

CHAPTER 85

GENERAL ASSISTANCE MANUAL

Authority

N.J.S.A. 44:8-111(d).

Source and Effective Date

R.1994 d.591, effective November 4, 1994.
See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).

Executive Order No. 66(1978) Expiration Date

Chapter 85, General Assistance Manual, expires on November 4, 1999.

Chapter Historical Note

Chapter 85, General Assistance Manual, was originally adopted pursuant to authority of N.J.S.A. 44:8-107 et seq. and was filed and became effective prior to September 1, 1969. Revisions were filed and became effective on August 31, 1971, as R.1971 d.155. See: 3 N.J.R. 154(b), 3 N.J.R. 206(a). Further revisions were filed on October 21, 1976, as R.1976 d.334 to become effective on January 1, 1977. See: 8 N.J.R. 284(a), 8 N.J.R. 557(b). Subchapter 12, "Allowance and Income Standards", was added by R.1980 d.29, effective February 1, 1980. See: 11 N.J.R. 556(b), 12 N.J.R. 86(d). Subchapter 12 was amended by Emergency Rule R.1980 d.295, effective July 1, 1980. See: 12 N.J.R. 482(a). Pursuant to Executive Order No. 66(1978), Chapter 85 (Subchapters 1 through 6, and 10) was readopted as R.1983 d.328, effective July 25, 1983. See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a). Subchapter 12 was repealed by R.1985 d.81, effective March 4, 1985. See: 16 N.J.R. 3165(a), 17 N.J.R. 595(a). Pursuant to Executive Order No. 66(1978), Chapter 85 was readopted as R.1990 d.33, effective December 20, 1989. See: 21 N.J.R. 3221(a), 22 N.J.R. 218(a).

Pursuant to Executive Order No. 66(1978), Chapter 85 was readopted as R.1994 d.591. See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

Nursing Homes in the Garden State: A Legal Perspective. Janice Chapin, 141 N.J.Law. 38 (Mag.) (July/August 1991).

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SUBCHAPTER 1. GENERAL PROVISIONS

10:85-1.1 Purpose of the Work First New Jersey General Assistance program

(a) Pursuant to P.L. 1997, c.13, c.14, c.____, and c.____, the General Assistance program shall now be known as the Work First New Jersey General Assistance (WFNJ/GA) program. WFNJ/GA is a program under which financial and medical aid is provided by municipal departments of welfare or county welfare agencies to persons who are citizens of the United States or who have eligible alien status (see N.J.A.C. 10:85-3.1(a)5i for definition of eligible aliens) and are currently ineligible for participation in any other public assistance program in New Jersey.

1. A recipient's eligibility for benefits in the WFNJ/GA and Work First New Jersey/Temporary Assistance for Needy Families (WFNJ/ TANF) shall be limited to a lifetime total of 60 cumulative months. Effective April 1997, the lifetime limitation starts for all recipients regardless of whether the assistance was received in the WFNJ/GA or WFNJ/TANF program, a combination thereof, or from state general assistance funds provided by another state or territory. The calculation of the time limit will be based on the number of days the recipient received benefits up to the 60 cumulative month lifetime limit. (See N.J.A.C. 10:85-3.1(a)1 regarding exemptions to time limitations for certain aliens.)

i. At the end of an individual adult recipient's 60 cumulative months of receipt of cash assistance, the assistance unit shall no longer be eligible to receive WFNJ/GA or WFNJ/TANF assistance.

(b) Each municipality in New Jersey is required by law (Chapter I of Title 44, Revised Statutes) to provide financial assistance and medical care to all eligible persons residing in the community at the time of application and not otherwise provided for under the laws of this State and to such other persons who may be in the municipality and require emergency assistance. (See N.J.A.C. 10:85-3.2(f) for definition of resident and N.J.A.C. 10:85-4.6 for emergency assistance.)

1. The General Assistance Manual is a compilation of rules based on State law (Chapter 8 of Title 44, Revised Statutes) which govern the provision of assistance to eligible needy persons by all municipalities and authorize 100 percent State funding for non-administrative costs incurred by those municipalities in the administration of the General Assistance program.

(c) The General Assistance program shall be administered by the municipality's director of welfare, under the supervision of the local assistance board. The director shall be responsible for the determination of applicant eligibility in accordance with State law and regulations.

(d) There must be strict adherence to State law and regulations. Requirements other than those established pursuant to State law and regulations shall not be imposed as a condition to receiving assistance.

(e) Any person who is in need and believes him/herself to be eligible for general assistance shall be given the opportunity to apply (see N.J.A.C. 10:85-7.1(b)).

(f) An applicant or recipient shall have the right to appeal any action on the part of the municipal welfare department which results in a denial, reduction or termination of assistance; amount of grant or designation of temporary payee. (See subchapter 7, Notices and Hearings).

(g) Financial assistance for maintenance requirements or other needs, including medical assistance, shall not be authorized through General Assistance when, during the same period, such needs are actually being provided by any other source.

1. Receipt of food stamp benefits shall not constitute duplication of assistance.

2. Receipt of duplicate assistance from more than one MWD in any one month shall render the client ineligible for General Assistance benefits for a period of 90 days beginning with the month subsequent to the month in which the benefit infraction was identified. Sanctions imposed are for additional/cumulative periods of ineligibility for each infraction.

i. Client payment records from the various MWDs shall provide the necessary documentation to initiate the 90 day penalty.

3. The following situation shall be included as duplicative assistance within the meaning of the penalty provisions stipulated in this subsection:

i. General Assistance benefits received from any MWD during any imposed sanction period, such as set forth at N.J.A.C. 10:85-3.2(g)7.

