requirement(s) being waived.

i. A WFNJ FVO Waiver of a WFNJ/TANF program requirement applies to the TANF program requirements and is available to WFNJ/TANF participants. This waiver is not available for other program requirements, such as, Food Stamps and Medicaid. Individuals from these programs may be informally referred to the designated victim service provider agency for assistance. The individual may access services on his or her own if he or she chooses to do so.

2. A request for a WFNJ FVO Waiver can be made for one or more WFNJ/TANF program requirements, including a good cause exception from the child support requirements and requests for EA for reason of family violence. Therefore, multiple WFNJ/TANF program requirements can be waived simultaneously.

i. If an individual requests a waiver of more than one WFNJ/TANF program requirement, only one referral shall be made for the WFNJ FVO Risk Assessment to cover all circumstances waived, including EA requests.

ii. If at a later date an individual requests the waiver of an additional WFNJ/TANF program requirement(s), in the following six-month period, no risk assessment referral shall be made to the designated victim service provider agency. The update to the WFNJ FVO Risk Assessment shall be handled at the next case re-determination. The WFNJ/TANF applicant/recipient shall not be required to participate in the WFNJ/TANF program requirement(s) for which a WFNJ FVO Waiver has been requested pending the next case redetermination.

(1) Subsequent requests to waive additional WFNJ/TANF program requirements do require a referral to the CWA FVO representative for discussion.

3. While the FVO Risk Assessment process is taking place, the WFNJ/TANF applicant/recipient is not required to participate in the WFNJ/TANF program requirement(s) being waived or other activities, in order to complete this process.

4. When a WFNJ/TANF individual is unable to have the WFNJ FVO Risk Assessment completed within the 10-calendar day timeframe, he or she may seek the assistance of the CWA FVO representative in scheduling or rescheduling an appointment to have the assessment completed. The individual's WFNJ FVO Waiver shall be cancelled if the assessment is not completed, unless the individual has a good reason for not completing the WFNJ FVO Risk Assessment, including the need to make alternative arrangements for completing the assessment that will exceed the 10-calendar day timeframe. No sanction is incurred against a WFNJ/TANF individual when the assessment is not completed. Unless the individual is otherwise deferred or exempt from WFNJ program requirements, WFNJ/TANF individuals shall be required to participate in the specific program requirement(s)/activities for which the waiver had been requested prior to cancellation. If the individual fails to participate in the WFNJ program requirement(s)/ activities after the WFNJ FVO Waiver is cancelled, and is not otherwise deferred or exempt, he or she may be sanctioned for failure to participate in a WFNJ/TANF program requirement/ activity. The WFNJ/TANF individual may request another WFNJ FVO Waiver at any time throughout the individual's association with the CWA for program benefits and will be required to complete the WFNJ FVO Risk Assessment.