

**Case Notes**

Child-support payments for children of another household are not excludable from income when calculating eligibility. *J.S. v. New Jersey Dept. of Human Services, Div. of Family Development, 274 N.J.Super. 314, 644 A.2d 118 (A.D.1994).*

Notice informing claimant that food stamp benefits would be reduced because of an increase in his supplemental security income was insufficient. *Meyer v. New Jersey Dept. of Human Services, Div. of Family Development, 269 N.J.Super. 310, 635 A.2d 544 (A.D.1993).*

Food stamp allotment reduced due to increase in educational grant. *Salem County Board of Social Services v. F.B., 93 N.J.A.R.2d (DEA) 23.*

Money to pay rent was not unearned income. *Bergen County Board of Social Services v. C.L., 92 N.J.A.R.2d (DEA) 9.*

Unless educational assistance grants are specifically earmarked by the grantor, only that portion of a grant paying for tuition and mandatory fees qualifies for exclusion in calculating Food Stamp benefits entitlement (Division's Final Decision). *Camden Cty. Bd. of Social Services v. J.S., 5 N.J.A.R. 501 (1982).* *Ocean Cty. Bd. of Social Services v. L.G., 4 N.J.A.R. 216 (1982).*

Public assistance DFYS grant properly classified as unearned income in determination of net Food Stamp income. *M.D. v. Passaic Cty. Bd. of Social Services, 3 N.J.A.R. 366 (1981).*

Eligibility determination must include costs of producing income from applicant-owned apartment house. *Essex Cty. Welfare Bd. v. "W.C.", 1 N.J.A.R. 36 (1979).*

Cost of producing income from rental units to be deducted from gross rental income in determining eligibility for participation in Food Stamp Program. *Essex County Welfare Board v. "W.C.", 1 N.J.A.R. 36, (1979).*

Income from rental property. *Essex County Welfare Board v. "W.C.", 1 N.J.A.R. 36, (1979).*

**10:87-5.6 Income of excluded individuals**

(a) The earned or unearned income of an individual disqualified from the household for intentional program violation as set forth at N.J.A.C. 10:87-11 or who refuses to comply with a work registration requirement shall continue to be attributed in its entirety to the remaining household members (see N.J.A.C. 10:87-7.7(b)).

(b) The earned or unearned income of individuals excluded from the household for failing to comply with the requirement to provide a Social Security number (see N.J.A.C. 10:87-2.19(h) or for being an ineligible alien (see N.J.A.C. 10:87-3.8(a) et seq. for listing of eligible aliens) or for having questionable citizenship status (see N.J.A.C. 10:87-2.20(b)) shall continue to be counted as income, less the pro rata share for that individual, to the remaining household members. Procedures for calculating this pro rata share are described at N.J.A.C. 10:87-7.7.

Amended by R.1981 d.87, effective April 9, 1981.  
See: 13 N.J.R. 96(c), 13 N.J.R. 228(a).

Delete "or for failure ... N.J.A.C. 10:87-3.20(e)."  
Amended by R.1983 d.223, effective May 31, 1983.  
See: 15 N.J.R. 629(a), 15 N.J.R. 1033(a).

Originally adopted as an Emergency Rule, R.1983 d.116, effective March 31, 1983, operative April 1, 1983. The amendment is pursuant to

the Food Stamp Act Amendments of 1982 (P.L. 97-253) and the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

"Disqualified" changed to "excluded" individuals; distinction made between intentional program violation and other causes for exclusion.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Amended by R.1990 d.270, effective May 21, 1990.

See: 22 N.J.R. 139(a), 22 N.J.R. 1599(a).

In (b): revised N.J.A.C. references to conform with recodification.

Amended by R.1991 d.247, effective May 6, 1991.

See: 23 N.J.R. 179(a), 23 N.J.R. 1412(b).

In (a): added phrase "... or refusal to comply with a work registration requirement ...".

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

**10:87-5.7 Special income situations**

(a) Moneys withheld from earned income, or other income source, or moneys received from any income source (except as specified in (c) below) which are voluntarily or involuntarily returned to repay a prior overpayment that is not excludable under N.J.A.C. 10:87-5.6 shall not be counted as income. Moneys withheld from an assistance grant to repay a prior overpayment that is the result of an inadvertent client error or agency error shall not be counted as income.

(b) Child Support under Title IV-D shall be treated as follows:

1. Title IV-D child support payments shall be excluded from the food stamp eligibility determination and benefit calculation process, provided that those payments shall be assigned to the CWA. Note that this income exclusion shall not apply, however, to child support payments which are not assigned to the CWA. Child support which the household is not required to remit to the CWA shall be considered as unearned income for food stamp purposes.

2. An amount up to the first \$50.00 per month of child support payments received for an WFNJ family through the child support and paternity (Title IV-D) process is disregarded in the WFNJ program and is paid to the WFNJ family in the form of disregarded child support (DCS) payments. The amount of the DCS payment shall be counted as unearned income for food stamp purposes in accordance with N.J.A.C. 10:87-5.5(a)5, as are any child support payments received directly by a food stamp household. DCS payments which are intended for a prior month shall be excluded under N.J.A.C. 10:87-5.9.