Amended by R.1978 d.171, effective July 1, 1978.

See: 10 N.J.R. 150(a), 10 N.J.R. 285(b).

Amended by R.1978 d.420, effective December 12, 1978.

See: 10 N.J.R. 284(c), 11 N.J.R. 17(d).

Amended by R.1983 d.328, effective July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 7378(a).

Originally adopted as an Emergency Adoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.

N.J.A.C. citation corrected.

Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).

At (b)1, 100 percent State funding of non-administrative costs; at (g)2, 90-day ineligibility penalty and sanctions established.

Amended by R.1992 d.503, effective December 21, 1992.

See: 24 N.J.R. 3075(a), 24 N.J.R. 4538(a).

Only U.S. citizens eligible; (g)3 added, defining duplicative assistance.

Amended by R.1993 d.382, effective August 2, 1993.

See: 25 N.J.R. 1714(a), 25 N.J.R. 3466(a).

Emergency amendment R.1997 d.176, effective March 24, 1997 (operative March 31, 1997; to expire May 23, 1997).

See: 29 N.J.R. 1428(a).

In (a), inserted the first sentence, changed "General Assistance" to "WFNJ/GA", and inserted N.J.A.C. reference; and added (a)1.

Case Notes

See *Gilbert v. Tull*, 145 N.J.Super. 53, 62, 366 A.2d 1012 (Law Div.1976) (general statement of purposes of program).

10:85-1.2 Administration of municipal welfare

(a) Each municipality shall have a legally constituted local assistance board (LAB) unless such board has been discontinued or abolished. (See N.J.A.C. 10:85-2.2(a)1). When an LAB exists, it shall consist of unsalaried citizens appointed by the chief executive of the municipality with the approval of the governing body. The Board shall meet at regular intervals, not less than four times a year, and shall oversee the municipality's General Assistance program, as administered by the Director of Welfare. (See also N.J.A.C. 10:85-2.2).

(b) Each municipality shall have a director of welfare, who has been legally appointed by the local assistance board as the salaried employee responsible for the administration of the municipality's General Assistance program. Appointments to the position of welfare director shall be approved by the Division of Family Development prior to consideration for State aid. (See also N.J.A.C. 10:85-2.2(d).) The director of welfare shall be the chief executive and administrative officer of the board, but shall not be a member of such board. A permanently appointed director of welfare shall, therefore, not concurrently serve as a member of the local assistance board (LAB) and hold the position of welfare director. This provision is not applicable to temporary appointees as set forth at N.J.A.C. 10:85-2.2(d)3ii.

(c) The municipality must have a public assistance trust fund bank account which is clearly and separately identifiable from other municipals funds. The account shall be reserved exclusively for the receipt, accumulation, and disbursement of nonadministrative funds (including funds granted as State aid) used in the General Assistance program. (See also N.J.A.C. 10:85-6.3).

(d) The administration of general assistance must be free from involvement in partisan political activity. The director of welfare shall not hold any political office, nor use his/her position to influence the political actions of any other person, nor be permitted to solicit, collect or receive political contributions of any nature. (See also N.J.A.C. 10:85-2.2(d)6).

(e) Municipalities shall administer General Assistance in conformance with standards, policies, procedures and rules developed by the Division of Family Development. This requirement shall include adherence to additional policy directives as distributed by official letters signed by the Director of the Division of Family Development, as well as to the rules set forth in this manual.

Amended by R.1982 d.61, effective March 15, 1982.

See: 13 N.J.R. 301(a), 14 N.J.R. 281(b).

(a): Deleted "consisting" and added "unless such board ... it shall consist".

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).

Reference to State participation deleted.

Case Notes

Involvement of administrators in partisan political activity.

State v. Malone, 16 N.J.Super. 383, 84 A.2d 745 (Ch. Div.1978).

10:85-1.3 Funding of the program

Municipalities shall be provided 100 percent State funding for non-administrative costs expended in compliance with State standards in the administration of the General Assistance program.

Amended by R.1978 d.171, effective June 1, 1978.

See: 10 N.J.R. 150(a), 10 N.J.R. 285(b).

Amended, by R.1978 d.217, effective June 30, 1978.

See: 10 N.J.R. 345(b).

Amended by R.1991 d.521, effective October 21, 1991 (operative November 1, 1991).

See: 23 N.J.R. 1741(a), 23 N.J.R. 3155(a).

State funds 100 percent of administrative costs.

10:85-1.4 Policy of nondiscrimination

(a) Eligibility for program benefits shall be determined without regard to race, color, sex, religious creed, marital or birth status, national origin, political beliefs, or disability.

1. Purchase of services: The municipality shall not purchase services for beneficiaries of the program from

any organization, agency, or institution which practices discrimination.

i. The director shall notify appropriate vendors of this policy.

(1) Official statement on invoices: The director shall see that the following statement appears on all official invoices used in the municipality's General Assistance program:

Services are provided to all recipients without regard to race, color, sex, religious creed, marital or birth status, national origin, political beliefs, or disability.

ii. Evidence of noncompliance by vendor: If the municipal welfare director shall become aware of the employment of discriminatory practices by any vendor with whom general assistance business is conducted, the matter shall be promptly referred to the Director of the Division of Family Development.

2. Notification of staff: The director of welfare shall inform his or her staff of the policy of nondiscrimination in the administration of the General Assistance program.

3. Complaint procedure: Any person seeking or receiving general assistance, who feels that he or she has been discriminated against, shall be given the opportunity to file a complaint.

i. Filing the complaint: The aggrieved person may file his or her complaint directly with the Division of Family Development, CN 716, Trenton, New Jersey 08625. If a complaint has been filed with the local agency, it shall be forwarded immediately to the Division of Family Development. All complaints are to be addressed to the attention of the Division Director.

ii. Action by the Director of the Division of Family Development (DFD): Upon receipt of a complaint, the Director shall take whatever action he or she deems appropriate. This action may include, but is not limited to, the securing of reports from whatever sources may have knowledge pertinent to the situation, and/or referral to the Division on Civil Rights of the Department of Law and Public Safety for investigation, evaluation and recommendation.

iii. Cooperation by the municipal welfare director: The municipal director of welfare shall cooperate fully with any agency investigations involving alleged discrimination.

iv. Final disposition of the complaint: The Director of the Division of Family Development shall be responsible for the final disposition of any complaint involving discrimination. In rendering a final decision, the Director shall take into consideration relevant decisions or actions on the part of a court or government agency. v. Implementation of final disposition: The municipal director of welfare shall comply with the final decision of the director regarding the disposition of the discrimination complaint. If staff disciplinary action is required by the decision, the municipal director of welfare shall take such action.

Amended by R.1983 d.328, effective July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).

Originally adopted as an Emergency Adoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983. Address correction. Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

Amended by R.1994 d.591, effective December 5, 1994.

See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).

10:85-1.5 Disclosure of information

(a) The municipal welfare department shall restrict the use or disclosure of information concerning applicants or recipients to persons directly connected with the administration of the General Assistance program whose official duties require access to the information. Municipal officials and appointees, members of the governing body and municipal employees not under the jurisdiction of the municipal welfare director are not permitted such access.

(b) Allowable disclosure of information: The municipal welfare department shall release information concerning an applicant or recipient in the following situations only:

1. Judicial summons: A staff member shall provide such testimony as may be mandated by a court of competent jurisdiction.

2. Waiver of confidentiality: If an applicant or recipient chooses to waive, in writing, his/her right to confidentiality of information, the municipal welfare department shall make disclosure of information to the extent specifically authorized by the waiver.

3. Fair hearings: Pertinent information and records shall be released to the parties directly involved upon request for a local or State fair hearing.

4. Release of lists of names and addresses: The furnishing of any lists of names and addresses, or both, for purposes not directly involved in the administration of general assistance is specifically prohibited; however, this shall not preclude furnishing information by list (or otherwise) to other municipal, State, or Federal agencies lawfully charged with the administration of public welfare functions or services, for the purpose of such administration only.

5. Quality control reviews: Information in connection with a quality control review or State audit shall be furnished to authorized representatives of the Division of Family Development.

6. Information necessary to the performance of regular or special audits by State staff or by the municipality's registered municipal accountant (RMA).

As amended, R.1982 d.61, effective March 15, 1982.

See: 13 N.J.R. 301(a), 14 N.J.R. 281(b).

(a): Added "whose official duties . . . access."

Amended by R.1988 d.146, effective April 4, 1988.

See: 19 N.J.R. 2376(b), 20 N.J.R. 809(b).

Added (b)6.

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).
Stylistic changes.

10:85-1.6 Purpose of the manual

(a) The purpose of this manual is to outline the policies and procedures applicable to the administration of and eligibility requirements for general assistance.

(b) The director of welfare shall assign copies of this manual to administrative staff and to other staff working with applicants and recipients, as appropriate. The director shall ensure that each staff member is thoroughly familiar with its contents and that the required policy and procedures are consistently applied.

- (1) Physical or sexual abuse or cruel treatment.

(2) Exploitation by prostitution or overwork, having the child beg or involving the child in illegal activities.

(3) Neglect as shown by apparent malnutrition or lack supervision necessary for the health and safety of the child.

NOTE: In the event of any indication that the death of a child resulted from abuse or neglect, such matter shall be reported immediately to DYFS.

iii. To Federal authorities: Knowledge of the actual commission of a Federal felony unless disclosure of such information is prohibited by law (see N.J.A.C. 10:85-1.5 and 2.2(g)2). (Refer to legal counsel for identification of Federal felonies.)

2. Procedures: When the MWD becomes aware of facts that would indicate that one of the above mentioned crimes has been or may have been committed or receives a direct allegation in any form, written, verbal or anonymous, that such a crime has been committed, it shall proceed as follows:

i. The director shall personally, and in collaboration with counsel, review whatever facts and circumstances are immediately available in order to determine whether there is suspicion that a crime was committed.

ii. If the director is satisfied that there is evidence to support an investigation as to whether a crime has been committed, he/she shall, after consultation with counsel, report the matter to the county prosecutor, or to a local police department or to the State Police if so directed by the Office of the Prosecutor. If such matter involves suspected child abuse or neglect, it shall also be reported to the Division of Youth and Family Services.

iii. When a decision has been made to report the alleged or suspected commission of the crime, such report shall be made in written form to the appropriate law enforcement agency.

iv. The MWD shall cooperate fully with any subsequent investigation initiated by the law enforcement agency within the limits of the policy and regulations of the Division of Family Development. An MWD staff member may sign a written complaint only upon a written request from the law enforcement agency, provided his or her information of the facts to be stated in such complaint is based upon his or her own personal knowledge and belief.

R.1977 d.141, effective May 1, 1979.

See: 10 N.J.R. 488(a), 11 N.J.R. 249(c).

As amended, R.1983 d.328, effective July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).

Originally adopted as an Emergency Readoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.

Internal citation corrected.

Amended by R.1987 d.448, effective November 2, 1987.