(c) The rules for failure to comply with public assistance (PA) program requirements (also known as "The Riverside Rule") ban an increase in FSP benefits when income from the WFNJ/TANF/GA programs is decreased (reduced or suspended) as a result of failure to comply with a program requirement and a sanction has been imposed.

1. The CWA shall apply the Riverside Rule when an individual commits an act of noncompliance in the WFNJ/TANF/GA programs and it results in a sanctioning

of that individual, regardless of whether or not there is a disqualification in the FSP.

2. The CWA shall apply the Riverside Rule if an individual commits an act of fraud in the WFNJ/TANF/GA programs and it has been determined that an IPV exists.

i. The Riverside Rule shall also apply when an IPV has been committed, which results in a sanction.

3. The PA amount to be considered as income for food stamp purposes shall be the pre-sanction amount. This pre-sanction amount shall be used until the sanction is removed.

i. If a new member is added to the PA household during the period of sanction, the TANF grant increases and the calculation of food stamp benefits shall be based on the new TANF grant amount as the TANF countable income. The new member added to the PA household will also increase the food stamp benefit amount since the new person is also added to the food stamp household. If the new member is a capped child the WFNJ/TANF grant will not increase, however, the child will be included in the food stamp household and the food stamp allotment shall increase accordingly.

4. The Riverside Rule shall be applied during the full period of the PA sanction.

5. In the event that the Riverside Rule is invoked and the household's PA is terminated, in order to receive food stamp benefits, the household shall apply for non-public assistance food stamp benefits.

6. In multi-person households, if the individual who committed the act of noncompliance leaves the household's residence, the Riverside Rule penalty shall continue to apply to the noncompliant individual until the sanction period ends. The Riverside Rule penalty shall not be applied to any remaining household members.

7. The Riverside Rule shall not apply to individuals who fail to comply with a PA program requirement at the time of application and, thus, are never issued a PA benefit.

8. The CWA shall not apply the Riverside Rule and shall not count as income monies withheld from an assistance grant to repay a prior overpayment that is the result of an inadvertent household error or agency error.

i. Monies withheld from an assistance grant due to an IPV shall invoke the Riverside Rule.

9. The Riverside Rule does not apply to Supplemental Living Support payments.

10. If the CWA is not successful in obtaining the necessary cooperation from a municipal welfare agency to enable it to comply with the requirements of this provision, the CWA shall not be held responsible for noncompliance as long as the CWA has made a good faith effort to obtain information regarding a noncompliance. Attempts to obtain

information from the appropriate agency shall be documented in the case record.

(d) The following are good cause reasons for not applying the Riverside Rule. The ban on increasing benefits does not apply under these circumstances.

1. Clients whose WFNJ/TANF or WFNJ/GA benefits are terminated;

2. Clients have a child subject to the TANF family cap;

3. Clients fail to reapply or to complete the reapplication process for continued WFNJ cash assistance;

4. Clients fail to perform a purely procedural requirement, such as failing to sign an application; or

5. Clients fail to perform a required action because they are unable to complete the action through no fault of their own.

Emergency amendment, R.1985 d.178, effective March 25, 1985 (operative April 1, 1985, expiration date May 24, 1985).

See: 17 N.J.R. 986(a).

Readopted by R.1985 d.313, effective May 28, 1985.

See: 17 N.J.R. 986(a), 17 N.J.R. 1567(a).

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Substantially amended.

Amended by R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

In (b) and (c), substituted references to WFNJ for references to AFDC and GA throughout; in (b)1, substituted a reference to administrative determination for a reference to determination; in (c)1, added iii; rewrote (d); and added (e).

Amended by R.1999 d.6, effective January 4, 1999.

See: 30 N.J.R. 3451(a), 31 N.J.R. 69(a).

In (c), substituted references to SSI and WFNJ for references to AFDC, SSI and GA.

Amended by R.2004 d.181, effective May 17, 2004.

See: 36 N.J.R. 28(a), 36 N.J.R. 2425(a).

Rewrote the section.

Amended by R.2007 d.129, effective May 7, 2007.

See: 38 N.J.R. 4374(a), 39 N.J.R. 1719(a).

Rewrote (c).

Amended by R.2009 d.94, effective March 16, 2009.

See: 40 N.J.R. 5932(a), 41 N.J.R. 1245(b).

In the introductory paragraph of (c), substituted "or suspended" for "suspended or terminated"; in (c)2i, inserted a comma following "committed" and deleted "and the closure of a case" from the end; in (c)4, deleted the last sentence; in the introductory paragraph of (c)5, deleted "and the Riverside Rule penalty shall apply for three months after the termination of PA benefits" from the end; deleted (c)5i; and in (d)1, deleted "due to the five-year time limit on eligibility" from the end.

#### 10:87-5.8 Income exclusions

Income which is classified as an exclusion shall not be considered for purposes of determining net or gross food stamp income.

Amended by R.1989 d.121, effective February 21, 1989.

See: 20 N.J.R. 2689(a), 21 N.J.R. 511(b).

Amended by R.1998 d.498, effective October 5, 1998.

See: 30 N.J.R. 1928(a), 30 N.J.R. 3669(b).

Substituted a reference to gross food stamp income for a reference to food stamp income.