See: 19 N.J.R. 1393(a), 19 N.J.R. 2056(b).

Substantially amended.

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

SUBCHAPTER 3. ELIGIBILITY FOR ASSISTANCE

Law Review and Journal Commentaries

Protecting the Home in Government Benefits Planning. Gary Mazart, 164 N.J.Law. 34 (Mag.) (Oct. 1994).

10:85-3.1 Persons eligible for Work First New Jersey General Assistance

(a) Work First New Jersey General Assistance shall be provided to all eligible needy persons who, while in the State, are eligible to receive such assistance. Benefits do not extend to persons who have been found eligible for or are recipients of public assistance programs administered by the county welfare agency unless the county welfare agency administers the WFNJ/GA program, or who have been found ineligible for such programs due to voluntary refusal to comply with program requirements. (See also (c) and (d) below.)

1. For an eligible alien identified at (a)5i below, the benefit period is further limited by the alien's citizenship status. In accordance with Immigration and Naturalization Service (INS) requirements, to be eligible for citizenship, a legal permanent resident ("Green Card" holder) must reside in the United States for at least five years, or three years if married to a United States citizen.

i. Eligible aliens may receive benefits until they meet the minimum residency requirements to apply for citizenship, for example, three years if married to a United States citizen or five years if not, or a longer period only if required by INS rules.

ii. After Federal residency requirements for citizenship are met, an alien who has applied for citizenship shall not receive benefits for more than six additional months unless they attain citizenship, or pass the language and civics component, or are exempt from those components, and are awaiting a final delayed INS determination 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 1997 forward or the date of application for WFNJ/GA if later than April 1997.

iv. An eligible 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.

2. A recipient shall be exempted from the cumulative 60-month time limit if the recipient is:

i. Over 60 years of age;

ii. The sole caretaker parent/relative of a disabled dependent who must provide full-time care for the disabled dependent;

iii. Permanently disabled, including, but not limited to, a person eligible for disability insurance benefits under Title II of the Federal Social Security Act (42 U.S.C. §§ 401 et seq.) but not to include any period of non-permanent incapacity;

iv. Chronically unemployable (to be defined at a later date); or

v. Subject to domestic violence. As an interim measure, the exemptions shall be based on the request of the recipient. An affidavit taken from the recipient indicating that she or he is a victim of domestic violence shall be initially accepted as documentation that this situation exists.

3. Extensions, as provided in WFNJ statute, are acknowledged and shall be defined at a later date.

4. Exceptions relevant to medical care:

i. Individuals and families who are ineligible for public assistance (General Assistance, AFDC, Refugee Resettlement Program) or for SSI payments because their income exceeds the standards established for the applicable program may apply to the MWD on a monthly basis for assistance in paying excessive medical costs. The provisions of this section are not applicable to the payment of bills for inpatient or outpatient hospitalization or for medical services rendered to an inpatient or outpatient;

ii. See N.J.A.C. 10:85-3.3(g)2 regarding Medicaid coverage for individuals under age 21.

5. Citizen/alien status: To be eligible for WFNJ/GA an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law as of August 21, 1996 or an eligible alien.

i. Eligible alien means an alien, who at the time the alien applies for, receives, or attempts to receive a WFNJ/GA benefit, is:

(1) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (only for those aliens who entered the country prior to August 22, 1996);

(2) A refugee who is admitted to the United States under section 207 of such Act;

(3) An alien who is granted asylum under section 208 of such Act;

(4) An alien whose deportation is being withheld under section 241(b)3 (previously section 243(h)) of such Act;

(5) An alien who is paroled into the United States under section 212(d)(5) of such Act;

(6) An alien who is admitted to the United States with Cuban or Haitian entrant status;

(7) An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;

(8) A legal permanent resident alien who has worked 40 qualifying quarters of coverage as defined under Title II of the Federal Social Security Act, except that, for any period after December 31, 1996, a quarter during which an individual received means-tested, Federally funded or State funded public benefits shall not count toward the total number of qualifying quarters of coverage;

(9) An eligible alien who is a veteran of, or on active duty in, the armed forces of the United States, or the spouse of that person pursuant to Federal law; or

(10) Certain eligible aliens as provided in section 431 of Title IV of Federal Public Law 104-193 pursuant to Section 101 of the INA, who resided in the United States prior to August 22, 1996 and are victims of domestic violence, subject to certain conditions as described below:

(A) 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's or parent's family residing in the same household as the alien and the spouse or parent acquiesced to such battery or cruelty.

(B) If the individual responsible for the battery or cruelty continued 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.

(C) 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 and cruelty suffered and an individual's need for benefits under a specific Federal, State or local program.

(D) Until such time as specific guidance is issued by the Attorney General in accordance with (a)5i(10)(C) above, as an interim measure, the alien's statement, taken in the form of an affidavit, shall be accepted as initial documentation that the alien is subject to battery or extreme cruelty and the alien shall be eligible for assistance.

6. An alien who is legally admitted as a student or visitor shall not be eligible for GA.

7. Legal alien status shall be verified and documented in accordance with provisions set forth at N.J.A.C. 10:85-3.2(c)6.

8. Sponsorship of an alien admitted for permanent residency shall be pursued in accordance with provisions at N.J.A.C. 10:85-3.4(b)1.

9. A person convicted on or after August 22, 1996 under Federal or State law of any offense which is classified as a felony, high misdemeanor or crime, under the laws of the jurisdiction involved and which has as an element the distribution, 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)) is not eligible for WFNJ/GA. This paragraph supersedes all other references in the manual regarding eligibility for assistance for convicted felons receiving treatment for drug abuse.

i. A person convicted of any such offense which has an element the possession or use only of such a controlled substance may be eligible for benefits if the person has completed a drug abuse treatment program licensed by the Department of Health and Senior Services, at the conclusion of which the person is certified drug-free by an authorized program representative.

(1) Eligibility for benefits shall commence upon successful completion of the established requirements of the drug treatment program.

(2) During the first 60 days after completion of the drug treatment program or at the time of application or monthly review, it must be determined, via testing by an entity designated by DFD, that the person is free of any controlled substance. If the person is determined not to be free of any controlled substance during or at the completion of the 60-day period, the person's eligibility for benefits shall be terminated.

(A) Benefits cannot be granted or reinstated until the person completes another drug treatment program, remains drug free for a minimum of 60 days and is determined via testing to be free of any controlled substances.

10. In the GA program, there are two distinct categories of persons eligible for financial assistance, those who are "employable" and those who are "unemployable."

11. An "employable" person is any person applying for or receiving assistance who is able-bodied and does not meet any one of the criteria of "unemployable" delineated in (a)5 below.

12. An "unemployable" person is any person who meets any of the unemployable criteria below:

- i. Persons who are 65 years of age or older;
- 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 for the treatment of drug abuse, when medical evidence exists that the residential treatment is necessary. 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 recovery of overpayments or 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. Persons whose presence is required at home to care for one or more children under age two or for disabled family member(s). No more than one person in an eligible unit may be considered unemployable for this reason without written authorization from the Division of Family Development (DFD)/GAP Unit; and/or

x. Persons determined to be incapacitated by the MWD are unemployable when such determination of incapacity is supported by any of the following circumstances:

(1) Form GA-40, Medical Employability Evaluation, shall be completed to provide written certification by an examining physician that the individual is, by reason of an identified physical or mental defect, disease, or impairment, unable to engage in any useful occupation. Such certification shall include 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. Any time period or termination date included in the written certification shall be observed. A time period of "indefinite" shall be construed to mean "three months" unless renewed by the examining physician or extended under (a)5x(4) below. When no date or time period is indicated, the certification shall be renewed monthly or such longer period as may be specified under (a)5x(4) below;

(2) An obvious disability or impairment which makes employment unrealistic at the time of application/redetermination. A determination on this basis shall be valid for up to three months or such longer period as may be specified under (a)5x(4) below;

(3) The individual's history of unemployment and lack of vocational training and/or education, combined with medical evidence of the existence of a mental or physical disability or impairment, negates all possible employment. Facts leading to such determination must be recorded in the case file. A determination on this basis shall be valid for three months or such longer period as may be specified under (a)5x(4) below; and/or

(4) Written Record of Action (Form GA-38) from DFD/GAP Unit. The record may be applied for by MWD submission of such documentary material as the MWD finds appropriate. This may include, but is not limited to, medical or hospital reports and the MWD's own statement of specific observations and recommendations with reasons. Form PA-5/DRS-1, Examining Physician's Report, may be used in this process. MWDs shall submit social information on Form GA-39. Evaluation for General Assistance Employable/Unemployable Status, which provides such pertinent social information as client's age, educational level attained, experience, and a general description of the individual, especially as it relates to employment. The DFD/GAP Unit shall consider the individual's age, experience, education, vocational training, and work history as well as physical or mental defects, diseases or impairments in determining whether an individual is able to engage in any useful occupation for which he or she has competence, or his or her ability to engage in retraining.

(b) Eligibility for general assistance is determined according to the number of persons applying as a unit (eligible unit).

1. Eligible unit: The eligible unit shall be comprised of one or more persons. In most cases, it will consist of a single individual, 18 years old or over, or a couple without children. In room and board or residential treatment situations, each person is an eligible unit of one. In all other situations, the eligible 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;

iii. The person with whom the applicant/recipient lives as a couple representing themselves to the community as husband and wife unless such person is receiving SSI or public assistance through another program;

iv. All children under age 18 of persons identified in (b)1i, ii, and iii above who live in the home and who are not receiving SSI or public assistance under another program.

2. Income to be counted: All income of persons in the eligible unit shall be taken into account as prescribed in N.J.A.C. 10:85-3.3 and subtracted from the applicable general assistance allowance standard.

(c) Rules concerning persons found ineligible by CWA are as follows:

1. Families:

i. When the county welfare agency determines a family to be financially ineligible for AFDC, such family is not eligible to receive general assistance from the MWD. The family should be advised, however, that it may apply for medical assistance and that excessive medical costs will be considered in accordance with N.J.A.C. 10:85-3.3(g)1.

ii. Families determined by the CWA to be ineligible for AFDC due to eligibility factors other than financial need (such as age of children) may be eligible for general assistance. Applications will be accepted and processed in accordance with the rules stated in this manual.

(1) An individual member (parent or child) of an AFDC unit who is otherwise eligible but incurs a penalty of ineligibility and whose needs are therefore deleted from the AFDC grant, or whose application is therefore denied, is not eligible for general assistance.

iii. When adult family members are determined ineligible for AFDC-N by the CWA because the father has voluntarily ceased employment within 90 days prior to application, such persons are ineligible for general assistance.

2. Child temporarily in home on visit: When an institutionalized child is on temporary visit home but is not a member of an AFDC eligible unit, he/she may be eligible for general assistance if the visit does not exceed 21 consecutive days. If the length of such child's visit exceeds 21 days, he/she shall be referred to the CWA.

(d) Rules concerning aged, blind and disabled are as follows:

1. Referral for SSI: Individuals who are aged, blind or disabled shall be referred to the nearest Social Security district office (SSA/DO) to apply for supplemental security income (SSI). However, any immediate need shall be met through General Assistance as a loan to the needy individual. (See N.J.A.C. 10:85-8.3(c)3ii for referral procedures and N.J.A.C. 10:85-6.5 for reimbursement procedures.)

2. Ineligible for SSI: In the event an aged, blind or disabled individual is determined by the SSA/DO to be ineligible for SSI, he/she may apply for and/or continue to receive general assistance, so long as financial eligibility exists. (See N.J.A.C. 10:85-8.3(c)3iii for procedures for appeal of SSI denials).

3. SSI Recipients: If an individual (or couple) who is receiving SSI benefits does not receive his or her SSI payment promptly, such person(s) may be in immediate need and may apply for General Assistance. Under these circumstances the MWD shall contact the SSA/DO to determine the anticipated length of the delay and shall provide assistance for that period, based on the allowance standards in Schedule I and provide that financial eligibility exists in accordance with this subchapter. (See N.J.A.C. 10:85-4.2 regarding periods for which assistance may be granted.)

i. This provision also applies when a new SSI applicant has been officially notified of eligibility to receive SSI benefits and a Form GA-30 was not submitted in accordance with N.J.A.C. 10:85-6.5(c).

ii. In any situation where a Form GA-30 is not in effect, reimbursement to the MWD of any assistance granted to an eligible SSI beneficiary will be on a voluntary basis only. The MWD shall not require the client to sign a voluntary agreement to repay.

iii. Refer to N.J.A.C. 10:85-7.2(b)2 regarding use of a time-limited notice.

(e) Rules concerning eligibility of young people are as follows:

1. Single persons under age 18: Assistance is provided through the AFDC program for needy families with children under age 18 (or in certain situations under age 19 if the child is attending secondary school/vocational training). Therefore, when an unmarried individual under age 18 applies for General Assistance, the MWD shall make every effort to locate the family and refer it and the child to the appropriate county welfare agency.

i. An unmarried, unattached child under the age of 18, although not legally an adult, may in fact be emancipated. That he or she is under age 18 is not, of itself, a bar to eligibility for assistance; it is, however, reason for additional action relating to eligibility. The MWD will provide assistance to any such person who applies and is eligible, based on the following action:

(1) The MWD will make all reasonable efforts to bring about the return of the child to his/her own family and/or support by his/her own parents.

(2) If such efforts are not successful within one week of the first grant of assistance or if no such efforts are possible, the MWD will immediately refer the case to the appropriate district office of the Division of Youth and Family Services (DYFS).

(A) For cases between ages 16 and 18, the DYFS office may accept those for which it can provide services and/or maintenance. The MWD will continue assistance for each case so long as the case remains eligible or until the date on which DYFS assumes responsibility for maintenance.

(B) For all cases under age 16, it is expected that DYFS will act promptly to accept responsibility for services and maintenance. The MWD will continue assistance until the date on which DYFS assumes responsibility. The MWD will notify DFD/GAP Unit of any case under age 16 which is still active on the GA rolls 30 days after referral to DYFS.

(C) The MWD will be notified in writing by DYFS when a case referred to DYFS cannot be accepted for services.

ii. See paragraph (c)2 of this section regarding an institutionalized child who visits his/her home.

2. Married person under age 18: Persons under age 18 who are married, living with their spouses, and without children of their own may be eligible for General Assistance.

i. An individual who is married but does not live with his or her spouse shall be treated in accordance with (e)1 above.

3. Persons aged 18 or over: An individual aged 18 or over may be eligible for General Assistance, whether or not he or she is residing with his or her family.

(f) This subsection applies to persons released from State and/or county psychiatric hospitals, State schools for the mentally retarded, the New Jersey Neuropsychiatric Institute, and Veterans Administration (V.A.) hospitals (see also N.J.A.C. 10:85-3.2(h)). For procedures to be followed for individuals released from a State psychiatric hospital refer to N.J.A.C. 10:85-3.2(i).

1. Eligibility for public assistance:

i. Voluntary patient: Eligibility for public assistance is not affected by periods of care in a mental institution or V.A. hospital for an individual who was admitted as a voluntary patient. The individual must, however, be again living outside the institution and free of institutional restraint, control and supervision prior to receipt of assistance.

(1) Exception: When a voluntary patient is on convalescent leave with relatives who are unable to provide support, he/she may apply for and receive general assistance if he/she is otherwise eligible.

ii. Involuntary commitment; officially discharged: An individual who was involuntarily committed by the court and who has been officially discharged from a mental institution or V.A. hospital resumes his or her

former status in the community and is fully entitled to apply for and receive public assistance if otherwise eligible.

(1) An individual released on a Trial Visit, Convalescent Visit or Extended Visit is likewise eligible to apply for and receive assistance.

iii. Interim Assistance-Trial Placement/Family Care: An individual who is placed in an Interim Assistance-Trial Placement program by a State psychiatric hospital is not eligible for any form of public assistance; this applies to both voluntary and involuntarily committed patients. However, veterans placed in Family Care by a V.A. hospital or individuals discharged to Family Care by a State school for the mentally retarded may apply for and receive public assistance if otherwise eligible.

iv. Referral application: See N.J.A.C. 10:85-3.2(h).

As amended, R.1977 d.134, effective June 1, 1977.

See: 9 N.J.R. 123(c), 9 N.J.R. 238(b).

As amended, R.1977 d.410, effective November 1, 1977.

See: 9 N.J.R. 367(b), 9 N.J.R. 535(a).

As amended, R.1977 d.444, effective December 1, 1977.

See: 9 N.J.R. 432(a), 10 N.J.R. 15(a).

As amended, R.1978 d.420, effective December 12, 1978.

See: 10 N.J.R. 284(c), 11 N.J.R. 17(d).

As amended, R.1978 d.303, effective October 1, 1978.

See: 9 N.J.R. 523(b), 10 N.J.R. 443(d).

As amended, R.1978 d.420, effective December 12, 1978.

See: 10 N.J.R. 284(c), 11 N.J.R. 17(d).

As amended, R.1979 d.365, effective October 1, 1979.

See: 11 N.J.R. 378(a), 11 N.J.R. 519(f).

As amended, R.1980 d.116, effective March 19, 1980.

See: 11 N.J.R. 507(a), 12 N.J.R. 194(a).

(f): Added county hospitals. Added last sentence.

(f)1ii: "Interim Assistance-Trial Placement" was "Family Care", "Psychiatric hospital" was "institution" and "or individuals ... mentally retarded" was added.

As amended, R.1981 d.160, eff. June 4, 1981.

See: 13 N.J.R. 145(a), 13 N.J.R. 363(b).

(d)1 and 2: Code cross-references added.

As amended, R.1982 d.102, eff. April 5, 1982 (Operative May 1, 1982).

See: 13 N.J.R. 927(a), 14 N.J.R. 344(b).

(b)2: deleted "as a family unit"; added "without regard ... programs"; deleted "such persons ... in common".

As amended, R.1982 d.355, eff. October 18, 1982.

See: 14 N.J.R. 815(a), 14 N.J.R. 1162(a).

Change in eligibility from children under 21 if attending school to children under 19, if attending secondary school. Reflects Federal change in AFDC standards.

As amended, R.1983 d.328, eff. July 25, 1983.

See: 15 N.J.R. 938(a), 15 N.J.R. 1378(a).

Originally adopted as an Emergency Re-adoption as R.1983 d.209, effective May 23, 1983, operative June 1, 1983.

Internal citations corrected throughout text.

As amended, R.1984 d.16, effective February 6, 1984.

See: 15 N.J.R. 1629(a), 16 N.J.R. 245(a).

Clarification of unrelated persons functioning as households.

Amended by R.1985 d.168, effective April 15, 1985 (operative May 1, 1985).

See: 17 N.J.R. 37(a), 17 N.J.R. 968(a).

(b)2ii added; old 2ii recodified to 2iii with substantial changes.

Correction: (a)1 and 2 missing from text.

See: 18 N.J.R. 307(b).

Amended by R.1990 d.33, effective January 16, 1990.

See: 21 N.J.R. 3221(b), 22 N.J.R. 218(a).

Stylistic changes.

Amended by R.1992 d.260, effective June 15, 1992.

See: 24 N.J.R. 926(a), 24 N.J.R. 2263(a).

In (b)2: deleted text regarding household size in the determination of GA allowances.

Recodified existing 3 as 2, with no change in text.

Amended by R.1992 d.503, effective December 21, 1992.

See: 24 N.J.R. 3075(a), 24 N.J.R. 4538(a).

Outpatient costs excluded at (a)1i; inpatient references deleted; only certain U.S. citizens or lawful permanent residents eligible for service; employability defined.

Amended by R.1993 d.382, effective August 2, 1993.

See: 25 N.J.R. 1714(a), 25 N.J.R. 3466(a).

Amended by R.1994 d.591, effective December 5, 1994.

See: 26 N.J.R. 2757(b), 26 N.J.R. 4765(b).

Emergency amendment R.1997 d.176, effective March 24, 1997 (operative March 31, 1997; to expire May 23, 1997).

See: 29 N.J.R. 1428(a).

In (a), inserted references to "Work First New Jersey" and "WFNJ/GA"; inserted (a)1 through (3); recodified former (a)1 and 2 as (a)4 and 5; in (a)5, inserted reference to WJNJ and amended the eligibility requirement for citizen/alien status; inserted (a)5i; recodified former (a)2i through iii as (a)6 through 8; inserted (a)9; and recodified former (a)3 through 5 as (a)10 through 12.

Case Notes

Former regulation (cited as General Assistance Manual § 2.300A(III)(4)) invalid as contrary to statute in providing for distinction between recipients unemployable because of a disability and those unemployable because of lack of job availability. *Pascucci v. Vagott*, 71 N.J. 40, 362 A.2d 566 (1976).

Alcoholism not good cause for failing to perform worksite assignment. *Township of Union, Department of Human Services v. M.B.*, 92 N.J.A.R.2d (DEA) 28.

10:85-3.2 Application process

(a) The application process begins with an individual's initial contact with the agency and includes determination of eligibility, verification of the applicant's statements and decision by the municipal welfare department regarding issuance of assistance. Both the applicant and the MWD have responsibility in verifying and documenting eligibility (see subsection (e) of this section).

1. Initial contact with agency: An individual's initial contact with the municipal welfare department may be in form of an inquiry, a referral or an application for public assistance.

i. Inquiry: Any request for information about assistance programs which does not result in an application. A record is necessary only when the inquiry requires follow-up action.

ii. Referral: A request from a public or private agency or individual for assistance on behalf of a person who has indicated need of such help. All referrals must be recorded, including appropriate facts and action taken.

iii. Application: A written request for General Assistance by an individual who wishes to apply for him/herself and his/her dependent, if any, or a request from an authorized agent acting on behalf of such an individual (see (c)2 below).

(b) Rules concerning responsibilities of the agency are:

1. Initial contact: Upon initial contact, the municipal welfare department is responsible for informing the individual of the following:

i. The general requirements of the application process, including the necessity of contacting certain relatives and of making certain other collateral contacts; the right of the applicant to confidentiality and to be the primary source of information; an explanation of the blanket consent statement; and the fact that the applicant is, by signing this form, consenting to have the MWD contact others (except the Social Security Administration which releases information only upon written consent of the client).

ii. The availability of the Food Stamp Program to eligible nonpublic assistance households, with instructions about where to apply.

iii. Other programs (services and assistance) which are appropriate and for which the individual may be eligible. (See subchapter 8 of this chapter.)

2. Decision to apply: The agency shall determine whether or not the individual does indeed wish to apply, with his/her full understanding of the MWD's need to verify essential eligibility factors and of the requirement for a personal interview.

3. Immediate application: When the individual indicates his or her decision to apply for General Assistance, an application shall be taken immediately.

4. Referral to CWA:

i. When, during the initial contact, it appears that potential eligibility for AFDC exists, the municipal welfare department shall immediately refer the individual(s) to the county welfare agency to make application.

ii. When such referral is made at a time other than the normal business hours of the county welfare agency or when, in the opinion of the municipal welfare director, the individual cannot reasonably be expected to reach the CWA offices before the end of the business day, general assistance may be granted on an emergency basis only, in accordance with N.J.A.C. 10:85-4.6.

(1) When immediate need exists (see N.J.A.C. 10:85-3.3(a)1), such emergency grant shall be made in an amount sufficient to provide for the family's immediate needs from the date of application until the reopening of the CWA office. (See N.J.A.C. 10:85-4.2(a)3 for method of prorating allowance.)

(c) Rules concerning taking applications are:

1. Application/affidavit: Any person who indicates a wish to apply for General Assistance shall be recognized as an applicant. Such individual will be assisted by an MWD worker in completing the application (Form GA-1). He or she shall then be required to sign under oath the attached affidavit attesting to the correctness of his or her statements.

i. Form GA-1 (Application and Affidavit for General Assistance) shall be used in every case for the initial application. The director of welfare or MWD caseworker is empowered to receive the oath and witness the applicant's signature or the signature of an authorized agent acting in situations described in (c)2 below.

ii. When application is being made for more than one person, it must be signed by all persons for whom assistance is requested except dependent children under age 18.

iii. The following procedures apply at the time of application:

(1) All applicants shall be required to sign two copies of Form GA-51 (Important Reminder of Your Obligation to Report Changes). The applicant shall retain one copy and the original shall be filed in the case record. The MWD shall explain to the applicant(s) that it is his or her obligation to promptly report changes in income, resources or other circumstances.

(2) All applicants shall be provided with a copy of Form GA-197, Your Rights and Responsibilities in the General Assistance Program. The MWD shall provide any oral explanations the applicant(s) may request.

iv. Upon request, the MWD shall provide the applicant(s) with a copy of the completed GA-1 form.

2. Authorized agent:

i. A legally appointed guardian shall always be recognized as an authorized agent to initiate an application to establish eligibility for General Assistance.

ii. In General Assistance, an individual who wishes to apply may be confined at home or at an institution, or may be subject to a critical illness or injury which impedes action on his/her own behalf. Consequently, the MWD shall accept any one of the following, in the order of priority as listed, as an authorized agent for the purpose of initiating an application:

(1) A relative by blood or marriage;

(2) A staff member of a public or private welfare agency of which the person is a client, who has been designated by the agency to so act;

(3) A physician or attorney of whom the person is respectively a patient or client;

(4) A staff member of an institution or facility in which a person is receiving care, who has been designated by the institutional facility to so act.

3. Binding upon eligible unit: The application and affidavit is binding upon the individual(s) signing this document and upon any other member(s) of the eligible unit for whom he/she is applying. An authorized agent is obliged to complete the application to the best of his/her knowledge.

4. Personal interview: The application shall be taken at a personal interview with the client unless an authorized agent is acting on behalf of a client in accordance with (c)2 above. The interview may occur at the welfare office or in the client's home (or hospital or other institution, if necessary).

5. Social Security number: The Social Security number of every recipient of General Assistance must be recorded on the application form (Form GA-1) and elsewhere in the record as may be appropriate to the facts of the case. Any person who has a number and whose number is not disclosed and recorded is not eligible for assistance.

i. When assistance is requested for a person who does not have a Social Security number, the MWD will make referral (using Referral for Services Form PA-14) to the appropriate district office of the Social Security Administration. Form PA-14 shall explain that the purpose of the referral is to make application for a Social Security number. The MWD will grant assistance while issuance of the number is pending if the person is otherwise eligible. Failure to apply for a number or to cooperate with the Social Security Administration in those things necessary for issuance of a number renders the applicant ineligible for assistance.

ii. The MWD will maintain appropriate follow-up of the referral.

6. If at the time of application a client indicates on Form GA-1, Application and Affidavit for General Assistance, that he or she is not a United States citizen, he or she shall be required to provide the MWD documentation from the Immigration and Naturalization Service (INS) which indicates his or her alien status. Additionally, the appropriate corresponding Alien Registration Number shall be made available as soon as possible but no later than 10 calendar days from the date of application. If the applicant, who is otherwise GA eligible, cannot provide documentation concerning alien status because he or she is awaiting receipt of that information, assistance shall not be withheld pending the receipt of the information. A copy of such documentation shall be retained in the case file. Information about the applicant/recipient's alien status shall not be used to violate the individual's right to confidentiality by the MWD or INS, except in instances of fraudulent activity committed by the individual to establish eligibility for GA.